

LEGISLATIVE ASSEMBLY DEBATES

THURSDAY, 25th MARCH, 1943

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY

Thursday, 25th March, 1943.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

PROHIBITION ON IMPORT OF ALLOWED NEWSPRINT QUOTAS.

377. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable Member representing the Commerce Department please state if it is or it is not a fact that the quota for newspapers fixed at their full requirements was reduced from September 1941 to December 1941 by 25 per cent., from January 1942 to June 1942, from July 1942 to December 1942 by 50 per cent., and has now been reduced to $\frac{1}{3}$ th of the full requirements?

(b) Is it or is it not a fact that a large number of papers placed their orders for the supply of newsprint according to the quotas allowed to them for import from foreign countries?

(c) Is it or is it not a fact that some of the papers have not yet been able to receive the goods ordered by them for January 1942 and June 1942 quotas, and most of them have not received it for the quota of the next six months?

(d) Is it or is it not a fact that a notification has been issued on the 18th February, 1943, by which the newspaper proprietors are prohibited from purchasing more than $\frac{1}{3}$ th of their requirements from any source, and are thus unable to receive even the goods ordered previously according to the sanctioned quotas and for which they have incurred financial obligations?

(e) If the answer to part (d) be in the affirmative, do Government propose to consider the advisability of removing this hardship and allowing the newspaper proprietors to make up the quantities previously granted and receive the goods for which they have incurred financial obligations?

Mr. T. S. Pillay: (a) The consumption of newsprint by newspapers in the year 1940 was taken as the basis for determining their quota allotments of newsprint. For such newspapers however as were first published in 1941 the basic period was from the date of first issue to 31st August, 1941. The quotas for the different periods mentioned by the Honourable Member were allotted on the following scales:

(i) For the quarter ending December 1941—100 per cent. of the proportionate basic consumption.

(ii) For the half year ending June 1942—75 per cent. of the proportionate basic consumption.

(iii) For the half year ending December 1942—50 per cent. of the proportionate basic consumption.

(iv) For the quarter ending March 1943—12.5 per cent. of the proportionate basic consumption.

(b) The answer is in the affirmative. It may however be explained that the practice so far has been for only a few of the newspapers to place orders direct for the import of newsprint from North America and for the others to take delivery from the stocks available with dealers through surrendering their quota allotment certificates to such dealers. All such surrenders enabled the dealers in their turn, to recoup their stocks by obtaining licences for importing the corresponding quantities of newsprint from abroad.

(c) Yes, Sir, it is a fact that on account of shipping difficulties there was a large carry over of unutilised import licences at the end of the periods mentioned.

(d) The Notification mentioned by the Honourable Member prohibits the sale to and purchase or acquisition by the proprietor of a newspaper, of newsprint in excess of the quantity specified in the quota allotment certificate issued to him for import of newsprint in the six monthly period ending June 1943. Government have no information about the financial obligations incurred by quota holders.

(e) Government have under consideration a scheme for making a fair and equitable distribution of newsprint among consumers.

Mr. Lalchand Navalrai: May I know from the Honourable Member whether, when this new system of giving licences comes into force from the 1st of April which is said to be the date from which this system will be given effect to, those persons who have not got the quotas previously will be given quotas, or not?

Mr. T. S. Pillay: Where did I say that a new system will come into force from the 1st of April? Is the Honourable Member referring to my answer to part (e) of the question? If so, I said that Government have under consideration a scheme for making a fair and equitable distribution of newsprint among consumers.

Mr. Lalchand Navalrai: I learnt that new licences will be given from the 1st of April. Is that a fact, or not?

Mr. T. S. Pillay: New licences for what?

Mr. Lalchand Navalrai: For getting newsprints from such sources with whom orders had been placed previously. I have learnt from a reliable source that a new system of giving licences for getting quotas from certain dealers to whom the Government will consign newsprints will come into force from the 1st of April. Is that so?

Mr. T. S. Pillay: Sir, I have already answered that a scheme is under consideration and will come into force very soon. I cannot say whether it will be from the 1st of April.

Mr. Lalchand Navalrai: What do you mean by

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is arguing. Mr. Muhammad Ahmad Kazmi.

Qazi Muhammad Ahmad Kazmi: May I know with regard to part (b) of the question, whether Government have any information as to how many persons placed orders with their dealers for importing newsprints?

Mr. T. S. Pillay: Sir, we know that some persons did place orders, but how many, I do not know.

Qazi Muhammad Ahmad Kazmi: As regards part (d), in cases where orders had already been placed with newspaper dealers for newsprints and stocks have been received by them, may I know from the Honourable Member the reasons why the Government are not prepared to allow the persons who had placed orders to purchase those quantities from their dealers?

Mr. T. S. Pillay: Sir, I do not know whether it arises from part (d), but if I may refer my Honourable friend to my speech in reply to the debate on the Finance Bill. I had explained the reasons why Government thought it necessary to issue these orders.

Qazi Muhammad Ahmad Kazmi: How do the Government know that financial obligations have not been incurred in respect of the orders which were placed with newsprint dealers?

Mr. T. S. Pillay: Sir, I have said that Government have no information on this point.

Mr. T. T. Krishnamachari: May I ask the Honourable Member what is the position of newspapers that have been started after the Government has introduced this quota system? What is the procedure they follow in regard to fixing the quotas for such newspapers?

Mr. T. S. Pillay: May I refer the Honourable Member to my answer to part (a) of the question. I have said there that for such newspapers as were started after the year 1940, the basic period was from the date of first issue to 31st August, 1941

COMPULSORY INCREASE IN THE ADVERTISEMENT CHARGES OF NEWSPAPERS.

378. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable Member representing the Commerce Department please state if it is or it is not a fact that a notification has been issued by Government on the 27th February compulsorily increasing the charges for advertisements in newspapers by 50 per cent.?

(b) Have Government taken any steps to compel traders to continue giving their advertisements to their old papers at those rates also?

(c) If the answer to part (b) be in the negative, do Government propose to consider the advisability of withdrawing their notification with respect to advertisements and not unduly interfering in this business, which would result in the stoppage of many newspapers?

Mr. T. S. Pillay: (a) Yes; Sir.

(b) No, Sir.

(c) Government have noted the suggestion of the Honourable Member for consideration.

Qazi Muhammad Ahmad Kazmi: May I know whether it is not a fact that in respect of many papers the advertisers have already asked them to discontinue their advertisements? In respect of *Din-Duniya*, one of the weeklies, Aspro, Lux, Sunlight Soap, Life Buoy Soap, Dalda Vanaspati, Asiatic Pictures and other traders have asked to discontinue their advertisements on account of the high prices that have been fixed?

Mr. T. S. Pillay: I am not aware of that, but I am prepared to take it from the Honourable Member that that is so.

Qazi Muhammad Ahmad Kazmi: Will the Government withdraw their orders in respect of prices of advertisements?

Mr. T. S. Pillay: Sir, I cannot say anything more than what I have said in answer to part (c) of the question, namely that Government have noted the suggestion.

Maulana Zafar Ali Khan: In the matter of advertisements, may I ask why are the restrictions one-sided? The newspapers are required to increase the rate of advertisements, but there is nothing to prevent the advertisers from not taking up the contract.

Mr. T. S. Pillay: It is a matter of opinion, Sir, as to whether a particular action is one-sided or not.

Sardar Sant Singh: May I know from the Honourable Member if it is a fact that the price of newspapers has also been increased by the same standing order by which the advertisement charges have been increased?

Mr. T. S. Pillay: I believe, that is so.

Sardar Sant Singh: May I know what is the policy behind this order increasing the prices of advertisements and prices of papers?

Mr. T. S. Pillay: If the Honourable Member would wait for a short time, he will find the answer to it in my reply to question No. 379.

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

FIXATION OF MINIMUM PRICES OF NEWSPAPERS.

379. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable Member representing the Commerce Department please state the principle on which Government have fixed the minimum prices of newspapers?

(b) Have they or have they not considered that some of the newspapers, especially vernacular monthly Journals and weeklies, used to be sold below their actual cost price, as the main source of income was from advertisements which depended upon circulation?

(c) Is it or is it not a fact that some other papers were sold at a price which was above the cost price and which gave profit to the newspaper proprietors even without advertisements?

(d) Is it or is it not a fact that by this compulsory fixation of price the former class of papers have suffered very seriously?

(e) In view of the hardship caused by these orders, do Government propose to consider the advisability of changing their policy of fixation of minimum prices of newspapers?

Mr. T. S. Pillay: (a) Government have not fixed prices of newspapers but have only fixed the maximum number of pages for newspapers in relation to their sizes and prices.

(b) and (c). Government have no information on these points.

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

Qazi Muhammad Ahmad Kazmi: May I know that when they fixed the price of newspapers they considered the profits that are suggested in (b) and (c) of the question?

Mr. T. S. Pillay: I am afraid my Honourable friend has not caught my answer. I have stated Government have not fixed prices of newspapers.

Qazi Muhammad Ahmad Kazmi: I know that. When they fixed the maximum number of pages at the minimum price, did they consider the implications involved in parts (d) and (e) of this question?

Mr. T. S. Pillay: Yes, Sir. They very carefully considered the implications involved.

Qazi Muhammad Ahmad Kazmi: But the Honourable Member was pleased

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is arguing. Bhai Parma Nand.

Sardar Sant Singh: May I ask one question. May I know the policy underlying this order by which the newspaper pages were restricted and which actually resulted in the raising of prices to a higher level than that at which we can get newspapers today?

Mr. T. S. Pillay: I am afraid my Honourable friend did not give me the honour by listening to a very detailed statement I made on this question. This action was necessitated on account of the need for conserving the available stock of newsprint for the use of newspapers for as long a period as possible.

Mr. President (The Honourable Sir Abdur Rahim): Next question. Bhai Parma Nand.

REVISED RULES FOR ALLOTMENT OF QUARTERS TO MINISTERIAL STAFF IN SIMLA/DELHI.

†380. ***Bhai Parma Nand:** (a) Will the Honourable the Labour Member be pleased to state whether the rules for the allotment of quarters to the ministerial staff in Simla/Delhi have been revised for the duration of war? If so, are the new and old rules analogous to each other? If not, why not?

(b) Have Government made any provision in the rules to protect the interests of those lien-holders who have been temporarily located in Simla and Delhi in the interests of war? If not, why not?

(c) Is it a fact that when the allotment of quarters in Delhi for the summer season 1942, was made, it was contemplated that the rules will be revised for the duration of war and the seniority in the allotment will be based on the length of service? If so, why was the allotment for the current winter season made on the basis of seniority in enrolments, when the allotment for the summer season, 1942, had already been made on arrival seniority?

(d) Is it a fact that quarters surrendered by those lien-holders who have been located in Simla for all the year round have been allotted without lien? If so, was it the intention of Government to make these allotments permanent for the duration of war as now provided for in the revised rules? If so, were all affected informed accordingly? If not, why has this provision been introduced now?

(e) Is it a fact that Government has received several representations against the above point? If so, what do Government propose to do to remove the grievances of those affected?

The Honourable Dr. B. R. Ambedkar: (a) Yes. The new and the old rules are not analogous to each other and the reason is that the new rules have been framed to meet the situation created by the stoppage of the Simla exodus.

(b) Yes, so far as the staff located in Simla is concerned, the case of the staff located in New Delhi will be examined.

(c) The summer allotments for 1942 were made on an *ad hoc* basis to meet the situation arising from a decision of the Government of India not to move to Simla. At that time the question of revising the allotment rules was under consideration but no final decision had been arrived at. A final decision had not still been arrived at when the allotments for the winter season were made, and these were accordingly made under the old rules which were still in force. Revised rules have now been approved, establishing the principle of arrival priority and will take effect from the summer season 1943.

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

(d) Yes. The present rules are meant to be kept in force for the duration of the war. The publication of the rules is considered sufficient information for all affected. These rules are in the opinion of Government the fairest and the most practicable that could be devised.

(e) Certain representations have been received and are under consideration.

DESIRABILITY OF MAKING FULL STATEMENT ON WAR SITUATION IN THE LEGISLATIVE ASSEMBLY.

381. *Mr. Lalchand Navalrai: (a) Will the Honourable the Leader of the House be pleased to recall the suggestion of the Chair made in the House on the 12th February, 1943, with respect to the method by which full information on the war situation be given to the House instead of making a long statement in answer to a question?

(b) Do Government propose to consider the desirability of making a full statement on the present war situation in an open or secret session of the Legislative Assembly?

(c) Does the Honourable Member responsible for Defence or the Leader of the House propose to take the House into his confidence and give it an opportunity to discuss the progress of the war? If so, when and in what manner?

The Honourable Sir Sultan Ahmed: (a) Government have taken careful note of the Honourable the President's observations.

(b) The Secretary in the War Department made a full statement on the occasion to which the Honourable Member refers, and Government do not anticipate that any occasion for a further statement in the course of the current Session will arise. Should a statement appear at any time to be desirable, the Secretary in the War Department would follow the procedure indicated in the replies given to Dr. Sir Zia Uddin Ahmad's starred question No. 46 asked on the 11th November, 1940, and to the supplementary questions arising therefrom.

(c) Government have not been made aware of any general desire to discuss the progress of the war, and they do not think that any useful purpose would be served by such discussion.

Mr. Lalchand Navalrai: May I know from the Honourable Member which way should the House declare that they should be kept informed of the present situation? Is it that some Member should put a question to be followed by supplementary questions from other Members?

The Honourable Sir Sultan Ahmed: Not by one Member putting a question: but if the Leaders of the Parties sat together and they informed the Leader of the House, then certainly arrangements could be made for a further statement being made by the Secretary in the War Department.

Sardar Sant Singh: May I ask the Honourable Member if it is not the duty of the Government as such to take this House into confidence as to the war situation and from time to time to give it the details of the progress of the war?

The Honourable Sir Sultan Ahmed: I think the best that can be done has been done by the replies given by the Honourable the Secretary in the War Department, because he made a full statement on the occasion to which the Honourable Member refers in the question itself.

Sardar Sant Singh: May I submit that the mere reply to a question will not enable the Government to get the views of the House? May I ask whether it is the duty of the Government as such to take the House into confidence and discuss the war situation with them?

The Honourable Sir Sultan Ahmed: Well, that is a matter of opinion. We are prepared to place our services at the disposal of the House at any time there is a general desire for it. The House will also remember that our timetable has not been working satisfactorily and it appears that this Session will be prolonged to a much later date than we had anticipated and therefore I doubt very much whether there will be any time for making any full statement.

Mr. Lalchand Navalrai: May I draw the Honourable Member's attention to the fact that the statement made the other day was not full and it was therefore thought that—a suggestion had been made that a fuller statement would be given to the House at another time?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has given his reply.

HOUSING SCHEME FOR THE POOR BY THE DELHI IMPROVEMENT TRUST.

†**362. *Bhai Parma Nand:** (a) Will the Secretary of the Education, Health and Lands Department be pleased to state what the Housing Scheme for the poor by the Delhi Improvement Trust is?

(b) How far has this scheme been carried out?

(c) Does he propose to lay the scheme on the table of the House?

Mr. J. D. Tyson: (a) and (c). A note giving an outline of the scheme of poor class re-housing designed by the Delhi Improvement Trust is laid on the table.

(b) Under the scheme 527 houses have already been constructed.

Note on Delhi Re-housing Scheme.

1. *Financial Basis.*—The initial capital cost of building houses for poor class re-housing will be met from loans from Government which would be repayable with interest in equated instalments in 20 years. It is recognized that a poor class re-housing scheme cannot be self-supporting, i.e., that it must be subsidized by Government or by the local authorities concerned. In Delhi the subsidy will be found from the proceeds of the Entertainments Duty imposed from 1st January, 1940.

2. *Scope.*—The scheme embraces families displaced by the execution of slum clearance schemes by the Delhi Improvement Trust—

(a) Whose monthly income does not exceed Rs. 30 per mensem; (b) Who wish to be rehoused; and (c) Who are willing to accept the terms offered.

3. *Types of dwelling.*—There will be three types of dwelling. Allotments will be made on the basis of number in family as follows (two children under 10 years of age counting as one adult).

One roomed	Number in family.
Two roomed	Not exceeding 3 adults.
Three roomed	Over 3 but not over 5 adults.
	Over 5 adults.

The one and two roomed dwellings are capable of expansion into the three roomed type.

4. *Details of dimensions.*

Total area of each plot $20' \times 40' = 800$ square ft. or 88.8 square yards.

Living room.

One roomed $10' \cdot 9" \times 9' \cdot 6" = 102$ square ft.

Two roomed $10' \cdot 9" \times 9' \cdot 6"$
& $13' \cdot 3" \times 7' \cdot 9"$ } = 204 square ft.

Three roomed—

One room of $10' \cdot 9" \times 9' \cdot 6"$
and two of $13' \cdot 3" \times 7' \cdot 9"$ } = 307 square ft.

Cooking verandah $10' \cdot 9" \times 6' \cdot 9" = 72$ square ft.

Bathing platform $4' \times 4' = 16$ " "

The remaining area will be courtyard. The bathing platform will be connected via the outside surface drain to the sewage system. The cooking verandah will be provided with a fire place and fuel.

5. *Allotment and terms.*—Allotments will be made in accordance with the actual requirements of each individual family to be rehoused and will be approved by the Improvement Trust Board.

It is intended that there should be fixed monthly rents for each type of house, viz., Rs. 1/12, 2/4/- and 2/12/- for a one roomed, two roomed and three roomed house.

Those able to pay not less than a stated monthly sum, viz., Rs. 3/4, Rs. 3/10- and Rs. 4/- for a one-roomed, two-roomed and three-roomed house, will be entitled to hire-purchase terms under which they will become owners of the house after 20 years.

6. *Financial details.*

Cost of the houses : One roomed —Rs. 564.

Two roomed —Rs. 711.

Three roomed—Rs. 875.

Taking a concrete scheme, viz., the Paharganj Circus Re-housing Scheme, 142 houses are now under construction to accommodate 515 persons whose existing houses are being acquired in the Paharganj Circus Improvement Scheme. Rs.

The total cost of the new houses is = 94,600

The "pooled" (or average) cost per house is = 666

The equated hire-purchase instalment ordinarily payable for a house of

"pooled" cost Rs. 666 is composed of :

(a) Equated instalment of principal (Rs. 666 + interest at $4\frac{1}{2}$ p.c.) Rs. 50.2.0 p.a.

(b) Ground rent at Rs. 1 per 100 square yards per month. Rs. 10.11.0 "

(N.B.—The plot unit for this scheme is 88.8 sq. yards).

(c) Maintenance at 1 p.c. of pooled cost Rs. 6.11.0 "

Total Rs. 67.8.0 p.a.

Or Rs. 5.10.0 p.m.

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

Assuming the family to be re-housed is capable of paying not less than the fixed hire purchase instalments, the balance is met from the subsidy (proceeds of Entertainments Duty).

If the family to be re-housed is not capable of paying the fixed hire purchase instalments, it will occupy the house as an ordinary tenant and the amount payable for an ordinary tenancy (not carrying ultimate right of house ownership) is calculated as under :—

Interest on pooled cost at 4½ p. c.	Rs. 28-5-0 p.a.
Ground rent	Rs. 10-11-0 "
Maintenance	Rs. 6-11-0 "
	<hr/>
Total	Rs. 45-11-0 p.a.
Or	Rs. 3-13-0 p.m.

The family to be re-housed under ordinary tenancy terms will be subsidized from the proceeds of the Entertainments Duty to the extent of the difference between the fixed monthly rents and the actual monthly rent as calculated above.

DELHI IMPROVEMENT TRUST'S SCHEME FOR BUILDING MODEL HOUSES.

†383. *Bhai Parma Nand: (a) Will the Secretary of the Education, Health and Lands Department be pleased to state if Government have received any scheme from the Improvement Trust, Delhi, for building model houses and making them available for sale to middle class people on the hire-purchase system? If so, does he propose to lay the said scheme on the table of the House?

(b) Have Government accepted the scheme? If not, what are the difficulties of Government for accepting the same?

Mr. J. D. Tyson: (a) The reply to the first part of the question is in the negative. The second part does not arise.

(b) Does not arise.

SCHEME OF CONSTRUCTION OF A CIRCULAR ROAD PASSING THROUGH GHULAM MOHIUDDIN KHAN GARDEN, DELHI.

394. *Maulana Zafar Ali Khan: Will the Education Secretary please state:

(a) whether it is a fact that under a scheme of the Improvement Trust, Delhi, a Circular Road is to be constructed which will pass through the four hundred year old Moghal garden, called "Ghulam Mohiuddin Khan Garden" in Sadhora Kalan, Delhi;

(b) if it is a fact that the authorities of the Improvement Trust ordered the cutting down of trees in this garden without informing the owner, and without paying him any compensation;

(c) if it is a fact that the Land Acquisition Collector has proposed to give an award of Rs. 1,500 for the portion of the garden acquired for the Circular Road, whereas the trees of this part of the garden have been auctioned for Rs. 6,000 and later on re-auctioned for Rs. 10,000;

(d) if it is a fact that two years ago a portion of the same garden was acquired by the Trust for constructing a channel from the Western Jamna Canal under the Malaria Institute Scheme and 200 big fruit trees valued at Rs. 20,000 approximately were cut down and only the award of the land acquired was paid;

(e) if it is not possible to construct a straight road, as originally proposed, instead of a curved one in order to save a historical garden from destruction; and

(f) if Government propose to pay an adequate compensation to the owner for the losses hitherto sustained; if not, why not?

Mr. J. D. Tyson: (a) The Trust's West Circular Road will pass through a garden called 'Ghulam Mohiuddin Khan Garden'. It is not known how old the garden is.

(b) No.

(c) Compensation for the land, including trees, acquired from this garden has been assessed at Rs. 1,025-9-6. Trees auctioned for Rs. 6,500, some months ago, included those from several other gardens. No information is available whether the auction purchasers have resold them or, if so, for what price.

(d) No.

(e) I understand that the garden in question is of no particular historical importance.

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

(f) Government have no reason to believe that the compensation assessed and deposited is not adequate.

Maulvi Syed Murtuza Sahib Bahadur: Is it a fact that the proposed road was originally designed otherwise and it ran almost straight, but now it has taken a zig-zag shape so that many trees belonging to that old historical garden (though not according to Government, but at least according to public opinion) have been unnecessarily cut and the owner has been put to unnecessary loss, and the beauty of the road has been spoilt? Will the Government please enlighten the House on this point?

Mr. J. D. Tyson: It is rather a long question. I understand the original proposal was to take the road right through the middle of the garden, cutting the garden in two, and the present alignment does not do that at all events.

Maulvi Muhammad Abdul Ghani: May I know from the Honourable Member what is the total price for the trees removed from the garden out of this Rs. 6,000 odd?

Mr. J. D. Tyson: In the case of garden lands, I understand that the value of the trees is not separately assessed, and I can only say that the part of the garden acquired, including the value of the trees on that part, has been assessed at Rs. 1,025.

Maulvi Syed Murtuza Sahib Bahadur: May I know if it is a fact that according to Government account the extent of the road taken possession of by Government is only two bighas whereas actually they are in possession of six bighas, more than three times for which the award has been given?

Mr. J. D. Tyson: I understand that they have acquired two bighas and odd and I have no information that they have occupied more.

Maulvi Syed Murtuza Sahib Bahadur: Will Government be pleased to enquire?

Mr. J. D. Tyson: I will certainly enquire.

Mr. H. A. Sathar Essak Sait: Arising out of the answer to part (c) of the question, will the Honourable Member tell us what proportion the number of trees destroyed bear to the trees which were auctioned for Rs. 6,000?

Mr. J. D. Tyson: Well, I have not got that information, and I doubt very much if it will be available.

ADMINISTERING OF OATHS TO MUSLIM WITNESSES.

385. *Nawab Siddique Ali Khan: Will the Honourable the Law Member be pleased to state:

(a) whether it is a fact that under section 6 of the Indian Oaths Act (No. X of 1873) a Muslim is exempted from taking an oath when examined as a witness in a court;

(b) whether it is a fact that oaths are administered to Muslims by the courts in spite of the provision of Law referred to in (a); and

(c) if the answers to parts (a) and (b) be in the affirmative, what steps do Government propose to take to put a stop to this prevalent illegal practice?

The Honourable Sir Sultan Ahmed: (a) Section 6 provides *inter alia* that where the witness is a Hindu or Muhammadan he shall, instead of making an oath, make an affirmation.

(b) and (c). I have no reason to suppose that the requirements of the law are not observed but if the Honourable Member will furnish me with evidence to the contrary I will be glad to consider whether any action is required.

ADMINISTERING OF OATHS TO MUSLIM WITNESSES.

386. *Nawab Siddique Ali Khan: Will the Honourable the Law Member be pleased to state:

(a) whether as a matter of Law an oath whereby a Muslim witness swears by the Holy Quran or swears by holding a copy of the Holy Quran in his hand, is authorised or covered by section 8 of the Indian Oaths Act (No. X of 1873);

(b) whether as a matter of actual practice many courts administer oaths to Muslim witnesses in the form mentioned in part (a); and

(c) if the answer to part (a) be in the negative, and the answer to part (b) be in the affirmative, what steps do Government propose to take to prevent the illegal practice of the courts?

The Honourable Sir Sultan Ahmed: (a) Yes, but an oath of this or any other nature can only be tendered if the party or witness offers to give evidence on such oath.

(b) and (c). I have no reason to suppose that the requirements of the law are not observed but if the Honourable Member will furnish me with evidence to the contrary I will be glad to consider whether any action is required.

Maulvi Muhammad Abdul Ghani: May I know in case a party does not agree to take a special oath, whether the courts are empowered to make any remarks regarding the attitude of the party?

The Honourable Sir Sultan Ahmed: The answer is in the negative.

FOOD POSITION OF THE EASTERN ZONE OF INDIA.

387. *Mr. Ananga Mohan Dam:—Will the Honourable Member representing the Food Department be pleased to state:

(a) the decisions arrived at the conference held in Calcutta to consider the food position of the Eastern Zone of India;

(b) the reasons why there should be a single food grain purchaser for the provinces of the Eastern Zone;

(c) the difficulties of appointing different food grain purchasers for different provinces under the direction of the Government of India; and

(d) the measures proposed to be adopted for maintaining a regular supply?

Mr. K. G. Ambegaonkar: (a) It is not in the public interest to disclose the details of the decisions taken. The general discussions have already been announced on the radio.

(b) There is no such appointment or arrangement made or at present contemplated.

(c) Government are not aware of the difficulties to which the Honourable Member refers.

(d) The measures form part of the Central Government scheme that was explained during the recent three days' debate in this House on Food.

Mr. K. C. Neogy: With reference to part (a), the Honourable Member stated that the general decisions had been announced over the radio. Will the Honourable Member care to repeat those decisions, because every one of us is not a radio "fan"?

Mr. K. G. Ambegaonkar: Yes; certainly. The first announcement was made on the 21st March and it ran as follows:

"The Central Government have made arrangements for the import into Bengal of substantial quantities of rice which will start to arrive within the next few days. Apart from this over 15,000 tons of wheat will arrive in Calcutta during the same period."

That was the first announcement. Last night another announcement was made and it ran as follows:

"The Central Government has now made arrangements to import substantial quantities of rice into the Bengal presidency to ease the difficulties at present being experienced, and it is intended that this assistance will continue as long as is necessary. But the peoples of the provinces and states from which this assistance is being drawn may rest assured that the rice being supplied will not be at the expense of their own domestic needs and will be replaced to the extent necessary, should any signs of shortage begin to arise in their areas."

Mr. K. C. Neogy: Is it a fact, Sir, that an acute situation has arisen in Bengal due to shortage of supplies and soaring prices?

Mr. K. G. Ambegaonkar: It was because it was realised that the position in Bengal was difficult that this conference was arranged and these decisions have been taken.

Mr. K. C. Neogy: Is it a fact that a deputation representing the colliery owners of Bengal and Bihar is going to wait upon the Honourable the Labour Member for the purpose of bringing to his notice the serious difficulties that are being felt with regard to the supply of food stuffs to labour employed in collieries, difficulties which may ultimately lead to considerable curtailment of the supply of coal?

Mr. K. G. Ambegaonkar: I am not in a position to reply.

The Honourable Dr. B. R. Ambedkar: That is so.

Mr. K. C. Neogy: Will the Honourable the Labour Member be pleased to make a statement on this subject after he has received the deputation?

The Honourable Dr. B. R. Ambedkar: Yes, I will.

STATEMENT REGARDING NATIONALISM BY JUSTICE MUHAMMAD MUNIR OF THE LAHORE HIGH COURT.

388. *Mr. Ananga Mohan Dam: (a) Will the Honourable the Leader of the House be pleased to state whether the attention of Government has been drawn to the following statement made by Justice Muhammad Munir of the Lahore High Court at the annual prize distribution of the Islamia College on the 2nd March (as reported by the Associated Press of India and published in the *Statesman* of the 5th March, 1943, Northern India Edition):

“Nationalism as understood in India will be destructive of corporate Muslim existence. Our national consciousness is drawn not from the country in which we happen to live, but from faith which determines our whole conduct and attitude towards life. We, as Muslims, believe that our mode and code of life are superior to others. The fusion of Muslims with non-Muslims, which nationalism implies, will sever the cord of faith.”?

(b) Are Government aware that such statements on the live political and communal questions of the day made by a Judge of the High Court undermine the faith of the people in the impartial administration of Justice?

(c) What step, if any, do Government propose to take to prevent the recurrence of such statements being made in future?

The Honourable Sir Sultan Ahmed: (a), (b) and (c). The subject matter of this question does not concern the Governor-General in Council.

Mr. Govind V. Deshmukh: May we know whom does it concern, as a matter of information?

The Honourable Sir Sultan Ahmed: I do not know; it does not concern us.

Mr. Ananga Mohan Dam: Have Government any responsibility in this?

(No answer.)

RESOLUTION RE GRIEVANCES OF OFFICIALS AND SECRETARIAT ASSISTANTS EMPLOYED IN RAILWAYS—contd.

Mr. President (The Honourable Sir Abdur Rahim): Further discussion of Mr. Jamnadas Mehta's Resolution.

Mr. Jamnadas M. Mehta (Bombay Central Division: Non-Muhammadian Rural): Sir, when on the last occasion the discussion on this Resolution was adjourned, I had mentioned two cases, one was that of an unfortunate ticket collector who, while honestly discharging his duty of excessing an European lady, incurred the displeasure of the authorities, was first suspended, then restored, then prosecuted, convicted, dismissed, conviction quashed by the High Court, restored, and then given notice of discharge again after a month. Such is the kind of uncertainty and absurdity of railway service to the subordinates. That poor man lost four thousand rupees because in order to get justice he had to sell his wife's ornaments of that amount. It is not an easy thing to go right up to the High Court and establish one's innocence. I have forgotten the name of the man and am unable to supply to the Railway Member the name of the particular person; he came before the Railwaymen's Federation for justice years ago and we were unable to do anything.

The second case I gave was that of an Anglo-Indian, who was charged at Jhansi with having done something wrong, namely, according to the orders of his superior he had delivered some waste stores to a contractor who had purchased them. That was absolutely in order, but a case was made out against him; the charge sheet was given; he sent his reply by way of defence; and instead of considering that defence which was in the possession of the authorities, they called him to Bombay and told him “The case is going to be decided against you: why not resign? You will get your provident fund; you will not lose anything else; but if you are dismissed you will lose everything”. This happened after the man had submitted his defence which was in possession of the authorities; instead of adjudicating on the case he was

coerced into resignation and then the case was dropped; and I know the parties for years together. They came to me, the husband and the wife and the mother of the wife and they said that they were socially disgraced in Bombay among their own community; nobody liked to meet them and everybody pointed the finger of scorn against them as they passed into some theatre or some communal gathering. But no justice was done. Happily, after years and years, this man is now employed somewhere.

The third case is perhaps the worst that you can imagine. I am not going to cite many cases, because I have to make some general criticism also—I shall only cite six cases. The third is that of a secretariat assistant. This gentleman was employed in 1915 as a secretariat assistant under the orders of the Government of India, Railway Department. From 1915 to 1935 or even a little longer, this gentleman was promoted from one post to another, holds very complimentary testimonials, and his supporters even went to the length of writing him congratulations—here is one letter written by Mr. P. C. Young, Secretary of the Railway Board, to Mr. Jain—the gentleman whose name I am giving now.

"I congratulate you heartily on having been appointed as permanent secretariat assistant. You have now an assured position and I am sure that you will strive to better it. I hope your efforts will be successful."

This was in 1915. He was appointed a secretariat assistant. I am not going into the long history of this case, except to say that a secretariat assistant can be only appointed by the Secretary to a department of the Government of India and can only be removed by him. No other authority has any right to remove him, subject to minor punishments; here also I will quote the Home Department notification dated the 27th February, 1932:

"subject to the condition that no officer may be removed or dismissed by an authority subordinate to that by which he was appointed,"

and this applies to the secretariat assistant. This gentleman was clearly designated as a secretariat assistant, appointed by the Secretary to the Government of India in the Railway Department. Now who can remove him? Only the Secretary to the Government of India in the Railway Department which means the Chief Commissioner of Railways. But in the Railway Board, in spite of the very powerful electric current, the darkness is supreme, the difference between a Secretary to the Government of India and a Secretary to the Railway Board was overlooked, and this gentleman, after twenty years of honourable service, was suddenly found to be incompetent because he was likely to rise higher. At that stage his incompetence was suddenly discovered, petty, absolutely worthless charges were trumped up against him, and without even a proper hearing, he was treated unjustly and was unceremoniously removed. Not only that, but the worst that can be done was done to him,—the lowest pension was given. The vindictiveness of the people who dealt with that case is scandalous. It will fill a volume. What happens? He appeals to the authorities who are provided under the rules, and one authority after another regrets "We cannot interfere". He appealed to the Honourable the Railway Member. It began with Sir Sultan Ahmed; also it continued with three more Railway Members, each stamping obediently and loyally the order of the Secretary of the Railway Board. I ask whether they ever had time to look into the inequity of this case. They never had it. There is a proverb that when people are simply doing something according to form they will do the most absurd things; if the form is there, substance does not matter. And when a copy is to be made of the original, if there is a fly in the original and there is none in the copy they will kill a fly and attach it to the copy. *Copyka copy, makhi ka makhi marna*. Four Honourable Members stamped the removal of the secretariat assistant without looking into the merits of the case, and to-day after 20 years of honourable service that unhappy gentleman walks the streets of New Delhi disconsolate wondering whether there is any justice in the Railway Board or in the Government of India. But the worst of it is still to come. This Secretary of the Railway Board was not the proper authority to initiate any case against him. Whether under the

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Fundamental Rules, or under the Railway Discipline Rules—I am giving only a summary—or under the Government of India Act or the Home Department notification, any person who can take action against Mr. Jain is the Secretary of the Government of India in the Railway Department and no other. So, initially there was an illegality. Mr. Jain's case was dealt with by an authority who had no business, who was disqualified, and yet after this illegal action took place, not one Member—absolutely there is no getting out of it, with all due regard to the Honourable the Law Member, four Executive Councillors have stamped. Yes. The Honourable the present Railway Member won't give me an opportunity to prove the illegality. I have invited him. Ultimately he escaped by saying, "Don't please write to me again. I shall not reply". But he never answered my point. I know he did not mean any discourtesy, he meant he had nothing to add. I realise, he was so upset by what I wrote to him that he said, "I must now tell you that no notice will be taken of what you will write hereafter". But I took notice of it and have given him a case, which I ask him respectfully to challenge. He won't be able to challenge. Everything is against the Railway Board in this matter and everything in favour of Mr. Jain. Not only is there an initial illegality but the procedure pursued was such that Mr. Jain was not given even a proper opportunity. When he was given an opportunity, what was done was, he was called by the officer who was holding the enquiry and told, "You seem to be impertinent. You seem to be legalistic. I have gone with your case. You are discharged". This is the enquiry. Sir Sultan Ahmed, you were not present at that time

The Honourable Sir Sultan Ahmed (Law Member): Nor had I anything to do with this case.

Mr. Jamnadas M. Mehta: That may be, but it is my information. For a short time you were a Railway Member. The case may not have come before you.

The Honourable Sir Sultan Ahmed: No, nothing.

Mr. President (The Honourable Sir Abdur Rahim): I must remind the Honourable Member that the question that is raised by the Resolution is a general one as to the advisability of having an appellate tribunal for these cases. The Resolution does not permit any Honourable Member to discuss individual cases, by way of an appeal on the floor of the House to Government for redress.

Mr. Jamnadas M. Mehta: I am referring to them in order to prove my general thesis. . . .

Mr. President (The Honourable Sir Abdur Rahim): By way of illustration the Honourable Member can mention some cases; I can quite understand that. But I do not think that he ought to mention names.

Mr. Jamnadas M. Mehta: I am sorry I gave the name; there was no intention to give the name. Suddenly, in the course of the argument, in order to identify the case—otherwise, in the last two cases I have not given the names. I won't give the name. I close this case with an earnest appeal to the House that the Railway Board for many reasons are unable to deal fairly with cases of this kind.

The fourth case that I am going to mention is of a E. I. Ry. clerk. Overnight he had Rs. 1,600 in cash with him probably against the next day's requirements. But he had asked for leave the next day and the clerk who was to take charge of his work for the day was handed over the papers and the money and whatever else remained, by the clerk who was going on leave. Next day when the man was on leave the Rs. 1,600 were lost. What happened? The man who was on leave, who never came within the railway precincts or inside his office that day, was charged with the theft of the money. No case was instituted in law courts nor was he convicted. Simply because the previous day he was in charge and the next day in his absence the Rs. 1,600 were lost, he was removed. You give vicarious punishment by dismissing the

man who had a long service, because the railway lost Rs. 1,600 in his absence. He was not a guarantor, he was not a guarantee broker that in his absence also things must remain at his risk. I will probably be able to give the Railway Board if they want the name of that gentleman; it is a three-year old case.

The Honourable Sir Edward Benthall (Member for Railways and War Transport): Please.

Mr. Jamnadas M. Mehta: I shall be able to give because the railway representatives are here. That man tried his best, I tried my best, but nothing doing. And ultimately the man is without a job, either unemployed living on the charity of friends, or living moodily and eating his heart out in private with the feeling that no justice is possible in the railways.

The fifth case which I will give is a case from the B., B. & C. I. Railway. An Indian Officer and two Indian officers subordinate to him in the Audit Department, all senior with first class record, with appreciation of services, not once, nor twice, but many times over. When the Chief Auditor was going to retire he suddenly took a fancy to somebody who was entirely junior to these three and they were all passed over and their junior is now fixed on their head, to their great disappointment and disgust. Appeals to the Agent brought no relief. I am not giving the name. I have gone through their cases with as much care as is possible for a public worker to do in the discharge of his duty, and I say, never was a more scandalous supersession of qualified, experienced, honest, loyal officers in the B., B. & C. I., than the supersession in favour of this junior man of a Hindu, a Muslim, and a Parsi. The great merit of the case is that the authorities were imparital in their injustice; So long as you are a Hindu, a Muslim, or a Parsi, the justice that you get is of the B., B. & C. I. Railway type. My Honourable friend, Mr. Sankara Aiyar, will be able to spot the case immediately, but I do not want to embarrass him. In my reply, if the Railway Board try to challenge this thing, I shall be able to prove it.

The Honourable Sir Edward Benthall: When was this?

Mr. Jamnadas M. Mehta: About two years ago.

Last year another injustice was about to be done to one of the officers and happily the Railway Board at last woke up and he was saved the ignominy of a second injustice and the last time he met me he told me 'Here at least the Railway Board have done me justice' but the greater injustice of being superseded by a junior man, junior not merely to him but two other Indian officers, a Parsi and a Mussalman, is rankling in their hearts and they can see no way out of it to get justice.

Well, Sir, I have concluded representative cases from almost each Railway, except the two southern railways—not that I have not got cases of injustice there but my time is finished and I have to summarise the result of my submissions and make out a general case for the proposition that I have placed before the House. The last point I wish to refer to is the general character of the railway service. The remuneration and the salaries of the humbler railwaymen are not too generous. I am free to say that the Railway Board is on the whole better than some private employers; but it is not giving a living wage to a majority of its employees and even those who may be getting a reasonably good wage in often find themselves unable to make both ends meet and get into debt; one of the rules is that a man who becomes insolvent on account of heavy indebtedness may not be allowed to remain in service or a man who is very much indebted and against whom decrees have been passed may be discharged from service. It is a good rule. I do not deny it. A man who is not able to look after his own finance may not be able to look after the interests of the railway but they know that very often the indebtedness and the subsequent insolvency is the result of lower pay, some serious illness in the family or to some misfortune. In this country the illness of wives is more frequent than it is elsewhere and the husband is simply torn with anxiety between his affection for his wife and his obligation to his employer. He is often on the verge of bankruptcy. Such men are dismissed but the men who

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have incurred debts for drink, for races and other kinds of dissipation, although they are indebteded, although decrees are passed against them, although they become insolvent, they still enjoy the favour of the Railway administrations and they continue in the enjoyment of their jobs. Even if they are dismissed, they are re-employed and the maxim seems to be 'the greater the rotter you are the better your chances of being continued in railway service'. That is the position as regards this indebtedness. Some people become absolutely bankrupt on account of racing, drink or other forms of dissipation and somehow or other they get into the good graces of somebody and they are not only not dismissed but even if dismissed they are re-employed and carry on the previous record of drunkenness with a complete assurance that now at any rate it was permitted by the higher authorities.

Weli, Sir, these complaints have been made to the Railway Board in a thousand and one cases. There is not a day when I do not receive such complaints. The letters and telegrams I get and the personal interviews—they make me sick sometimes about the iniquities and the injustices of the Railway Board. I do not say that all the cases that come to me are necessarily right and the Railway Board is always in the wrong. That is not my case. The poor man is as often at fault as the railways. For instance, a man was found smoking in a paint shop. After 23 years of service, he was dismissed. He came to me and asked me whether I could do anything. I told him that I could do nothing, because he was at fault. But in the great majority of cases, either the complaints are not looked into on the ground of their being individual cases or, as I told you, when they come here, the higher authorities have no time to look into them. The first real difficulty is that they have no time. On the table of the Chief Commissioner for Railways, I see piles of appeals, in addition to his other business, from individual officers and, as he once told me, he applies his Christian conscience as much as he could and he claims that he tries his best to do justice. He does not maintain that he was sure that justice was done in every case. Such a frank and honest avowal of the limitations under which justice could be obtained in such matters was very welcome to me and I thought that the only way out was to come to this House and through the House to appeal to the Government for a remedy. The Higher Railway officials have serious responsibilities, particularly the Railway Board which has to run a railway system of 50 thousand miles over a continent like this. They cannot be blamed if they are unequal to task if in addition to their ordinary duties they are charged with the disposal of appeals, covering from 500 to a thousand printed or typed pages. Sitting here in isolation, they cannot verify facts. I cannot blame them. Human nature asserts itself and they try to get a precis from an assistant who goes only into that part which is favourable from the official point of view and thereby presents, unconscious it may be, garbled version of the case. The Assistant also may be innocent in doing what he is doing. Their inability to go through such voluminous mass of papers is the real cause for this scant justice that is being done. What are the remedies open. I ask the Railway Board and the Honourable the War Transport Member and Mr. Sankara Aiyar whether there is a human being in this world, not excluding the higher authorities of the Railway Board, who during the course of his life does not commit some little error and whether that is a valid reason for discharging or superseding or discriminating against loyal servants who have done 15 or 20 years service. No, Sir, I know that the Railway Board has no policy of injustice as such. I do not say that. Knowing these gentlemen at such close quarters, I shall be the last man to say that. They have no deliberate, conscious policy of doing injustice.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has got one minute more.

Mr. Jannadas M. Mehta: I have nothing more to say. The Railway Board are far removed from the scene of action. Their work is onerous and in the nature of things they are incapable of looking into these things. Hundreds of

honest and loyal servants of the railways are today suffering injustice and in order to remedy this state of affairs I have brought this Resolution. I do not mind how they bring about justice whether through the machinery of the Federal Public Service Commission or any other machinery but in the interest of the reputation of Government, in the interest of justice to their honest and loyal servants I think it is absolutely necessary that some independent machinery should be provided for dealing with the cases of the kind I have complained of. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): I think the motion has been put to the House and also the amendment moved by Nawab Siddique Ali Khan.

There is another amendment in the name of Mr. Anthony. Does he want to move it?

Mr. Frank R. Anthony (Nominated Non-Official): Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim): It ought to have been moved before. However, the Honourable Member can move it now.

Mr. Frank R. Anthony: Sir, I beg to move:

That after the words 'Secretariat assistants' the words 'and subordinate staff' be inserted.

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

That after the words 'Secretariat assistants' the words 'and subordinate staff' be inserted.

Nawab Siddique Ali Khan (Central Provinces and Berar: Muhammadan): Sir, I had the honour of moving my amendment on the last day reserved for non-official Resolutions. My amendment is very simple and I do not think that anybody in this Honourable House will oppose it. It seeks to create a sense of confidence in the minds of a large number of Muslim railway employees that justice will be meted out to them. In support of my case and in justification of the acceptance of my amendment, I will have to tread on that ground where criticism will be levelled against me and where I will be inviting the wrath of some of my Honourable Hindu friends. It is obvious that we represent a particular community and a particular interest in this Honourable House. If for fear of criticism or being called, in simple words, communalists we keep quiet, we will surely be failing in our duty. We will not be true to ourselves and to those whom we have the honour to represent in this House. For the last nine years we, the Members on this side of the House, individually and sometimes collectively have brought to the notice of the Railway Member by means of questions, Resolutions, cut motions and representations the cases of those railway Muslim officials who have suffered, been superseded or sacked, but very often we have found that our expectations have not been fully met. I will now quote a few cases of those Muslims who have been mal-treated by their non-Muslim officers.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not mention the names.

Nawab Siddique Ali Khan: No, Sir, I will not do that. I am in possession of the names of these sufferers and I am quite prepared to give their names to the Honourable Member if he promises to institute an inquiry into the allegations which I am shortly going to make here.

The Honourable Sir Edward Benthall: I will be pleased to do so.

Nawab Siddique Ali Khan: Thank you. I am sure the Honourable Member, who is a shrewd businessman and who knows fully well what administration is and from his record of sympathetic behaviour I am confident that he will do something for those who are ungrudgingly helping him to bring this war to a successful termination.

First of all, I will take up the lower gazetted service. This service is almost wholly recruited by the promotion of subordinates to the gazetted ranks. Mr. Frank D'Souza admitted in his report that the only community which was under-represented in this department was the Muslim community. The proportion of Muslims in the service is hardly 6 per cent. In the Commercial Branch

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of the North Western Railway several appointments have been made recently to the lower gazetted service. Some non-Muslim Inspectors of Coaching and Goods have been appointed as Assistant Commercial Officers. These Inspectors had been receiving bad confidential reports from their immediate superiors in the Accounts Department. They were offered these jobs so that they may get better pay and status to which, due to bad reports, they were not entitled in their own department. When such favouritism is shown, there is bound to be supersession and thus frustrate the claims of deserving people. I would suggest that rules should be framed so that such irregularities may not take place. The same is the case in the Headquarters office. There also the same procedure is adopted. Two Hindus head clerks were promoted as Personal Assistant to the Chief Commercial Manager and Assistant Rates Officer respectively and only very recently a very junior Rates Inspector has been promoted as Assistant Rates Officer. There is not a single permanent Muslim officer in the entire Commercial Branch of the Headquarters office. There is only one Muslim, who is at present officiating, and he is on the verge of retirement. Extensions in service are being given to all officers and their applications for leave preparatory to retirement are refused. But in the case of this Muslim officer neither has his leave been refused nor has he been given any extension. There is a Muslim senior subordinate who is working very successfully as a Superintendent, Sleeper Depot. He has got high technical qualifications and holds many degrees and diplomas from foreign countries. His European officers are very much pleased with his work and have strongly recommended him several times, and they are of opinion that he is eminently fit for being appointed as a Sleeper Passing Officer. But his claims have been ignored on the ground that he does not belong to the Engineering Branch.

I will now give two or three cases of communal discrimination against Muslims. One Muslim was appointed as a Tracer at Karachi in the year 1928 by Mr. (now Sir) Arthur Griffin. This gentleman worked with Sir Arthur for more than 19 months and afterwards he was recommended every year for promotion. In 1942 it was expected that a higher post will fall vacant, which he was entitled to get, but his claims were ignored and his name was not recommended. The real reason was that a conspiracy was hatched to bring in a

12 Noon. Hindu gentleman and after all he succeeded in getting the promotion.

The Tracer submitted an appeal but the local authorities refused to forward it to the General Traffic Manager. However, the North Western Railway Muslim Employees Association took up the matter and the local authorities had to agree and declare the Tracer as suitable for promotion. In Multan Division a Muslim stenographer was discharged from service and a permanent vacancy occurred in the division which was reserved for a Mussalman. A Hindu stenographer who was working in Quetta Division in a temporary vacancy was brought to the Multan Division and was offered that post which was reserved for a Mussalman and the Muslim who was working in this permanent vacancy was transferred to Quetta in a temporary vacancy. There is another glaring instance of communalism and favouritism and discrimination against the Mussalmans, in the case of one Muslim Assistant Surgeon. Up to this time Assistant Surgeons used to be appointed as Personal Assistants to the Chief Medical Officer. But here a novel procedure was adopted and a Hindu head clerk of that Department who was not a Surgeon and had not even the experience of first aid was appointed as Personal Assistant to Chief Medical Officer and the claim of the Muslim Assistant Surgeon who had every right to get the job was completely ignored. Sir, such highhandedness and favouritism has created suspicion in the minds of Muslim employees that there is no fairplay, equity and justice for them in this Department. The other day my Honourable friend Syed Ghulam Bhik Nairang rightly said that the Supply Department was clerk ridden, clerk governed and clerk guided. The same statement applies to the Railway Department also. Sir, to destroy the free masonry existing in the

Department and to annihilate the clique to suppress Muslims it is necessary that a sense of confidence should be created in Muslims, that if any wrong is done to them it could be undone by a Tribunal which will have effective Muslim representation. Sir, I commend my amendment for the acceptance of the House.

Mr. Frank R. Anthony: Sir, I moved my amendment to this Resolution in order to fill in what seemed to be a lacuna. In the Resolution we have been asked, at least the Railway authorities have been asked, to devise some more effective machinery for the redress of the grievances of Railway officials and Secretariat employees on the Railways. No mention has been made of the subordinate staff—the subordinate staff who represent the bulk of the employees on the Railways. I feel sure that this omission was not a deliberate one on the part of my Honourable friend Mr. Jamnadas M. Mehta, and I hope and feel sure that he will accept my amendment. Perhaps he was actuated by the point of the unionist when he moved the Resolution, because he tells me that subordinate employees who happen to be members of unions have certain remedies. But what of the thousands upon thousands of subordinate employees who are not members of Unions or of Unions which are recognised by the Railways and by the Government. The only remedy open to these many thousands of subordinate employees are the provisions in the various Railway Administrations. And any one who knows anything about these provisions realises how completely inadequate and hopelessly illusory they are. I shall be most grateful to my Honourable friend if he will accept my amendment, because I feel that if anything the grievances of the subordinate staff are greater and more serious than the grievances even of the officials and the Secretariat employees. The injustice to which they are exposed is more oppressive and widespread in character than the injustice to which railway officials are exposed. I do not wish to be misunderstood. I completely endorse my Honourable friend Mr. Jamnadas Mehta's Resolution for I believe there is an urgent and vital need to secure the redress not only of Railway officials and Secretariat employees but of all the employees on the Railways and more specially of the Subordinate employees; as I have said they constitute the bulk and are the mainstay of the railways. The Honourable Member for Railways and War Transport in reply to my cut motion, which was of a rather similar character and in which I drew the attention of the Railway Administration to the illusory provisions governing appeals and asked them to set up a Judicial Tribunal as the ultimate forum of appeal—in his reply my Honourable friend Sir Edward Benthall stated that as a new broom seeking to sweep away cobwebs from the Railway Administration he had found only justice and humanity. I do not for one moment question the sincerity of my Honourable friend. I really believe that he was, and is still looking for cobwebs. But with whose help has he looked for these cobwebs? With the help of officials who have woven these cobwebs. From whom has he received his satisfaction that justice and humanity form a halo around the head of the Railway Administration? Obviously the only inspiration for his statement is the official hierarchy on the railways. It is like going to a murderer and trying to enlist his support to uncover his crime. The network of cobwebs in the Railways is the handiwork of railway officialdom. How then can my Honourable friend hope to discover these cobwebs with the help of the Administration? Let him come to leaders and representatives of thousands of railwaymen, leaders like Mr. Jamnadas Mehta and myself; let him receive deputations of responsible railway men; we shall point out to him cobwebs not only in the nooks and crevices of the Railway Administration, but we will show him to continue his imagery, a heavily crusted and overlaid tapestry of injustice and inhumanity hanging in the marble halls of the Railway Administration.

I agree with Mr. Jamnadas Mehta that injustice and inhumanity are not usually deliberate. In most cases, they are not the result of a deliberate and avowed policy of injustice. But injustice and inhumanity are rampant on the railways because they are the natural and inevitable concomitants of the present

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system of railway administration—an outworn, obsolete, unimaginative and increasingly unresponsive system of administration. I find my Honourable friend Sir F. E. James is not here. I believe it was he who mentioned recently that the railways are a big business undertaking and that no bureaucracy and no bureaucratic methods have ever been known to run a business successfully. Unfortunately the railway administration is becoming increasingly bureaucratic in its character and in its outlook or perhaps I should say in its lack of outlook. My Honourable friend the Member for War Transport is a big businessman and I would appeal to him not to look in at matters from the myopic and unimaginative point of view of the railway official. Let him rather try, if he can, to convert the railway official to see matters with the vision and imagination which are usually associated not only with big business, but with sound business.

Sir, as my Honourable friend Mr. Jamnadas Mehta has said the provisions on the various railways for dealing with matters of supersession, discrimination and appeals are notoriously illusory. Mr. Jamnadas Mehta has drawn attention to the fact that supersession as it is being practised in the railways today is one of the most fruitful sources of resentment. In cases where supersession has been made as the result of flagrant discrimination or of obvious communal bias and even of rank nepotism, even in such cases, no redress is possible. Whole blocks of men have often been superseded. On some railways, the men who have been superseded are not permitted to appeal against their supersession. They are not allowed to question the reason for their supersession. And in those railways where they are permitted, the invariable reply is that supersession has been made as the result of selection. There can be no objection to the principle of selection. It is an unexceptionable principle. But Sir, when it is remembered that it is a principle which is likely to be abused as it often is, some redress must be made available to those who are aggrieved by questionable and dubious methods of selection. I can cite not six cases as Mr. Jamnadas Mehta has done, I can cite perhaps sixty cases in which the railway employees have been illegally dealt with. Men have been discharged and dismissed after a procedure which is nothing short of farcical, and it would be amusing but for the fact that it has had such tragic consequences. The whole career and prospects of men have often been abruptly ended as the result of a procedure which is characterised by complete ignorance of the most elementary principles of evidence juridical procedure, of justice and of equity. I shall give to the House but one instance. It is a case which I have already brought to the notice of the Honourable Member for War Transport. And this is not an exceptional case. Unfortunately it represents the case, the all too tragic a case, of the average railway man. It is the case of a Permanent Way Inspector on the E. I. Railway. A man who had served 20 to 22 years, who was a senior subordinate getting Rs. 450 a month. That man was discharged. He was never put in the position of an accused, he was never allowed to hear the evidence which was used against him. He was never allowed to defend himself, he was not given the right of a common felon to stand trial, to analyse the evidence which was brought against him, he was not allowed the right of a common felon to lead evidence in his own defence. That man was discharged after 22 years of service. He preferred an appeal to the General Manager a year ago, and he got the usual Bābulike and stereotyped reply, "you have been duly dismissed by your senior officer." What justice or humanity can you expect from the present system, a system in which invariably, or almost invariably, the opinion of one official is blindly endorsed by the next or the succeeding official? The whole railway administration is warped by this bureaucratic complex of blindly supporting or following brother-officials. I believe I am right when I say that in most of the railways today, it is the General Manager who constitutes in his person the ultimate tribunal of appeal. Mr. Jamnadas Mehta has said that it is not fair to expect the average senior railway official to be able to afford the time in order to investigate and to scrutinise cases of grievances brought to his notice. I would go further and say that a

person like a General Manager, however estimable he may be, however able and however tender his Christian conscience may be, he has neither the time nor the inclination, perhaps not even the capacity, to be able really and honestly to deal with hundreds of individual cases which must come to his notice in the course of his monthly duties. It is not possible for him to sift each case, to analyse it on its merits and come to an honest and just conclusion, with the result that you get the sort of reply that I alluded to just now, namely that you have been properly or duly dismissed by your senior officer. What possible objection can there be to the setting up of a Public Service Commission? As far as I am aware, in other Departments like the Customs and the Telegraphs, the Public Service Commission constitutes the ultimate tribunal for appeal from its employees. What possible objection can the railway administration have for the setting up of a similar body in order to listen to and redress the grievances of the railway employees? The only objection that I can possibly see is the objection which emerges from the fraternity of witch doctors who are opposed to admitting liberal and progressive measures because they are afraid that their present primitive and arbitrary methods of dealing with their staff will be undermined and done away with. This is a matter in which we are all interested to whatever community we may happen to belong, whether Hindus, Muslims, Sikhs or Anglo-Indians. Railway employees, to whatever community they belong today, require most as a vital need the establishment of a more effective machinery in order to deal with their grievances, for example by the setting up of a Public Service Commission. Sir, I move.

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): Sir, I rise to speak on this Resolution, but with no brief from any individual or any particular community, but I rise to speak generally on the grievances of all the subordinate officials that are being affected by the supersessions, dismissals and other acts of the officers that are being done. Now, Sir, I am very glad that the Resolution itself is a general one, it refers to only one question, it refers to no particular party, Muslim or Hindu, or Parsi or Christian. It is in the interest and for the welfare of all the subordinates to whatever caste or creed or colour they may belong. I am very glad to see that such a Resolution has come without any communal turn being given to it. But I must say that my Honourable friend Nawab Siddique Ali Khan spoke about the Muslims. There was no objection to his speaking about Muslims. But what I would like him to say is that a Muslim is affected because there is a Hindu official above him. Apart from that, on this question of helping in the removal of grievances of all the subordinates and officials we are all at one and, therefore, I submit that this Resolution is one which should be accepted by the Government.

With regard to the amendment of my Honourable friend, Mr. Anthony, it is really desirable and necessary, and I have not the least doubt that the Mover of the Resolution will accept it. In my opinion the words 'Secretariat Assistants' include 'subordinate staff' also, but it is better to make it clear.

So far as the other amendment is concerned, I shall have no objection to adding the words 'on which the Muslims are adequately represented'. I would rather ask the Chair to allow us to put the amendment in these words: "on which the Muslims and other communities are adequately represented". I think there would be no objection to this amendment being accepted.

Now, I come to the Resolution itself. It is in two parts: The first is the complaint in respect of supersessions, discriminations, discharges and dismissals; and the second asks the Government for remedying the grievances. It cannot possibly be denied that there are cases, and very many cases, of supersessions, discriminations, discharges and dismissals in which the relief given is absolutely illusory and whatever relief comes it comes from the officer who cannot be wholly uninfluenced or not leaning on the side of one or the other. The grievances are there. They have several times been voiced in this House. Of course, individual cases are not being allowed to be discussed here, and that is what I am saying that for the individual there is no remedy at all, not at least in the sense in which it is suggested in the Resolution. I will give you one instance which

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will show you what actually happens: I know of a case in which a Booking Clerk was dismissed by the Divisional Superintendent and an enquiry was made in regard to the causes of his dismissal by the Assistant, who asked the booking clerk to give his defence and he decided the case. The case was wholly untenable and the clerk made an appeal to the General Manager who decided his case by putting down only these words "Appeal rejected. There is no reason to interfere." I am very glad that the clerk was not satisfied with so much; he went to the Court and I was pleading for him in the Court. What happened was this. When the case came before the Judge, he was of the opinion that there was no opportunity given to the booking clerk and no reasons were shown for dismissing him. It was a dilemma for him. The representative of Government, who was fighting the case, pointed out that the Court had no jurisdiction to go into this question. The reason given was that the Government servant is appointed and dismissed at the pleasure of the Government, and therefore the Court have no jurisdiction. Such cases do happen and may I ask if there is any independent authority or tribunal to go into the case and satisfy the person who is dismissed. I have quoted this case because it is personally known to me and which I myself conducted; it was in the Court of District Judge, Sukkur. The judge said that the case was clear and he would have given a declaration to the effect that the dismissal was wrong but he had got no jurisdiction. The Privy Council has decided a case like that and therefore they say that the Court has no jurisdiction. Therefore, I say, Sir, that so far as individual cases are concerned, or general cases are concerned, why do you allow those cases to be brought forward in this manner? Why don't you remove their grievances by appointing a tribunal or sending all such cases to the Public Services Commission to decide? This action on the part of Government will remove a good deal of discontentment, and we will also not be disturbed in individual cases to listen to their grievances and bring them forward in this House. Some of the cases are very justifiable and genuine and we have either to fight those in the Court or bring forward here, but here again in the Assembly we are not getting any relief for those individual cases with the result that dissatisfaction continues.

One of the grievances of subordinates was that in direct recruitment influence and favouritism played a great part. Promotions were also not properly decided. Cases of supersessions, discriminations, discharges and dismissals were not thoroughly gone into and properly decided. To go into all these questions Mr. D'Souza was appointed, and in his report on page 61 he says:

"In paragraph 51, reference has been made to the desirability of establishing an independent organization for direct recruitment to the subordinate services as an alternative to the existing arrangement, under which *ad hoc* selection boards constituted in districts, divisions and at the headquarters of each of the four State-managed railways recommend candidates for appointment."

Further on he says:

"Competition for the vacancies that arise is keen, and the several thousands of disappointed candidates with their relatives, friends and communal supporters are not above believing that those only are selected who can influence the selectors, despite the cautionary 'Canvassing will be a disqualification' inserted in practically every advertisement."

On page 63, we again find:

"Sufficient has perhaps been said of the present procedure for recruitment and of the manner in which Selection Boards function, *vide* Chapter VIII to indicate the need for changes in the existing methods. Such alterations as are practicable, and have been suggested in paragraph 51, do not go as far as is necessary to improve matters. It is the system that is at fault, and should be ended by the constitution of an independent organization for the recruitment of subordinate staff on the four State-managed Railways."

He has not said that only in respect of recruitment. Later on, he has said about other grievances also. On page 65 we find:

"On the assumption that the scheme for a Railway Services Commission will be acceptable, it is further recommended that the arrangements for the competitive examinations to be held for promotion from grade to grade, *vide* paragraph 121 should be made by the Commission."

Then he says:

"Consideration has been given to the possibility of assigning to the Commission certain other functions."

Now, those are the functions for which this Resolution has come in :

"If and when it is found that the work connected with the improvement in the subordinate service and in the holding of examinations for promotion is not sufficient to absorb the Commission's time and energy; and should this prove to be the case, the Commission could be utilised as an advisory body in connection with cases in which severe disciplinary action had been taken, as was contemplated against senior subordinates. In considering these cases the Commission could co-opt, if necessary, departmental officers with the requisite technical knowledge, and so forth."

Now it is plain that the two gentlemen engaged on the enquiry have come to a positive decision, and it is very clear that supersessions, recruitment, discriminations, discharges and dismissals are often done by influence and favouritism. Therefore why not remove all this and find out a course to remedy it? It is suggested to devise a suitable machinery for the effective redress of the aforesaid grievances by entrusting the investigation and disposal of such grievances to an independent body like the Public Service Commission. Now, Sir, we have two Public Service Commissions—one is the Federal Public Service Commission, and we know that the cases which go to them end satisfactorily once their decision is given. In like manner we have at present a Public Service Commission for subordinates sitting at Lahore and it is a body consisting of three officers. Now those three officers—one of them is a Hindu, Mr. Dhan : there is the Chairman, Khan Bahadur Muzaffar Husain, and the third is Sardar Ram Singh. But they are deciding cases only on direct recruitment. I know there are several defects, which of course will be ventilated by and by as further powers are given to them. At present they simply act on directions from the General Manager. He may tell them that he wants just six men: the Commission is not to worry how to place them in order of merit. They have just to select the men and send them on to the General Manager and he will decide where to send each one of them. There is much discontent with this. But what I am concerned with is this: all grievances relating to subordinates should be sent to the existing subordinate Public Service Commission in Lahore; with regard to higher officers, their cases should be sent to the Federal Public Service Commission. But the only question that may arise will be whether the Commission will be able to do more work than they are doing now. At present they have only to decide cases on direct recruitment. I personally think they will have the time. But if they have not, then some officers may be co-opted. Of course, they should be independent, but I would go further and say that in order to put down these complaints, and to make your subordinates and officials contented and help them to work with satisfaction and pleasure, it is only right that you should recognise some independent tribunal for their grievances. Now if you think that the present subordinate Public Service Commission is over-worked, add one or two other members and it will be all right. Even to the Federal Public Service Commission also one or two members can be added. Only then can we hope for these perennial disputes and quarrels over these promotions and other things to come to an end. I do not think I should take any more time. I have explained the situation. There are two parts to this Resolution and one part cannot be denied by the Government. They cannot say that there are no supersessions, or that all their officers are above board. Just because they have decided a case, it does not mean that it is finished. I have given you an instance of a Divisional Superintendent dismissing an employee and the assistant

The Honourable Sir Edward Benthall: I said the General Manager had reviewed the case.

Mr. Lalchand Navalrai: It went to the General Manager on appeal. The answer was, "I do not interfere".

The Honourable Sir Edward Benthall: He did not say that he did not interfere. He said "Rejected".

Mr. Lalchand Navalrai: Of course it comes to that.

The Honourable Sir Edward Benthall: Very different.

Mr. Lalchand Navalrai: That means that he is not to look into the case. He has simply to say "I reject". That is the reason for these appeals. Justice is not being done. The law is that the Appellate Court should give satisfaction

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by giving such reasons that the Courts should find that those reasons are such that they should not go into the question. But when they simply say "I reject" that is no satisfaction at all. Therefore I say it is very necessary that something should be done, and now that there is unanimity on this Resolution from this side, it should be accepted with those amendments.

Dr. Sir Zia Uddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): I thank Mr. Jamnadas Mehta for bringing this matter up again to the notice of the Assembly, and I have no praises for the Government for their continued indifference to our first demands. I first brought this matter to the notice of this House in the form of a cut motion on 24th February, 1934 when I moved that the demand under the head Railway Board be reduced by Rs. 100, and this I did in order to raise the question of the system of appeals, and during the debates I pointed out the method prevalent in the Railway Department which my Honourable friend, who represents the law in this House will not believe it, but I said it was a fact. I said on that occasion that no I.C.S. officer would be inclined to accept what I was going to say and I challenged in 1934 that what I was saying was correct and the system of appeal in 1934 was this: That a person is really discharged by an officer of the rank of Superintendent on the representation of a clerk. He sends his appeal to the Divisional Superintendent. The Divisional Superintendent sends it back to the officer, who in turn sends it back to the clerk. The clerk puts a memo saying that this is a case of discharge without even mentioning the case, and the Divisional Superintendent replies, without reading the case, on the authority of that clerk, that the Divisional Superintendent has no reason to interfere in this matter. Now, he files another appeal to the Agent; the clerk in that Agent's office simply forwards it to the Divisional Superintendent; the Divisional Superintendent sends it back to the officer and he sends it back again to the same clerk who dealt with it first, and he writes another memo. saying "This is the case in which so and so was discharged on such and such a date", and it comes back to the Agent who replies that he sees no reason to interfere in this matter. My friend representing the railways may question this thing, but he knows the other day there was a case where it was proved that the Agent never read the case at all and in spite of that he wrote a letter in this form, that he has personally looked into the matter and he saw no reason to interfere—but it was definitely proved that he never read it. This is in a memorandum mentioned by the Honourable Sir Zafrullah Khan and it will be found in the office—in connection with the E. I. R.

The Honourable Sir Edward Benthall: Can you give me any clue as to the date?

Dr. Sir Zia Uddin Ahmad: I will give you all the facts later on—it is on the file of the Railway Board. Again, a man sends his application for mercy to the Governor General. His Excellency's private secretary sends it back to the Railway Board, where it goes to the second or third grade clerk who dealt with it before; he puts on a printed memo. without any officer reading that appeal and he sends it back to the Agent, and the Agent sends it back to the Divisional Superintendent who in his turn sends it back to the original office and the same clerk puts up the same reply.

The Honourable Sir Edward Benthall: The Honourable Member is completely wrong.

Dr. Sir Zia Uddin Ahmad: I am perfectly right. I am merely repeating what I said in 1934 and this is perfectly right

The Honourable Sir Edward Benthall: I am saying that it is wrong.

Dr. Sir Zia Uddin Ahmad: This was in 1934. My friend Sardar Sant Singh took part in that discussion and he mentioned a number of cases which in his opinion was a gross insult to his sense of justice and to his sense of legal profession, and as he is present I shall not quote him. But my friend, Sir Henry Gidney, at that time took up the matter and he said—I shall just quote one or two sentences—

"Often times you find the Loco. Foreman the judge and the accuser of a driver or a fireman who had been punished by him and in all cases he is supported by his higher officers, till you finally come down to what my Honourable friend Dr. Ziauddin, has immortalised here the ubiquitous clerk in the railway office. This is a daily occurrence. The opportunity of a subordinate to appeal, then, becomes an absolute fiasco, a sinecure. A man is discharged for some reason or other, rightly or wrongly."

This was the statement made by the late Sir Henry Gidney when I moved this particular cut motion. Later on I was given to understand by Sir Joseph Bhowe who was then Railway Member that the matter will be looked into. He said:

"In view of what I have said in regard to the fact that the rules are being reconsidered I hope my Honourable friend will withdraw his motion."

He gave an assurance on that occasion that he will reconsider those rules, but unfortunately nothing was done in spite of the assurance given by a predecessor of my Honourable friend. Before I finish this part I would just remind him of the recommendations of the Labour Commission which he will find in Chapter 8, section 4, where the commission definitely recommended that no person should be discharged by the superintending senior officer; but the discharge should always be made by the divisional superintendent, so that an appeal may lie to the Agent. This was a definite recommendation made by the Royal Commission on Labour. But unfortunately attention was never paid to it by the railway administration, and they never considered this fact at all and the thing was allowed to drift on in the same manner. After waiting for seven years—according to the well known theory of philosophy that all the atoms in our body disappear after seven years—I took up the matter again, seeing that all those atoms had gone and probably good sense might have come in. I moved this motion again and brought it up after seven years in this House, not in the shape of a cut motion but as a Resolution

Sardar Sant Singh (West Punjab: Sikh): In law courts seven years' disappearance gives rise to the presumption of death.

Dr. Sir Zia Uddin Ahmad: I moved this Resolution in 1941—on the 20th February—in these terms:

"In view of the unsatisfactory nature of attending to the appeals of the Railway employees, this Assembly recommends to the Governor General in Council to appoint officers of judicial mind and attach them to the offices of the General Managers and of the Railway Board to listen to the appeals of the Railway employees and to scrutinise the present rule of attending to those appeals."

Again I gave definite cases which were before me and I mentioned two or three such cases. I had about 8 or 10 cases then. I shall mention one or two:

"A person was named Muhammad Sher Khan. He had been in service for a long time and, one day, some man reports that the man's name is Sher Khan and not Muhammad Sher Khan. Therefore, on the charge that he put his name in a wrong manner, the man is discharged. That man said his name really is Muhammad Sher Khan. He filed a certificate from the municipality and filed other certificates but the superior officer said it was a case of wrong personification. In this connection I may tell a story which my Honourable friend the Communications Member will enjoy. When he was in Aligarh, he used to write his name in Urdu 'Clow' but the people always read it as 'Kallu'. That was the name by which he was known when he first came to Aligarh. He has now become Sir Andrew Clow and in the same way it may be said that he has also resorted to personification."

Is it right that he should be discharged on account of false personification from Kallu to Sir Andrew Clow? Then I related one or two other important cases of the same kind which really showed the judicial mind of the railway officers. A person was charged for travelling without a ticket; an inquiry was made and the man was found not guilty. But a charge sheet was framed against him and he was dismissed in spite of the fact that it was proved that he was not guilty. I shall not waste the time of the House in reciting so many cases; but if my Honourable friend is interested, he can read the debates on those two occasions

The Honourable Sir Edward Benthall: I have read them.

Dr. Sir Zia Uddin Ahmad: In the years 1934 and 1941, and he will find that this is the condition. I will also mention the case of an officer in the E. I. R.—a very peculiar case. Suddenly two persons came to him and one spoke something against him and asked "Have you got anything to reply?" He said "What is the reply I can give? What is the charge against me?" Fresh

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charge of insubordination was levied against him, that he did not behave properly. He was discharged for insubordination. I wrote to the General Manager himself and I got a reply that he had personally looked into the matter and the facts of the case were correct. Fortunately his case went to the Governor General on appeal and it came to the Railway Board at a time when the Honourable Member had some leisure, which he very rarely had. He looked into the papers and wrote a note of about 43 pages and proved in that note, which my friend can find out from his office, that the General Manager had never read the appeal and that the General Manager wrote all those letters without reading anything. So, this is the sense of justice prevailing on the railways. It is fundamentally opposed to the sense of justice prevailing in other departments. There is nobody to listen, nobody to read, and everything is decided by the idiosyncracies of one individual and very often that individual is a clerk, not even a subordinate officer. Therefore I do pray that now that two more years have passed and we have got as the head of the department a person with a business mind, he will make it a point to see that all his subordinates are satisfied. As we say:

"Mazdur khush dil kunad kar besh."

This is the secret of success in business that you must keep your subordinates contented. It is now time that you make inquiries and frame certain rules by which this demand can be secured. I suggested on the last occasion that we should appoint at least one or two officers with a judicial mind—they may be ex-railway officers, or they may be drawn from the judiciary, but they must have a judicial mind. They should be put in the office of the General Manager and similar persons must be put in the office of the Railway Board. They should study the files from a judicial point of view, and have power to send for the original papers and study them. They should not look forward to any promotion in the particular department so that they may be in a position to give their judgment impartially. My Honourable friend, Mr. Jamanadas Mehta, suggests a tribunal in place of one or two officers attached to the railway department. I do not differ from him, I accept his suggestion. I think it will probably be more practicable if we have a tribunal in the case of the officers and one or two persons with a judicial mind to deal with appeals from the subordinate staff, because that is also very important. We cannot send the appeals of the subordinate staff to the tribunal because the number of appeals is so large. But the central point is that we should have justice in this particular department where I am sorry to say no justice exists at the present moment. There should be a feeling of security of tenure in the minds of the employees so that they may do the work better. You may give them to understand that this is also a State Department. It is not purely a commercial department. On one occasion Sir Andrew Clow said, "Why do you not demand a thing of that kind from Tata and Co.? Why do you demand it from the business heads of the railway people?" I replied, "The Tata people never asked for Statutory Protection, so that any person who is guilty there should be punished by the courts of law. But your railway people demand from the Legislature Statutory Protections. If you come for protection before the Legislature, it is right on our part to demand that you should show the same justice to your employees as is shown in other departments of the Government of India".

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member's time is up.

Sardar Sant Singh: I am glad that the Honourable Member has given us to understand that he has read the previous debates upon the subject, and so he knows the feelings of this side of the House. I will only ask my Honourable friend to consider a few points relating to this matter. The first point that I will ask him is whether he believes in the security of service in the railways or not. If he believes, as I hope he will, in the principle of security of service, then the next point would be whether there is actually security of service in the railway department to-day or not. From the many instances that have been quoted on the floor of the House for the last seven years

Dr. Sir Zia Uddin Ahmad: Now nine years.

Sardar Sant Singh: now nine years, if anything is undisputed it is that the railway employees do not believe that there is security of service. The feeling of security of service does not exist; not only does it not exist to-day, but the feeling that remains is being slowly and steadily undermined. This state of mentality among the railway employees will not lead to the efficiency of service for which my Honourable friend probably stands. The second point which in this connection I pointed out in my last speech in 1941 and also in my speech of 1934, which my Honourable friend, Dr. Sir Zia Uddin Ahmad did me the honour of quoting in his book on Railways,—probably the only book written by an Indian so far on this subject—I have tried to point out that in the matter of deciding appeals it is not the satisfaction of the department alone that justice has been done to the aggrieved person that should be our aim. The mere fact that the right of appeal has been conceded shows that the aggrieved person has to be satisfied that justice has been done to him. When my Honourable friend just now interrupted Mr. Lalchand Navalrai by saying that the General Manager in that case rejected the appeal in two sentences, he did not probably realise the seriousness of the complaint. The complaint is that the General Manager did not show by his judgment in that appeal that he had applied his mind to the facts of that case.

Mr. Lalchand Navalrai: Quite right.

Sardar Sant Singh: It is the aggrieved person who takes the trouble of writing a couple of pages to make out a case against the decision of the officer, and the question is whether that appeals to the officer who is deciding the appeal. That appellate authority has to put down his views controverting the grounds raised by the aggrieved party. This is not done. On this account the feeling of insecurity becomes intensified among the employees of the railways. Particularly at this time when the railways are overworked and there is the stress and strain of the war upon the employees of the railways, it is the special duty of the Honourable Member for Railways—it is a duty which has fallen not upon a member of the bureaucracy, not upon a member who has been brought up in the traditions of the I.C.S. or departmental prestige, but upon a non-official who has been given the charge of this department—that he should approach the question from the point of view of the people and not of the administration alone. There is no question of prestige in his case. The question is, is justice being done to the sufferer? Not only that justice has been done to the sufferer, but he must have the feeling that justice has been done to him. That is the point of view which I want to urge upon the Honourable Member. I am sure the Honourable the Law Member will bear me out when I say that that is the fundamental principle underlying the right of appeal both in civil and criminal cases. I will impress upon the House that this is not an ordinary grievance. There is not a single case which my Honourable friend can quote to the House by which he can show that sufficient mind has been applied to the grounds of appeal on which the sufferer or the aggrieved party took his stand. Not a single case. The result is that the demand of the House for the appointment of a senior railway official to look into cases of appeals has now gone further and in the present Resolution the demand is for the appointment of a Public Service Commission. There are many advantages in the appointment of such a Commission. The main advantage would be that they will bring a detached mind to bear upon the facts of the case. I may remind the Honourable Member of one thing. From the very nature of the departmental cases no witnesses are examined, no right of cross examination is allowed to the person who is to be discharged and deprived of his livelihood. All the favourable points in favour of the Department are there, while the unfavourable points against the Department cannot be brought out owing to the nature of the departmental enquiry. Therefore, the advantage is with the department, the advantage is not with the aggrieved person. And this aspect of the case should be taken into consideration when an appeal is decided. I will therefore request the Honourable Member to give personal thought to this

[Sardar Sant Singh.]

question of appeal. The other day I pointed out two cases in which justice was not done on account of certain communalism. I do not want to quote those cases. The Honourable Member is aware of them. Here, several cases have been quoted where the question of communalism has been brought in. Well, the evil is not on one side alone. Unfortunately, the system is there and we want the system to be modified, so that the evils pointed out by one community against the other community should cease to be brought up in this House. I have said several times that most of the time during the Session period of the Honourable the Railway Member is taken up with answering questions. Would he not devise a certain system by which this communalism should be eliminated and the rights and liabilities of the employees of the railways may be considered on their merits. Justice should be done to them and the staff should feel that justice has been done to them. (*An Honourable Member*: "They depend on reports alone".) Our demand is that they should devise a system by which this evil should be eliminated and I think the members of the Muslim League Party will agree with me that such a system is badly needed today.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Mr. President, Sir, I rise to support the original Resolution and the amendment moved by my Honourable friend, Nawab Siddique Ali Khan. I do not think I need place very great details to carry conviction, as I believe the Honourable Member in charge, Sir Edward Benthall, himself appreciates the value of a contented clientele of staff. That is my only submission and as a businessman I think Honourable Sir Edward Benthall appreciates this point of view, more than anybody else. I need not give him details of dismissals, discharges or supersessions brought about with prejudice at different times on different railways but I would like to impress on him that under the existing system tyranny is sanctioned without an effort on the part of that particular officer who sanctions it, and tyranny is sanctioned owing to indifference or ignorance. The higher authorities like the General Managers and the Divisional Superintendents have probably got their hands full with other administrative affairs and they have hardly any time left to themselves to go into the details of such appeals when they are preferred to them. Normally what happens is that a stereotyped reply is sent out to the aggrieved person or to those who refer such cases that the D. S. or the General Manager do not see any reason to interfere with the decision of so and so. What happens is that they have no time to go into all these cases of appeals and probably they feel that if they attend to this work they may have to sacrifice other important administrative duties entrusted to them. Therefore, some other machinery should be set up to go into all these details of appeals who may find out whether the man in question deserves the treatment meted out to him or not whether he should be condemned or not. The Resolution is not at all ambiguous. It is clear and I hope that the House appreciates the point of view which we have been stressing for a number of years. I am glad that my friend, Mr. Jamnadas Mehta, has at last moved this Resolution today.

Now, Sir, I will give you a few examples as to how the present system works. Take the E. I. R. I know personally of cases in which efficient employees in the subordinate grades and officers' grades are not given due promotions and are being superseded only because they cannot approach in a manner the persons responsible for giving such promotions require. I know of at least half a dozen graduates on the Howrah Division who have been working for over 14 years as B class guards or T. T. Es. or junior scale clerks. They are drawing from Rs. 30 to Rs. 45 as salaries. I wrote to the General Manager in some cases. The matter was referred to the Divisional Superintendent, Howrah, who in turn had to depend on the clerks' notes in the Establishment Department. Again, the stereotyped reply was sent that the men either happened to be juniors to so many or that they have not been found efficient. I know of not one but hundreds of cases. I referred to thirty cases in a letter

to the General Manager of the B. & A. Railway, Calcutta, recently in which persons drawing Rs. 30—50 within a course of two years or about were brought to the category of salaries of Rs. 180 to 200 jumping over the head of many whereas others were allowed to rot in the same condition as before. Instances are not wanting of cases of dismissal and discharges. Only very recently I had the opportunity of addressing the General Manager of the B. and A. Railway regarding the case of a certain employee. He was dismissed by the Chief Commercial Manager on the ground of accepting illegal gratification. The story was that he charged certain passengers according to the certificate of the Guard. Unfortunately a case was made against him only and the guard was let off when this crewman was dismissed. I referred the matter to the General Manager and I got the reply only ten days ago, in Delhi, saying that the General Manager, B. and A. Railway, sees no reason to interfere with the decision of the Chief Commercial Manager. Well, that was not unexpected. I did know that that would be the reply because that has been my experience for the last nine years. All the General Managers had been working in the same way. They never give any grounds and they never care to read the files or appeals. As I said in the earlier part of my speech, probably they have no time to do all this. Very often they sanction this tyranny through ignorance. I am not going to assign motives to these General Managers and I am not going to say that the General Managers or the Divisional Superintendents do so deliberately, but what I do say is that the machinery itself is so defective that normally it is not possible for them to do justice in individual cases. What they have to do is to depend on the reports that are prepared for them by the Establishment Department or the other Departments concerned and they just ditto the remarks of these Departments. This is the position all over India.

Now, I would like to cite just a few instances of appointment of Accounts Officers on O. T. Railway. A very recent instance has come to my notice on this Oudh and Tirhut Railway, which we took over only very recently. I would refer to Circular No. O. T. Rys. 34-Act-II-43/I by which one man of junior subordinate service has been placed to officiate as an Assistant Accounts Officer on that Railway superseding many others. During the last two or three months similar other cases have also happened on this Railway and they have been rather more numerous than usual which have come to my notice. I will only refer to one of them so that the Honourable Member might get the right clue. I refer to their Circular letter No. 34-Ac. II-43/II dated 15th February, 1943.

Now, Sir, I have already said about the E. I. Railway and B. and A. Railway and I have quoted the instances which occurred on the O. T. Railway. I do not think I need dilate very much on the North-Western Railway because my Honourable colleagues have cited many cases of that Railway. I will content myself by saying that the N. W. R. is as good or as bad as the other Railways are. I have on my file probably thousands of cases which we had prepared for the D'Souza inquiry. But fortunately or unfortunately we could not agree with the method and the terms of the inquiry and we had to boycott that inquiry altogether. All the same, during the course of the last few years I alone must have referred to about 200 such cases to the heads of Railway Administrations to which I have referred. Probably in 99 per cent. cases what I found was that the General Managers or the Divisional Superintendents were not able to disagree with the decision that had already been arrived at. My only submission is that the Resolution as amended by my Party representative should be accepted by the House as the whole procedure of appeal is a farce in the present condition. With these remarks I recommend this Resolution.

Mr. President (The Honourable Sir Abdur Rahim): Sir Edward Benthall. The Honourable Member had better begin his speech after lunch.

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. Sir Cowasjee Jehangir (one of the Panel of Chairmen) in the Chair.

The Honourable Sir Edward Benthall: Sir, I am naturally impressed by the general expression of opinion round the House that there exists a certain amount of injustice in the railways. I suggest, however, that this view has regard to one side of the picture only and arises out of the flood of complaints which naturally are directed to Members of this House from various disgruntled men. I suggest that if the House looks at the position as a whole, the views which have been expressed by various speakers on the floor of the House this morning are really a travesty of the actual position.

I could wish that when these debates occur, Honourable Members would cite rather better cases. The Honourable the Mover when he spoke on the 18th February stated that his office of the Railwaymen's Federation is choking, absolutely choking, with palpable cases, of gross injustice and he went on to say that the Railway Board, General Managers, and, I think, the Honourable Member in charge habitually disregarded complaints which were registered. Well, Sir, we have carefully looked up the facts and we can find no record of his numerous appeals in the offices of the Railway Board, and so far as we can make out, he has not submitted numerous petitions to General Managers either. I won't follow him into his disquisition on the Christian conscience, but I can confidently say that all these cases which do come before the General Managers and the Railway Board are most carefully dealt with on their merits. He himself cited in the first part of his speech two cases which he briefly recapitulated today. Well, Sir, in accordance with our habit we took up these cases and made investigations, but when we approached the Honourable Member we regretted to find that he was unable to give any details of the cases not even the names and it led one to suspect that the papers in connection with these cases in his office had gone where he accused the Railway Board of putting their papers into the waste paper basket. Well, Sir, the Railway Board had not put their papers into the waste paper basket. They looked up the first case and they were able to give me full details of the G. I. P. case. I have also looked into this and I find, to put the matter briefly, that the details are not accurate, that so far as I can see there is no substance in the allegations made, and furthermore that, although strictly speaking there is no right of appeal in this case, because the gentleman in question resigned, the Chief Commissioner himself did personally look into the case and did personally communicate with the General Manager of the Railway to satisfy himself that no injustice had been done. That being so, I think that the Honourable Member could really hardly have chosen a better instance to disprove his case and prove the case of the railways.

In the second case to which he referred, neither the Honourable Member nor the Railway Board have been able to trace any details whatsoever other than those which the Honourable Member has told us on the floor of the House. But I would like to assure Honourable Members that in so far as we are able to do so, we do pay attention to all these cases which are referred to, and where sufficient details are given to us we do re-examine them in the light of Honourable Members' statements on the floor of the House.

Turning to the Resolution, I should first of all like to deal with its applicability. Take the case of the first part of the Resolution dealing with railway officials and secretariat assistants. I will deal with the latter first. As regards Secretariat Assistants, there have been no such persons in the Railway Department since April 28, 1932, at which date all persons who were holding posts under the administrative control of the Railway Board became railway servants and were governed in respect of discipline and rights of appeal by the Railway Services Classification Control and Appeal Rules issued under Section 96(b) of the Government of India Act 1919, so that today there are no Secretariat Assistants, and the Resolution is, therefore, void in that respect. The Honourable the Mover mentioned the case of a Secretariat Assistant and indicated I presume in accordance with the intention of the Resolution, that it had not had serious consideration. Well, Sir, he gave some of the facts of the case. This gentleman, who claimed to be a Secretariat Assistant on the date

of his removal from service, was really a railway servant. He was removed by the Secretary of the Railway Board and he appealed to the Board. It was examined by the then Chief Commissioner, Sir Guthrie Russell. He petitioned the Governor General in Council and the case was dealt with four months later by Sir Muhammad Zafrullah Khan (and not the present Honourable Leader of the House), and the case was rejected. When a new Honourable Member was appointed the case was brought forward again and was again reviewed in 1938, two years later, and a minute was made that no further representation would receive consideration. Nevertheless, when a new Honourable Member was appointed in charge of Communications, this officer approached the new Member through a Member of the Legislative Assembly. The then Member, Sir Andrew Clow, examined the case afresh and again passed orders unfavourably. Then when I took up office the case was brought up again by the Honourable Member and once again I have examined it in detail. The Honourable Member said that I had given him an answer which he must take as final. Nevertheless, he wrote me another long letter setting out what I think are the same facts in a different order, and although I have said that my answer is final I do intend to look through this case once again because I am not ashamed of admitting that my first opinion may be wrong, and I do wish to convince the Honourable Member that such cases do have proper consideration especially when they are put up by Members of the House.

Some Honourable Members may think that such meticulous attention is in time of war positively fantastic. I am rather inclined to think that myself but I would ask the Honourable Member, Mr. Jamnadas Mehta, who I see has just returned, to realise that I do take these cases extremely seriously, and even though I have said my last word, I may or may not yet say another. That disposes of that particular case and also the case of Secretariat Assistants who do not exist in the Railway Department.

Turning to officers, I should perhaps just explain that all railway servants can appeal to the Governor General in Council against an original order of the Railway Board. Such orders are not ordinarily applied to subordinates and, therefore, they are usually applied only to officers. In the case of Class I officers, only the Railway Board can impose certain penalties, and in case of removal or dismissal only the Governor General in Council can act. In the case of Class II officers, the Railway Board can, I understand, impose all these penalties, but in all cases an appeal lies to the Governor General in Council. The latter are required to consult the Federal Public Service Commission either in the case of an original order or in the case of an appeal. In the case of petitions any railway servant has the right to petition, but the Home Department have laid down rules under Appendix XV of the State Railways Establishment Code, Volume I, regulating how those petitions shall be withheld. They can be withheld under certain specific conditions, one of which is if a man has already exercised his right of appeal. When they are not withheld they can, if necessary, go up to the Member in charge, and in this respect the Railways are no different from any other department of Government. It is quite clear that there could not be an unlimited right of appeal to the highest authority, because that would simply mean that the Member in charge of the Department would be paper-logged. Mr. Jamnadas Mehta has recognised this. In the course of his speech he realised that all petitions could not go to the top and he drew a moral that they should go to the Public Service Commission. I draw a different moral and that is that petitions should be dealt with at a lower level within the administration.

Now, it is apparent from what I have said that the Resolution as drafted has no great meaning because it does not apply to officers, which I think is meant by officials, and it does not apply to Secretariat Assistants. I think that really it is meant to apply, as Mr. Anthony has indicated, more to the subordinate staff. He suggested that there was a lacuna in the Resolution and that subordinate staff should be included. Well, I do not see why, if you are going to widen it, you should not widen it to cover inferior staff also, who have an equal right

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to justice. So that even the amendment to the Resolution does not, I think, cover the whole subject.

Time does not permit me to go into cases of discrimination referred to in the Resolution. But I should like to tell my Honourable friend, Nawab Siddique Ali Khan, that I have already given a general undertaking that I will endeavour to see that the Government's policy as regards representation of the Muslims in the railways is carefully honoured and I will also look into the specific cases which he has mentioned. Beyond that, and saying that the subject has already been dealt with at considerable length in the course of this Session, I do not propose to deal further today with the question of recruitment or the promotion of minorities.

But I should like to say something on the subject of supersessions. In the case of subordinates, there are two kinds of supersessions, or what are usually regarded as supersessions. One is in the non-selection grade and the other is in the selection posts. In non-selection posts promotion goes by seniority, unless a man is specifically declared unfit. I do not think that often happens, and if a man is specifically declared unfit, no Member of the House would, I am sure, wish him to be promoted. In the selection posts great care is exercised. All the posts are listed by General Managers and there are Selection Boards, as Honourable Members know, for the purpose of selecting men for these posts. Quite recently, on the 22nd October, 1942, instructions were sent out to General Managers with regard to these Selection Boards which exist both for promotion and recruitment. It was stated there that they should consist of not less than three officers, that every effort should be made that at least one Member of a minority is included in these Boards, and that a Muslim officer should be included whenever possible. Various other details were laid down and I would just quote the following sentence—"It is realised that the position on individual railways may not permit of full effect being given to these instructions; but a record should be kept of the instances where circumstances did not permit of this being done. The reasons for superseding senior employees should invariably be recorded by Selection Boards in all cases of promotions to selection classes, grades and posts in subordinate railway services".

Honourable Members will see, therefore, that the Railway Board have quite recently given serious attention to this question of supersessions and they will see also with reference to the Muslim League's amendment that care is taken to see that minorities are covered in the Selection Boards. Normally selection goes to the best man but seniority counts. There is good reason why a senior man is passed over or superseded, because naturally seniority does mean experience which is a very valuable asset. My Honourable friend, Mr. Jamnadas M. Mehta, quoted a case of the B., B. and C. I. Railway Audit Department. I think it should not be regarded as a case of supersession. It is really not a case of supersession at all. It was a selection post and it is very natural that such a post should go to the most suitable man. It does not necessarily mean any black mark against the man who is superseded. In the opinion of the Committee who makes the selection the man selected was the better man and really a first class man who should rightly be promoted. Naturally, it is extremely difficult to convince people who have been passed over that they have been justly passed over and it is almost impossible to imagine any machinery which will satisfy men who have been passed over that they have been justly passed over. The only remedy for this is to give up selection posts altogether. But I do not think Honourable Members really advocate such a course. I have already stated in the course of a previous debate that for the efficient running of railways, I am inclined to think that there should be more and not less selection. Furthermore, these selections cannot be made by an outside body without any experience and knowledge of the running of railways, and, therefore, they must be made by Railway officers who have an insight into the conditions of railway operations

and who know the capabilities of the men with whom they are dealing, over whom they keep a careful watch and with whom they are in close contact over a number of years. I think in dealing with such cases most careful consideration is given to these selections and that is one of the reasons why there are, in fact, seldom reversals. We had a case of a reversal in the House the other day, but I would also remind the House that it is equally important to encourage good men. We on the floor of the House often hear of the cases of men who feel that they have been passed over unjustly. That is really a very small percentage of the total number of cases of promotion throughout the railways. It is balanced, and probably amply balanced, by the number of contented men who justly get the promotion which the discontented men do not. Honourable Members should bear in mind that it is equally important to encourage good men. Our difficulty really is to encourage good men by giving them proper promotion without discouraging quite a good number of men who while quite good men are inferior as compared with men who have been selected.

I do not propose to touch upon the disciplinary action with which I dealt in my reply to Mr. Anthony's cut motion. Very careful rules have been laid down in the Railway Code, I think, in Sections 1701 onwards, for dealing with cases of dismissal and so forth. There has to be a charge sheet, the man has to be given an opportunity to reply, there may be a departmental inquiry, the man is allowed to have with him what might be called a "soldier's friend" to back him up and the officers hearing the appeal have to take into account all relevant factors. I have dealt with this elsewhere and I do not propose to deal with it now.

The House may ask why is it not possible that subordinates and inferior staff should be given the same protection that officers get. First of all, it is a question of numbers. The number of staff is very great indeed. I think it is impossible to adopt this procedure and the delay, if applied to all cases, would be inconceivable. Now, my Honourable friend, Mr. Jamnadas Mehta, is a frequent and a welcome visitor to the Railway Board and when he is there he doubtless sees wooden boxes containing ordinary files. The Railway Board have designed specially large boxes, a sample of which I have brought to the House.

(The box was exhibited in the House.)

I think this box must have been specially designed to contain the files of cases referred to the Public Service Commission! I have brought in it a sample file of the case of one man which has been to the Public Service Commission, I think, on two occasions and as the Honourable Members will see it has been a subject of study in the Railway Board itself. This one case which has been before the Public Service Commission is not an isolated one, there are a great many others too. This other is a comparatively modest file and deals with the case of the Secretariat Assistant referred to. This shows what sort of cases we have to cope with. Whenever a case has got to go to the Public Service Commission it also has to be examined by the Railway Board who are responsible for running the railways. I assure Honourable Members that it will lead to an inconceivable waste of time if all cases are dealt with in this way by the Public Service Commission, especially in view of the strict orders of the Government in regard to paper economy which were also discussed in the House earlier. I should not like to flout the House by encouraging this vast consumption of paper. I do not think that any public service commission could possibly handle the volume of business which would be involved in studying the cases of all railway servants belonging to subordinate and inferior grade. It would be administratively impossible.

There is another and most important aspect which has not been hitherto mentioned by my Honourable friends. That is the effect on discipline. Railways are responsible for carrying passengers in very large numbers indeed. They are responsible for their life and limb when they are on the railway and in that respect the service is different from any other service of Government. It is absolutely essential that the discipline that is to be maintained on the railways should be of a very high standard. I ask Honourable Members of this House, would any of them who may be in charge of responsible businesses employing

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thousands of men willingly allow their employees to appeal to an authority outside their own organisation? I cannot imagine that that would be allowed in any business and Honourable Members will realise that I from my previous training naturally look at it from that point of view. I am quite certain that if an appeal was allowed to any outside body, then the employees would snap their fingers at their officers and say "I do not take my orders from you, I go to the Public Service Commission". That is a very very serious point and I would ask Honourable Members to give it their close consideration. Honourable Members are apt to regard this question from the point of view of the critic. They are inclined to be warm hearted supporters of the poor man, and all honour to them. But, Sir, I would remind Honourable Members that a time will come, not very far hence, when they will be sitting on these Benches and will have the duty of being responsible for the control of railways themselves. If Honourable Members value a national asset, I would very respectfully advise them to pay attention not to the disrupting but to the strengthening of the discipline on the railways and the authority of the officers. It is no use issuing orders unless you can be sure those orders are carried out. No army is of any use which has not good officers whose orders are carried out and no railway administration can possibly function efficiently unless it has good officers and the orders of those officers are carried out. Therefore, I respectfully suggest to Honourable Members that they should give that aspect very careful attention because to damage the authority of the officers may prove to be a very great disservice in the years to come. In that connection, I must say I was a little bit surprised at my Honourable friend, Mr. Frank Anthony's strictures on the officers of the railways because after all my Honourable friend was putting the blame on many members of his own community. He was accusing them of inhumanity and injustice. I know that the members of his community are just as anxious to be human and to be just as any other section of railway officers and I do not think he did the officers of his community on the railways full justice.

Somebody suggested that in the railways we should have special officers to deal with staff matters. There are, of course, special officers charged with watching the interests of the personnel and these men are usually judicially minded. There are personnel officers on every railway and in the Railway Board we have a Member for Staff whose sole job is to look after all these questions. There, again, I would ask the House who ask us to be judicially minded to be judicially minded themselves. Some members are most careful when we put up cases to the Railway Board to sift them carefully and to see that they are fully justified. Others, I regret to say, rather give the impression that they would like to see the continuance in service and the promotion of men who may be thoroughly bad and inefficient servants of the State. Well, Sir, I do not think they really think that, but that is the impression they give. When they talk of security of service, I do think they are rather inclined to give the impression that all railway staff should have security of service, whether they are good servants or not. Justice, Sir, is usually depicted with a pair of scales and justice is two-sided.

Sir F. E. James (Madras: European): And also blind-folded.

The Honourable Sir Edward Benthall: There should be not only justice for the railway staff but also justice to the State. In these cases it is essential that the interest of the State is looked after and that men should not have the right of security of service whether they are good servants or not. That being so, I would ask Honourable Members carefully to sift all cases that come before them. In our relations with recognised Unions, we have laid it down that individual cases may be put forward by the Union provided they deal with matters of common interest. We have also given authority to the General Managers to recognise individual cases put forward by railway Unions provided that they are carefully sifted. In the case of one railway, the rules are that they should be studied by the President of the Union itself and that cases are not put forward in too great numbers. That being so, I should like to assure the House that we do welcome cases being put forward whether they are put forward by Honourable Members or by Unions provided that they are carefully sifted

before hand and that the interest of the State has the same care as the interest of the individual member.

Finally, Sir, the House will be anxious to know what I propose to do about this Resolution. I am very conscious of what several Honourable Members have said that discipline depends upon the contentment of the staff. I will forbear to quote the proverb which has been quoted several times already, but what I would say is that in my experience the staff are more contented with their terms of service than is the House. I believe that to be true. The security of tenure on the railway is very highly prized and it is at least equal to that of other departments of Government. I do not believe in my heart that there is really very much widely wrong with the working of the system. I feel that the system is correct and that the administration of it is reasonably sound. I should just like to quote from a circular which we issued to General Managers following

the debate of Dr. Zia Uddin's Resolution not so long ago. In the matter of appellate orders it was suggested that General Managers were inclined just to write 'Appeal dismissed', as my Honourable friend, Sardar Sant Singh, stated. In this letter, only two years ago following that debate, we specially pointed out that while the Board believed that in a great majority of cases appeals receive careful attention and full justice is done to the appellants the aim should be not merely to give justice but to ensure that, so far as this is possible, the appellants should feel that they have received full justice. This is a very valuable point and we appreciate it.

Mr. Lalchand Navalrai: With them it is a dead letter.

The Honourable Sir Edward Benthall: No, Sir. I propose to see that it is not a dead letter.

There are various other similar instructions and one of them deals with the question of prestige. It is suggested that superior officers will not over-rule junior officers because the prestige of the officers in general is affected. That possibility is fully recognized and instructions are here given to make it quite clear that no such considerations should be allowed to interfere with the duty of giving full justice to appellants. The appellate officer has ordinarily been given powers of appeal because he has greater experience and he frequently has other advantages in having before him a fresh presentation of the appellants case and in some cases fresh facts. It is pointed out that the fact that he may come to a different conclusion and that that a junior officer is over-ruled, is no reflection on the junior officer. These short extracts will show you how these questions do have careful consideration on exactly the same lines as those on which Honourable Members are thinking.

To sum up, I would say again, that, I believe, the regulations are sound, but I do not suggest for one moment, especially in view of my short experience, that they cannot be improved. I am impressed by what Honourable Members have said. I promise Mr. Anthony that I have not given up looking for cobwebs, and I did not say that as a result of my survey of conditions of things I found only justice. I was very careful to say that in an enormous organization like this you must have some cases, you cannot avoid occasional cases of miscarriage of justice, but, as a whole, I am perfectly certain that the policy which any organization of this sort must follow is to put the responsibility upon their officers and to trust your men. There are thousands of officers who are conscientiously carrying out their duties, who are very mindful of the difficulties of the men with whom they have to deal and who are fully conscientious in matters of appeal. It is my business and the business of the Railway Board to see that these orders are carefully carried out and I propose once again to issue instructions to all concerned that proper checks should be made to see that appeal procedure and the consideration of appeals is fairly carried out and I will further carefully examine all the proposals which my Honourable friends have made. But I cannot accept the Resolution as it stands because, I believe, it embodies a principle which a large organization such as the Railways could not support, and I do not believe it to be in the interest of the country that we should take the responsibility away from the officers and place it in a body outside the administration. Sir, I oppose.

Sir Muhammad Yamin Khan (Agra Division: Muhamruadan Rural): Sir, I must thank and congratulate the Honourable Member for a very conciliatory speech which we expected from him. In his speech he has tried to convince us and he kept up great moderation. This is the sort of speech which we expected from a big business magnate non-official who has recently taken his seat on the Government Benches. After all these assurances which my Honourable friend has given we should not have thought of pressing this Resolution any further, but our position is that though the Honourable Member has come very recently to this Honourable House, those of us who have been in this House for a considerable time know, and I for one, know it well as I have been a Member of this House for the last 22 years what has been going on in the past. We started pressing this demand of removing injustice in services in 1922. In 1922 the Mussalmans presented a memorandum that a great deal of injustice was being done in the case of promotions and the Muslims were not getting their quota in Government services. In reply to this we received all kinds of replies. We were told that in matters of selection of course nobody had any right. Later, the Government started doing something for the Mussalmans bit by bit, and they said that in the matter of recruitment their quota will be fixed sometimes. After a very long time, we succeeded in getting 33 per cent. for minority communities. That did not work properly; we found that it worked in the ratio of 1:5, i.e., the first four posts went to members of other communities and the fifth post was given to a Mussalman. Again, efforts were made and with the help of the then Home Member, Sir Hary Haig and Sir Maurice Hallett we succeeded in getting a quota fixed for Mussalmans, and since then we have been watching as to how this is actually working in practice both in the matter of direct recruitment and in the matter of promotions. My Honourable friend will be surprised to know that in spite of 22 years of constant efforts in this House in respect of pressing the claims of Muslims, the state of affairs is not very satisfactory.

Of course, we were representing Muslim interests, and our Hindu friends were not silent either; but our Hindu friends were for a long time mistaking that when we were claiming share, we were claiming it as against the Hindus; we never meant that; we do not want to take away anything from the Hindus; we only wanted our share and it will be surprising to many of my Hindu friends to know the result of the working and of all our representations and questions in this House—today in the lower gazetted services, out of 187 members there are only 13 Muslims—and it will interest my friend, Mr. Jamnadas Mehta, to listen to this, that out of 187 lower gazetted service posts, after 22 years of representation and questioning, only 13 Muslims are in that service and only 47 Hindus. This is the result after our constant worrying. If the interests of all communities had been properly looked after and if the present system had nothing faulty or wrong about it, how is that in spite of our constant representations on the floor of this House and elsewhere, the majority community, the Hindus, have got only 47 out of 187? They should have got 67 per cent. of the seats. My friends will be surprised to learn that of the people who have come from the lower services, the bottom, and risen to this lower gazetted service, there are as many as 64 Europeans and there are 54 Anglo-Indians. In whose hands lay this power to appoint and promote these people? I want to know it. If the promotion lay in the hands of any Indian, whether Hindu or Muslim, this could not have been the result with which we are finding ourselves faced today. Are not these figures convincing to the Honourable Member that the system is wrong? If the system had been right and if proper justice had been done, would you get only 13 Muslims into this service after starting it 22 years ago? There should have been senior officers now there . . .

Mr. Jamnadas M. Mehta: Two in every three years!

Sir Muhammad Yamin Khan: Yes; and every time the Muslims put a question the Hindus think that we want a share out of theirs. No. We do not want a share out of them. Here is this glaring fact. So, I say there must be something wrong. If the officer has a judicial mind, I do not blame him; but judging by the results, how can we conclude that the officers were fair and judicial-minded, that they were not favourably inclined towards some and favouring

certain people? We find that no attention has been paid to what we have been ventilating here. In this House we only fight between ourselves: when a Muslim gets up and says something, the Hindus go to the opposite side; if the Muslims divide on a motion, the Hindus go into the opposite lobby; but what is the result? The result remains as I have shown from the figures. I want that this question should be settled once for all. We do not want to fight on the question of loaves and fishes. We want that the loaves should be distributed once and should not be challenged at all afterwards. The political atmosphere should not be introduced in these services: once the ratio is settled it must be seen that it is followed and that no injustice is done to any community. There were a lot of Europeans in the service before; there were a lot of Anglo-Indians in the lower services before this; but this is a long period—22 years—and there has been no change during this period. If I were to ask you to do this at once, today, or even within two or three years, you can certainly say "Let me have some time"; but we have been asking this for 22 years, since the Assembly started. I know we started representing in 1921. In 1922 we presented this representation to the Governor General at that time. It was presented to Lord Chelmsford; then we went to Lord Reading, and to Lord Irwin and then to Lord Willingdon; we have been representing to the present Viceroy also; and probably if the same state of things continues, we will have to go to the next Viceroy too. We do not want this atmosphere to continue. It was for this reason that there was a proposal for the appointment of a Statutory Railway Committee. We sat in committee in England for this purpose and I was a member of that committee and Mr. Joshi was a member and we presented a report; but no effect has been given to it to date, and it is a dead letter in spite of all our efforts. My Honourable friend is very sincere. I know he is trying his best, but the system is so bad that even in spite of his good will he will never be able to cope with this. My Honourable friend has shown us two big and huge files. It will be sheer waste of time for any Honourable Member to go through such a huge file. His time is more precious as he has to attend to so many other duties and I will not expect him to go into such huge files and read all that material. If a client of mine brought such a big bundle of papers, I would charge him Rs. 2,000 for going through them and giving my advice. I would, therefore, ask my Honourable friend not to waste his precious time in going through such numerous files, consisting not of two or three pages but thousands every day, in order to see whether justice or injustice had been done. His experience is precious and valuable and we cannot expect him to read and put all these things right. This shows two things, that the file has been made too big for one man red tapism shoving papers from one place to another. If a man presents a memorial, of course his character roll must be there; but this huge file shows there is waste of paper in this department

The Honourable Sir Edward Benthall: It is not waste of paper when it is a question of justice being done.

Sir Muhammad Yamin Khan: But I am sure if the Honourable Member will inquire, he will find that there is a lot of waste of time and justice is lost in the leaves of those files

Mr. Chairman (Sir Cowasjee Jehangir): The Honourable Member has got one minute more.

Sir Muhammad Yamin Khan: Therefore, I do not think that by the examples we have given we want to take away the jurisdiction of the Honourable Member. We certainly do not want that; but we want that orders should be passed by the Honourable Member after his subordinates or some class of people make an independent inquiry and present him a full report in detail, so that he can see whether justice has been done or not, to a particular person, and then he may pass the order. The Public Service Commission do not appoint anybody; they only select and send the names to the Honourable the Home Member or to the heads of other departments, and these latter appointment. It is the Government which is the appointing or dismissing authority and not the Public Service Commission or any body who may be constituted similar to the Public Service Commission. The Commission will simply give in a nutshell how justice can be done to the man. If I may take one minute more, I want to say this. We

[Sir Muhammad Yamin Khan.]

do not want to stop people who are efficient from getting promotion. We want that those who are more efficient should get more, but in the name of selection, injustice should not be done. I suppose there are orders by the Home Department that those who are senior, unless they are bad enough, should be given a chance of promotion. There may be one man better than another, more intelligent than another, and to leave it to the individual officer at the time who makes the selection is a very dangerous thing. We do not want to interfere with discipline. If a man is accused of insubordination or indiscipline, he should get out of the service. He has got no right to remain in that service.

Mr. Chairman (Sir Cowasjee Jehangir): The Honourable Member will wind up now.

Sir Muhammad Yamin Khan: We do not advocate the case of a man who is found guilty of insubordination. But at the same time this man must be protected from the officer who is the person who says: "Why don't you do that?"

Mr. Chairman (Sir Cowasjee Jehangir): The Honourable Member is bringing in new arguments. He will have to wind up in half a minute.

Sir Muhammad Yamin Khan: I think in matters of this kind there is no difference between the Honourable Member and this side of the House, except that the Honourable Member has explained difficulties, but they are not difficulties if he accepts the principle and lays down the procedure later on.

Some Honourable Members: Let the question be now put.

The Honourable Sir Edward Benthall: May I ask the Honourable Member a question? How would the Public Service Commission see to the promotions better than a selection board consisting of senior railway people who are familiar with the work of the men who may have to be selected? Would not the Public Service Commission have to act on the advice of those very officers or similar officers and is not the better procedure to develop selection board method which the Railway Board has adopted?

Mr. Chairman (Sir Cowasjee Jehangir): The Honourable Member cannot make a speech. He can only reply to the point.

Sir Muhammad Yamin Khan: In every selection the Public Service Commission and a man deputed from the particular department sit together. It is not the Public Service Commission alone that does the selection. The man from the department concerned will be there, there will be protection for neutrality and impartiality if the two sides sit together.

Mr. Jamnadas M. Mehta: I have listened to the friendly and sympathetic reply which the Honourable Member for War Transport Department has given to the debate on this Resolution. I wish I could also say that he had given me a very sympathetic acceptance of the point of view which I have placed before him. I shall be then very thankful to him. But, so far, beyond very kind words I do not think I have secured anything. On the contrary, he pleaded for greater and greater powers for the permanent railway officials over the fortunes of the unfortunate thousands of railway employees who groan under their tyranny.

In this connection I am reminded of Macaulay's reference to the East India Company Directors. The East India Company had factories and agents in India, and the Company always wrote to them, "Be kind to the people, give them justice, do this good thing, but send more money". At the end of every admonition for good behaviour, for justice, for righteousness, the sentence closed with the words, "Send more money". The East India Company's officials realised what the company really wanted. All this justice, kindness and righteousness was a mere rhetorical device, but what was wanted was money.

What does my Honourable friend say? Stripped of the kind things he has maintained that discipline—the iron claw of the permanent official shall remain,—the man who has made the name of the railways stink on the nostrils of honest men. My Honourable friend says that these complaints are fantastic. I am afraid, the whole point of view from which he has looked at the proposition is perverted. To say that these complaints are fantastic is to show yourself utterly ignorant of what is going on behind you, in front of you, and around you.

The Honourable Sir Edward Benthall: Did I say that?

Mr. Jamnadas M. Mehta: You have said fantastic. I have taken down your words, that these complaints were fantastic.

The Honourable Sir Edward Benthall: What I said was, the degree to which appeals were sometimes listened to by Honourable Members of Council might be regarded by some as fantastic.

Mr. Jamnadas M. Mehta: Very well, it comes to the same thing.

The Honourable Sir Edward Benthall: No.

Mr. Jamnadas M. Mehta: In effect you say that we lend a ready ear, and perhaps a credulous ear, to the complaints from the public. I deny that *in toto*. Those of us who think that this life is a sacred dedication to the well-being of the country and of the masses, will not waste one single moment after futilities, and it is only our sense of duty to parties aggrieved that impels us, in spite of more serious and important work, even at the expense of our rest, to listen to these cries of injustice which come from the Railway employees ever and ever more agonising,—Sir Edward Benthall, take it from me. It is not an idle pastime to me to have devoted nearly three years to the study of only one of your cases, and you have dismissed it by saying, the man is disgruntled.

The Honourable Sir Edward Benthall: No. I have undertaken to look into it once more.

Mr. Jamnadas M. Mehta: But your general description of these men is that these are disgruntled. If disgruntled simply means disappointed or feeling the weight of injustice, I agree. I also agree that in many cases the grievance may be wrongly harboured. I gave you the case of a man who was dismissed from the paint shop. We tell such men, "You have no case". My Honourable friend thinks that there is nothing in the case of the Anglo-Indian which I had cited. I ask you to examine the telegram which was sent to this man calling him to Matunga after he had submitted his defence. That is the tell-tale document in the whole of that case, I forget that man's name, that is the only unfortunate thing, but I have not forgotten a single fact. This afternoon I gave to my Honourable friend, Mr. Sankara Aiyar, the case. So, if the railway officials throw the papers into the waste paper basket, I have shown that I do not. That is a summary of the case. I forget the name, my memory is failing, not that I do not know the case. Therefore, do not believe it that I take up cases of disgruntled people. Regarding the case of an Anglo-Indian the complaint is that against the charges levelled at him, he sends you his case—his written defence. Thereupon, you send him a telegram, call him privately and threaten him to resign, as he would otherwise be dismissed. And then, when he resigns under coercion you say 'There is no case to be gone into. You have resigned'.

The Honourable Sir Edward Benthall: I did not say that. I said that the Chief Commissioner of Railways had gone into the case personally, after personal reference to the General Manager.

Mr. Jamnadas M. Mehta: That is after his resignation was accepted. First of all, why did you accept his resignation? And that, after definitely calling him to Matunga from Jhansi, when he had already submitted his defence. That is the tell-tale document of the whole case but I shall not pursue it further.

About these supersessions, which my friend calls selection posts, I would say that selection posts are a double-edged sword. I do not say that duds should be continued and men of brilliant abilities should not be given any chance. Let this particular case of the B. B. and C. I. Railway be gone into by my friend. He will find that in October the supersession was to take place and I think from June, that is four months previous to that, the Auditor began to pick holes in the career of the officer concerned. Till then there was nothing wrong. You can examine the record. Every time encomiums were paid to the brilliant work of this officer and four months previous to the supersession, the picking of holes started, because supersession was already decided upon. Do you call it selection? It is a prostitution of the word 'selection' that such practices should be allowed and then you should find protection in the word 'selection'. If you will examine

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this case you will find that one Hindu officer, one Muslim officer and one Parsi officer, all with unblemished career, equally brilliant and well spoken of throughout their career, were suddenly passed over in favour of an Anglo-Indian. There was nothing extraordinary in the man who was selected and his merits came to be recognised only four months before the supersession took place. Therefore, I am not going to be taken in by that kind of explanation.

Now, my friend showed how the case of the Secretariat assistant is still not understood by him by using the words 'Railway servants'. He says that after 1932 the Secretariat assistants ceased to exist. I say he is entirely wrong. They may have ceased to exist in the Railway Department in the sense that you don't appoint them but those who were appointed before the year 1932 really came under their terms of appointment. The status, the privileges and the dignity of the Secretariat assistants, were not prejudiced by their appointment on Railways. Their case is governed by the discipline which is laid down for the Secretariat assistants and if my friend will read the rules made by the Secretary of State for India, he will find that these Secretariat assistants are saved from being called Railway servants. It is specially mentioned in the rules that Secretariat assistant who by contract or under any law is in a railway service, is not to be included in the term 'railway servants'. I tell you that the case of the gentleman for whom I am pleading is one which does not fall within the definition of railway servants.

The Honourable Sir Edward Benthall: That is the part which I have undertaken to look into.

Mr. Jamnadas M. Mehta: My contention from the beginning has been that you have dealt with him as a railway servant. He is a Secretariat Assistant over whom your jurisdiction, according to the rules and the law and the Government of India Act, must only be exercised by Sir Leonard Wilson and not by any lower officials. That is my case and now that you have promised to examine it, I give it up altogether. Thank you very much.

Now, comes the word 'discipline'. Just as religion and patriotism conceal many vices and many sins, this discipline conceals many more sins. Discipline is a plea for the continuance of arbitrariness under some very high-flown word. What does the word 'discipline' mean? And how was it pleaded by my Honourable friend. He said that if any railway servant thinks he can go to a superior tribunal, he will then snap his finger at the officer. If justice requires it, why should he not? If there is an act of wrong doing in the railway, why should you protect the wrong doer under the cover of discipline. I say that that kind of discipline is worth not a brass button, which screens the wrong doer in the name of prestige. Discipline is a word which is very very genuine and healthy when it comes from within. I am your servant and I must be under discipline. But discipline, when it becomes a matter of terrorising, when it throws a screen or a veil over injustice, it is a travesty of discipline, not the real thing. Instead of gold, it is brass. Discipline which is genuine is gold. Discipline which is intended to screen wrong doing and to keep up the prestige of a man who deserved to be knocked out of the railway service is worth nothing. It is an instrument of terrorisation and my friend does not know that I have got waiting at my house scores and scores of letters from Railwaymen written in the vernacular, speaking of terrorisation. I will tell you one incident. A man's mother's *shradh* was to take place. He applied for leave. The leave was not given and when he complained, he was threatened. Is this the right kind of discipline? The *shradh* ceremony of a mother comes only once. A mother cannot die twice and if at all there is any sacred occasion amongst the orthodox Hindus, it is the *shradh* ceremony of a woman who gave them birth. That on such an occasion a man should not be allowed to go for a day is some indication of the tiger's claw in the railway service and my friend will find that this kind of oppression is never examined or analysed.

Now, Sir, my friend, Mr. Anthony, has asked me to accept his amendment. I readily accept it. I would agree to the addition of the words and subordinate staff after the word 'Secretariat assistants'. The Honourable the Railway

Member will kindly accept my submission that the Secretariat assistants have a real place in this Resolution. This Resolution is very properly worded and I am asking the Chair to allow me to accept this amendment.

Mr. Unairman (Sir Cowasjee Jehangir): I will put it to the House at the proper time.

Mr. Jamnadas M. Mehta: I am also willing to accept the amendment of my friend from Nagpur, provided he will agree to the wording "on which the Muslims and other communities are adequately represented". I have no objection to that and I accept it with the addition I have made. I never excluded any community. If my Muslim friends will only come on merit, they may take 100 per cent. of the jobs. But this question of "paucity" really goes to my head for he now complains that after so many years there is a paucity. There will never be a plentitude so long as you depend upon the bureaucratic patronage. I was unhappy to hear the major portion of my friend, Sir Muhammad Yamin Khan, because it never touched the main Resolution at all. He talked of the percentage of Hindus and Muslims. My Resolution especially excludes recruiting. I never wanted to include recruiting in my Resolution for avoiding the trouble which you have still brought on my devoted head.

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

I never wanted it because I know that after 35 years my friend has still to go with a begging bowl every day.

Mr. President (The Honourable Sir Abdur Rahim): I understand Honourable Member's time is up.

Mr. Jamnadas M. Mehta: I have accepted the amendment of my friend, Mr. Anthony, and am willing to accept the amendment of my friend from Nagpur subject to the condition which I have made. I will ask the House to vote for the Resolution unless the Honourable Member gives me some assurance. In fact, I want only one assurance that he will appoint two Judicial officers under the Railway Board whose sole duty will be to examine these cases and submit them to the Honourable Member for his decision. Let some independent mind be brought to bear. I do not want to remove his jurisdiction nor do I want his discipline to be affected but I want justice even if Heavens fall. Therefore, if he accepts this eleven hour suggestion of mine that he will appoint one or two Judicial officers who will examine the cases and recommend the action to be taken and whose duty will be nothing else, then discipline will be maintained, justice will be done and this Resolution shall not be pressed; otherwise I ask the House to support me in accepting the amended Resolution.

Mr. President (The Honourable Sir Abdur Rahim): There are two amendments. I will first put Mr. Anthony's amendment which runs thus:

"That after the words 'Secretariat assistants' the words 'and subordinate staff' be inserted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The original amendment of Nawab Siddique Ali Khan was:

"That at the end of the Resolution the following be added:
'on which the Muslims are adequately represented'."

I understand he wishes that after the word 'Muslim' the words 'and other communities' be added. Is there any objection to these words being added?

Honourable Members: No, No.

Mr. President (The Honourable Sir Abdur Rahim): The question now is that the following amendment be made:

"That at the end of the Resolution the following be added:
'on which the Muslims and other communities are adequately represented'."

The motion was adopted.

The Honourable Sir Edward Benthall: Sir, may I make a statement in response to my Honourable friend? He asked me if I would here and now agree to the appointment of two Judicial officers in the Railway Board to consider these cases. He had given me no notice of that point and I hardly think he would expect me to accept it straightaway on the floor of the House. I have already said that there is a Member for staff and a Director for staff who are solely concerned with these matters. They may or may not be judicially

[Sir Edward Benthall.]

trained—and we have judicially trained officers also—but they are certainly judiciously minded. I am prepared to consider whether we can find judiciously-judicially trained officers as well as judicially-minded officers. I cannot possibly go further than that at the present moment.

Mr. Jamnadas M. Mehta: I am quite willing to wait.

Mr. President (The Honourable Sir Abdur Rahim): The question is that the Resolution, as amended, be adopted, that is:

"That this Assembly is satisfied that the remedies now open to Railway officials and Secretariat assistants and subordinate staff employed in railways against supersessions, discriminations, discharges and dismissals are illusory and ineffective, and recommends to the Governor General in Council to devise suitable machinery for the effective redressal of the aforesaid grievances, e.g., by entrusting the investigation and disposal of such grievances to an independent body like the Public Service Commission on which the Muslims and other communities are adequately represented."

(While the Division bell was ringing.)

Mr. Jamnadas M. Mehta: Sir, will it be possible for me to withdraw the Resolution at this stage? With the leave of the House I wish to withdraw the Resolution in view of the assurance given by the Honourable Member.

Mr. President (The Honourable Sir Abdur Rahim): The amendments have been adopted and I do not think the Resolution can be withdrawn now.

Mr. Jamnadas M. Mehta: I was only anxious that if I could I would.

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

"That this Assembly is satisfied that the remedies now open to Railway officials and Secretariat assistants and subordinate staff employed in railways against supersessions, discriminations, discharges and dismissals are illusory and ineffective, and recommends to the Governor General in Council to devise suitable machinery for the effective redressal of the aforesaid grievances e.g., by entrusting the investigation and disposal of such grievances to an independent body like the Public Service Commission on which the Muslims and other communities are adequately represented."

The Assembly divided:

AYES—29.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Anthony, Mr. Frank R.
Azhar Ali, Mr. Muhammad.
Banerjee, Dr. P. N.
Chattopadhyaya, Mr. Amarendra Nath.
Choudhury, Maulvi Muhammad Hossain.
Dam, Mr. Ananga Mohan.
Das, Pandit Nilakantha.
Deshmukh, Mr. Govind V.
Eesak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Ghiasuddin, Mr. M.
Ismail Khan, Hajee Chowdhury Muhammad.

Joshi Mr. N. M.
Krishnamachari, Mr. T. T.
Lalchand Navalrai, Mr.
Liaquat Ali Khan, Nawabzada Muhammad.
Mehta, Mr. Jamnadas M.
Murtuza Sahib Bahadur, Maulvi Syed.
Nairang, Syed Ghulam Bhik.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Sant Singh, Sardar.
Siddique Ali Khan, Nawab.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.
Yusuf Abdoola Haroon, Seth.
Zafar Ali Khan, Maulana.

NOES—38.

Abdul Hamid, Khan Bahadur Sir.
Aiyar, Mr. T. S. Sankara.
Ambedkar, The Honourable Dr. B. R.
Ambegaonkar, Mr. K. G.
Benthall, The Honourable Sir Edward.
Bewoor, Sir Gurunath.
Bhagchand Soni, Rai Bahadur Seth.
Caroe, Mr. O. K.
Chapman-Mortimer, Mr. T.
Dalal, Dr. Sir Ratanji Dinshaw.
Dalpat Singh, Sardar Bahadur Captain.
Griffiths, Mr. P. J.
Gwilt, Mr. E. L. C.
Haider, Khan Bahadur Shamsuddin.
Imam, Mr. Saiyid Haidar.
Ismaiel Alikhan, Kunwer Hajee.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Joshi, Mr. D. S.
Kamaluddin Ahmad, Shamsul-Ulema.

Kushal Pal, Singh, Raja Bahadur.
Lawson, Mr. C. P.
Mackeown, Mr. J. A.
Maxwell, The Honourable Sir Reginald.
Miller, Mr. C. C.
Muazzam Sahib Bahadur, Mr. Muhammad
Pai, Mr. A. V.
Pillay, Mr. T. S.
Raisman, The Honourable Sir Jeremy.
Richardson, Sir Henry.
Shabhan, Khan Bahadur Mian Ghulam Kadir Muhammad.
Spear, Dr. T. G. P.
Spence, Sir George.
Stokes, Mr. H. G.
Sultan Ahmed, The Honourable Sir.
Sundaresan, Mr. N.
Thakur Singh, Major.
Trivedi, Mr. C. M.
Tyson, Mr. J. D.

The motion was negatived.

RESOLUTION RE TREATMENT OF POLITICAL PRISONERS AND DETENUS.

Mr. T. T. Krishnamachari (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I move:

"That this Assembly recommends to the Governor General in Council that their policy in regard to the treatment of political prisoners and detenues in general and those convicted for political offences since August, 1942, in particular, needs drastic revision, and it further recommends that in that process the Governor General in Council do instruct the Provincial Governments to allow Members of the Central Legislature to visit prisons and interview political prisoners so that the attention of the Central and the respective Provincial Governments may be drawn to such restrictions and other inconveniences imposed on these prisoners with a view to the elimination of such restrictions."

Sir the purpose of this Resolution that I have moved is self-evident. The Resolution does not ask for the release of political prisoners.

Mr. President (The Honourable Sir Abdur Rahim): Perhaps the Honourable Member may make his speech after the amendments are moved. Resolution moved:

"That this Assembly recommends to the Governor General in Council that their policy in regard to the treatment of political prisoners and detenues in general and those convicted for political offences since August, 1942, in particular, needs drastic revision, and it further recommends that in that process the Governor General in Council do instruct the Provincial Governments to allow Members of the Central Legislature to visit prison and interview political prisoners so that the attention of the Central and the respective Provincial Governments may be drawn to such restrictions and other inconveniences imposed on these prisoners with a view to the elimination of such restrictions."

Mr. N. M. Joshi (Nominated: Non-Official): Sir, may I move my amendment?

(At this stage, Pandit Nilakantha Das stood up to say that his amendment comes first and he should be allowed to move his amendment.)

Mr. President (The Honourable Sir Abdur Rahim): That does not make any difference. Mr. Joshi.

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

"That for all the words occurring after the words 'in particular' the following be substituted:

'be revised in such a way, in co-operation with the Provincial Governments and in consultation with a committee of the legislature specially appointed for the purpose, so as to provide to them better living conditions in the jails and prisons and better means of communications with the outside world and adequate provision for the maintenance of the families of those who may need it and to provide for an impartial review of their cases at an early date.'

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

"That for all the words occurring after the words 'in particular' the following be substituted:

'be revised in such a way, in co-operation with the Provincial Governments and in consultation with a committee of the legislature specially appointed for the purpose, so as to provide to them better living conditions in the jails and prisons and better means of communications with the outside world and adequate provision for the maintenance of the families of those who may need it and to provide for an impartial review of their cases at an early date.'

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): Sir, I move:

"That for all the words occurring after the words 'in particular' the following be substituted:

'should be such as' to facilitate the release of those who are in favour of co-operating in the war efforts.

Mr. President (The Honourable Sir Abdur Rahim): I should like to know whether this amendment does not seek to raise a different issue.

^{4 P.M.} The object of the Honourable Member is that interviews are to be allowed for the purpose of facilitating the release of political prisoners.

Pandit Nilakantha Das: I think that is the best treatment that can be meted out to them.

Mr. President (The Honourable Sir Abdur Rahim): Does the Government have any objection to this amendment?

The Honourable Sir Reginald Maxwell (Home Member): I do not object.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can proceed with his amendment.

Pandit Nilakantha Das: Sir, I move:

‘That for all the words occurring after the words ‘in particular’ the following be substituted:

‘should be such as to facilitate the release of those who are in favour of co-operating in the war efforts and with this object in view to allow interviews with the political prisoners and detenus to Members of the Central Legislature and other public men in the country.’”

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

“That for all the words occurring after the words ‘in particular’ the following be substituted:

‘should be such as to facilitate the release of those who are in favour of co-operating in the war efforts and with this object in view to allow interviews with the political prisoners and detenus to Members of the Central Legislature and other public men in the country.’”

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, I move:

‘That after the words ‘instruct the Provincial Governments’ the following be inserted: ‘to allow at least two interviews with relations and friends and the receipt and despatch by the detenus and political prisoners of at least two letters every month and.’”

Can I now move the second amendment also, because it really forms part of this?

Mr. President (The Honourable Sir Abdur Rahim): No, that cannot be done simultaneously. Amendment moved:

“That after the words ‘instruct the Provincial Governments’ the following be inserted: ‘to allow at least two interviews with relations and friends and the receipt and despatch by the detenus and political prisoners of at least two letters every month and.’”

Mr. K. C. Neogy: Sir, I move:

“That at the end of the Resolution, the following be added:

‘and to urge and ensure the co-operation of all the Provincial Governments in providing the detenus and political prisoners better living conditions in jails and prisons, better means of communication with outside world and reasonable provisions for the maintenance of the families of those detenus and persons that are in need of protection.’”

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

“That at the end of the Resolution, the following be added:

‘and to urge and ensure the co-operation of all the Provincial Governments in providing the detenus and political prisoners better living conditions in jails and prisons, better means of communication with outside world and reasonable provisions for the maintenance of the families of those detenus and persons that are in need of protection.’”

The House will now discuss the Resolution as well as all the amendments.

Mr. T. T. Krishnamachari: Mr. President the main object of my Resolution is not to ask for the release of the people concerned. It is not to discuss the policy of the Government which has resulted in these people being incarcerated unless it be that that policy impinges on the treatment of such people while they are in prison. Sir, I am very happy today to see that my Honourable friend, the Home Member, will be with us for some time more and that this request of the Assembly conveyed through this Resolution will have his attention. We have been told apparently through the efforts of my Honourable friend, Mr. Griffiths, by the National War Front advertisements that we must learn to evaluate evils and certainly knowing as we do the Honourable the Home Member and his views, knowing him to be an honest die-hard, we are happy that he would be here to deal with this question though hardly honestly at any rate and in a negative sense prevent the coming to being of what will perhaps be a greater disaster for us.

Before proceeding with my case, I should like to make one point to the House. This House has been constantly told in regard to the treatment of prisoners, in regard to arrest and detention of persons and so forth that they are matters within the purview of the Provincial Governments and the Central Government cannot really interfere. Apart from the fact that the arrests and convictions of the prisoners whom this Resolution seeks to comprise having been carried out under the Defence of India Act and the Rules framed thereunder emanating from the Government of India, the further fact remains that the Government of India have a certain amount of responsibility in regard to the proper carrying out of all the provisions of that Act and the rules framed thereunder. There is another factor which I should like to mention to this House and it is this. The fiction has often been put forward when it suits the Government of India that the Provincial Governments are entities whose discretion the Government of India cannot seek to interfere with. But when

the Defence of India Act was passed in this House in 1939, by reason of those powers conferred on this House by the Declaration of an emergency under section 102(1) of the Government of India Act automatically the result was that the Provincial List, namely, List II in Schedule VII ceased to exist and it became part of the Concurrent List and also the difference between Part I and Part II of the Concurrent List was obliterated. I feel that in such circumstances the powers vested in the Government of India under section 126(2), namely, the powers vested in the executive of the federal authority comes into operation. The Government of India is fully seized, fully empowered to deal with these matters which are of provincial concern, because of the powers they have taken under section 102(1), they are entitled to interfere in matters which are ordinarily left to the discretion of the provincial authorities should such interference be needed, an appreciation of that position is fundamental for this discussion as otherwise the whole question can be dismissed as being not within the purview of the Government of India and as not covered by their powers. The House would certainly like to know from the Government their attitude with regard to the people who have been detained in police lock-ups under section 129 of the Defence of India rules, those who have been detained under section 26 of the Defence of India Act indefinitely in prisons and those who have been convicted by courts under the Defence of India Act and the rules and special ordinances that have been enacted. These three classes of people more or less complete the list which are comprised by my Resolution. Sir, it would help the debate in this House and clarify the issues if the Government will intervene at an early stage of the Debate and make their position clear in regard to the various categories of detenues and prisoners that I have mentioned.

I would like to come now to the details. It is a fact, Sir, that Members of this House are not in a position to say definitely what has happened in each individual case. The fact that interviews are not permitted with those people, who have been detained since August, 1942, at any rate, the fact that these people are completely isolated from the rest of the world, makes it impossible for us to know exactly except by hearsay, except from people who have come out of the prisons since then, as to what all has happened and how they are being treated. But information has gleaned from various sources and the picture that is presented to us in its composite form is sufficiently grim, sufficiently distressing as to justify a Resolution before this House on the subject.

Sir, I would like to take my stand on what has happened since August last because the question of treatment of political prisoners prior to August, 1942, has been a matter of discussion in this House. And I would like to say here and now that people of this category who were in prison before August, 1942, were certainly treated with far greater consideration than those who have been arrested after August, 1942, and those who have had the misfortune to be in prison for political offences since that time. This question of complete isolation of the prisoners from the public does make it difficult for us to describe very clearly what has been happening, and possibly some of the instances that I may mention and other Members of this House may mention would evoke a response from the Honourable the Home Member as being fantastic because they cannot be corroborated. But it nevertheless remains true that certain facts which have come to our notice are shocking indeed. I would, Sir, before proceeding further draw the attention of the House to the Security Prisoners Order of the Government of India dated some day in April, 1942, seeking to regulate the treatment of prisoners in areas directly administered by the Central Government. That document, I take it, Sir, contained the main principles on which the Government of India was guided in the treatment of security prisoners prior to August, 1942. There, Sir, anybody who neruses will find that provision has been made for interviews, provision has been made for newspapers to be given, provision has been made for books to be given, provision has been made for writing materials to be given. All these have been provided for, not perhaps on a very generous scale nor certainly outside the discretion of the Superintendent of the Jail, but still there-

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was a basis to go upon. But, I dare say, Sir, that subsequent to August, 1942, there must have been issued a new set of instructions obviously from the Central Government to the various Provincial Governments and thereafter to the Jail authorities which has completely changed the principles underlying the order of April, 1942, and even the limited privileges visualized in the Government Security Prisoners Order, of April, 1942, have been eliminated. I can, Sir, illustrate the need for a revision of this policy of the Government from instances that I know of in my own province. I have one instance in which the House, I dare say, is interested: Some prominent Congressmen were arrested in August, 1942—Congressmen of Madras—many of whom were and some of whom are still Members of this House—as they came from Bombay. They were taken to Vellore, detained under section 26 of the Defence of India Rules. Subsequently, for some reason or another, apparently under the powers vested in the Government of Madras under the Defence of India Rule No. 129 (5) there has been an interchange of prisoners between Madras and the Central Provinces. Thirty prisoners were sent over to the Central Provinces from Vellore and 30 prisoners were received from the Central Provinces in the Vellore Jail. These 30 people happened to be really important men. I believe, that among these 30 men who went to Amraoti, from Vellore were prominent Congressmen and former members of this House and some of them who are still members of this House. I will cite one instance: That is the instance of the Deputy Leader of the Congress Party in this House—Mr. Satyamurti. Mr. Satyamurti, when he came down from Bombay, was arrested at Arkonam and taken to Vellore. He was so ill that he could not even walk from the Railway carriage to the prison conveyance. He was carried in a chair. That was the condition in which he was taken to the Vellore prison, and subsequently he and 29 others were transferred to Amraoti. In Amraoti he got worse; he was put in a hospital—a District hospital as the House will know which is not fully equipped to provide adequate treatment for the ailment of which Mr. Satyamurti was suffering—and he was in the hospital for a time until he was transferred to the General hospital in Madras and he has been released 2 months back, but the fact remains that he is still in the hospital. May I tell the House that the disease has been diagnosed as acute inflammation of the heart and he is semi-paralysed in the region below the chest, he cannot lift his limbs and the organs below the chest cannot function. Sir, here is a case where a person has been carried to prison, a person who could not walk when he was arrested, a person who did not receive proper medical attendance in the hospital, who was tossed about hundreds of miles in train by being transferred to Amraoti and again sent back to Madras. What is left of him now only God knows. The House will know where and how the need has been established for his being kept completely isolated from the world. Members here know Mr. Satyamurti and could visualize what all mischief he could have done if he had been permitted to talk to the outside world, what he could have done if he had not been so completely cut off. I dare say, the Honourable Members can easily visualize that. This is one instance, but one instance is quite enough to condemn the policy of the Government of India if that is the policy which was dictated in regard to the manner of treatment of these prisoners in the provinces. I will deal further with those 29 unfortunate people. There is a person today in the Amraoti Jail—Mr. Muthuranga Mudaliar, a former Member of this House, a man who is over 60 years old, incapable of moving about freely. He is, I am told, in a very serious condition and nothing definite is known about him. I have been told, Sir, that of those 29 people who are in Amraoti Jail, except one, all have been ill. Some are suffering from Sciatica. Some of them have been suffering from Dysentery, many have been suffering from Malaria, some of them have been suffering from sore eyes, and what do they want? They do not want to be released, they do not want the mercy of the Honourable the Home Member. They want to be shifted back to a jail in a climate to which they are accustomed, a place where they can

get food they are accustomed to, not a mixture of maize and rice and maize and wheat, not food cooked by people who do not know how to cook in the way these people are accustomed to, and I hope the House will believe me when I say that not one of these 29 persons knows to cook. Most of them have been Honourable Members of this House—Mr. Ananthasayanam Ayyangar, Mr. Giri, Mr. Thirumal Rao—and some of them are still members of this House. What do they want? They don't want mercy of this Government. They want to be sent back to jails in their own province.

Sir, I will go further with regard to the treatment afforded to prisoners in another jail in my province. There is a place called Aliporam. It is in Bellary District. Most of the prisoners, whether they are detained or whether they are convicted, have been sent down to Aliporam from the four corners of the Madras Province. I know of a friend, who was a Member of the Legislative Assembly in Madras but who had resigned because of differences with the Congress Party, who was convicted and was sent from Tanjore to Aliporam. He has been subsequently released because the conviction was quashed on appeal. I received a letter from him the other day which says:

"People in my prison, which include Mr. Gopal Reddi, a former Minister of Madras and several other important public men of Madras, do not get any newspapers. They are not allowed any books. Even the Gita, or other religious books are only given a week after their entry into the Jail. The food conditions are bad. Water is impossible to drink. Dysentery is rampant. People who died of dysentery are reported to have died of heart failure."

Surely heart failure will certainly result when they are subjected to such inhuman treatment and when they have constantly to hear cries of people who are whipped outside the jail.

I do not want to paint the picture more red, though I think it would not be colouring the truth if I were to paint it in luminary colours since the truth is glaring enough because I do not want my Honourable friend, the Home Member, to tell me that all that I have said is fantastic. I do not want to present any case to this House which can be described as fantastic. The bare truth will justify my rising in this House and pleading the case of these political prisoners who only want human ordinary treatment.

I will give yet another instance of how prisoners are being treated. The House knows fully well that there is one family in India which evokes country-wide interest and emotion and which has a place enshrined in the hearts of the people of this country, outside the family of Mahatma Gandhi, and that is the Nehru family. We do not know where Pandit Jawahar Lal Nehru is, but it appears and it has been borne out by even prominent Government officials that he wrote to his daughter who is a prisoner in the Naini Jail sometime about the middle of October last. The Bombay Government very kindly forwarded that letter to Mrs. Indira Gandhi, the daughter of Pandit Jawahar Lal Nehru about early December. It was forwarded to the United Provinces Government; the district magistrate of Allahabad after a time returned that letter with the endorsement "Not deliverable". Meantime Mrs. Indira Gandhi develops a temperature, she is medically examined and a copy of the medical report is sent to the father. We do not know where he is.

Sardar Sant Singh (West Punjab; Sikh): He is in Ahmednagar.

Mr. T. T. Krishnamachari: I am not prepared to guess.

Sardar Sant Singh: I am telling you the fact.

Mr. T. T. Krishnamachari: That report is sent to Pandit Jawahar Lal Nehru in December and that report reads that although the general condition of Mrs. Indira Gandhi is indifferent, there has been no marked deterioration in her condition since detention. Naturally, the father is very worried; and subsequently—I think sometime in January—there has been a press statement issued, I have no doubt with the seal of approval of some Government department or other that Pandit Jawahar Lal Nehru has been permitted to communicate with his daughter; and I believe there was also a statement in Parliament by Colonel Amery to this effect. But, Sir, no communications seem to have passed between them. Sometime early in March, Mrs. Huthee Singh, a sister of Pandit Jawahar Lal, hears from the Government of Bombay that the United Provinces Government has

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been persuaded to relax restrictions and communications may be sent to Mrs. Indira Gandhi in Naini jail; but I am told that the daughter has been told by the United Provinces Government that she cannot write *suo motu*—she cannot write of her own accord, but if she gets a letter from her father or any other relative, she can then reply. I am open to correction if this is fantastic or if I am drawing upon my imagination; but if there is even an iota of truth in this, I think the Government will stand condemned for this rather inhuman treatment of a person who is the idol of the nation.

I do not want—though I can develop these cases—to take the time of the House, particularly as I believe many Members of the House are anxious to hear now the Honourable the Home Member's views on the subject of this Resolution. But one or two more matters would bear mention here. There will be an opportunity for other friends here to speak on this aspect of prison life but I would like to draw the attention of the Honourable the Home Member to the question of the detention of people in police lock-up. The rules do permit, provided the Provincial Government approves perhaps for purposes of investigation, the detention of a person who has been arrested by the police, for fifteen days in the first instance and that fifteen days can be extended to two months. The House knows what it is to keep people in detention in police lock-up. At any rate the jails have got some system of treatment prescribed—the police lock-up has nothing. Coming from Madras, I should like to tell this House that putting people in the police lock-up, by sentencing people for one month's imprisonment was supposed to be, by two Madras Indian Civilian officials at one time, a proper method of dealing with the non-co-operation movement of 1940. It stands to the credit of two Indian Civilians, and when I say Indian Civilians, I mean of Indian domicile, who sat in a collectors' conference at Madras to suggest to the Government that the best way of dealing with these non-co-operators was to put them in a police lock-up for one month and make them use the pots and pans discarded by regular convicts which in their opinion will bring non-co-operators to their senses; I do not know if the Government of India has since absorbed the wisdom of these two officers at Madras. I cannot see the reason for this type of detention in police lock-up being made a regular habit. The House knows that rather intriguing place, the Red Fort in Delhi. I do not know if it is a regular prison, I do not know if it is only a police lock-up; the Honourable the Home Member mentioned the other day that the stories of tortures of these people who were imprisoned in that Red Fort were fantastic; but can he enlighten us why these people should at all be sent to the Red Fort, why they should be incarcerated in a Baoli which has it is said as many as seventy steps leading down to it

Sardar Sant Singh: The most ancient prison.

Mr. T. T. Krishnamachari: and what is the sanitary condition of these cells. That I think these are relevant points that can be raised because the police are making it a habit to detain people subject to this limitation, that they are kept in a lock-up for a period of less than two months and then they are transferred to some prison.

So far as the treatment of people in Northern India is concerned, it seems to be a shade worse than in South India. I find that as a rule there are more instances of inhumanity than in Madras, even in a notorious place like Alipuram. Such inhuman treatment in general is a thing dictated by Government since as a rule I think the Superintendents of prisons are considerate: they merely want to carry out the Government orders, be that as it may, the stories that one hears about Northern India prisons take one's breath away. I heard a story that women prisoners in Lahore—a number of women were put in solitary confinement because of an isolated instance of disobedience of the jail rules. I would like the Honourable the Home Member to contradict me if it is not a fact. But so far as the treatment of prisoners, whether in the United Provinces or in Punjab is concerned, I think one can be proud that he is a Madrasite, because if I go back to Madras and am interned there, it would not be such a bad thing, when compared to conditions in Delhi and in the United Provinces

and the Punjab—it certainly is a matter of satisfaction for a person like myself coming from Madras who always stands the risk of becoming His Majesty's guest any time.

There is one other point that I would like to mention and it is this: apart from the question of treatment, apart from this question of absence of interviews, apart from the question of the lack of provision of elementary amenities like newspapers and books,—what is to happen to the families of these people? Here I have a case of a letter written in the vernacular by Mrs. Masilamoney, a Member of the Madras Legislative Assembly, who writes that her husband who is a contractor, a respectable man in Tuticorin has been arrested; his insurance premia fall due; she has not got the wherewithal to pay; she has to pay taxes, and because Tuticorin is now evacuated she cannot get her house rents and when she applies to Government for maintenance they allow her Rs. 15 a month, and what is to happen to her house? The municipality will evict her and what is to happen to the insurance premia that she has to pay? How is she to live? A woman who is a member of the Legislative Assembly in Madras, a woman whose status is certainly above Rs. 15 a month, do the Government think that this maintenance at least should be sanctioned on the basis of what the civil judiciary determine in maintenance cases or will they permit some judicial tribunal to determine what maintenance these people who are dependent on detenues should get? Maintenance of the families of persons detained is a very important factor.

Sir, I would like to cut short my speech because I hope that the Honourable the Home Member will follow me and enlighten us on these points if time permits. But I would mention before I sit down this one fact, that so far as we are concerned, let not the Government be under any impression that this is a sort of thin end of the wedge for getting the release of these people. Neither the people who are imprisoned, nor I on their behalf want that, but I do want the Government to tell us categorically that the policy which has resulted in these people being imprisoned, that the policy which has resulted in their being characterised as people outside the pale of ordinary society is not being projected into their prison life, but that they will be treated as ordinary decent human beings. In the name of that civilisation for which you say you are fighting, in the name of that civilisation which you say you want to preserve, if that civilisation is worth preserving at all, the Government of India must come out and tell the House that they will at least hereafter look after and treat these people as human beings. That is all I have to say in support of this Resolution.

The Honourable Sir Reginald Maxwell: I rise in response to a request that I should say something now, although I am aware that to do so puts me at some disadvantage because I have not heard all the speeches that are going to be made about this Resolution.

An Honourable Member: You can make another speech.

The Honourable Sir Reginald Maxwell: I will do what I can in the short time at my disposal. So far as I have gathered from the Honourable the Mover's speech, there is no particular complaint about persons who have been convicted, although the original Resolution particularly specified those who had been convicted in connection with the present movement. Though he said, "convicted", I think he must have meant "detained". He has said no word about convicted prisoners and I shall, therefore, not waste the time of the House by talking about them now. They are, of course, all subject to the ordinary jail rules of their provinces.

I turn then, to security prisoners, that is, persons detained under rule 25. Here I should dismiss cases of persons detained under the other rule, 129, which enables temporary detention, because persons who are detained under that rule are more or less in the position of under-trial prisoners. That is to say, under the rule they cannot be detained for more than 15 days in the first instance, or more than two months as a maximum. Therefore, these persons within that time must either be released or detained under rule 26, and all that

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we need concern ourselves with is the conditions of detention of persons detained under rule 26.

As regards persons detained under rule 26 the Resolution deals with two classes of people, that is, security prisoners in general, and also those detained in connection with the Congress movement to whom certain special restrictions apply. These form the bulk of prisoners now detained under rule 26, because the number on the 1st August before this movement arose was only 875 in all India, and those were persons detained for all reasons, including reasons of a non-political character. The number of persons detained in connection with the Congress movement on the 1st February, 1943, was 8,120 in the whole of India, and I think the House will agree that, considering the extremely large number of centres in which this movement had its manifestations and the very widespread nature of the disturbances, the smallness of that number shows that persons were selected for detention with due discrimination and there was no policy of indiscriminate arrests. Otherwise the number would have been very much larger.

Now, as regards the treatment of security prisoners in general, the House will recollect the discussions of 1941 about the time when the Deoli Detention Camp was closed down. At that time the Government of India received certain recommendations from my Honourable friend, Mr. Joshi, and at the time when these prisoners were being returned to their provinces, where, of course, they would come under the care of their own Provincial Governments, the Government of India addressed the provinces on a number of matters to which Mr. Joshi had drawn attention. These matters included classification, association between security prisoners, diet allowances, receipt of funds from external sources, family and personal allowances, censorship of letters and newspapers, books, correspondence between security prisoners in different jails, the number of letters allowed, jail punishments, and release on parole. The House will see what a large number of matters were taken up at that time, and the views which we expressed to the provinces represented a very large degree of acceptance of Mr. Joshi's recommendations. The provinces generally accepted our views on this matter with local variations of detail. And here I must explain to the Honourable the Mover that it is not possible constitutionally for the Central Government to take all these matters out of the hands of the provinces or be held responsible for the details of administration of a provincial subject. The House will readily see how impossible it would be for the Central Government to take matters out of the hands of Provincial Governments where they have ministries responsible to popular legislatures. Those legislatures are the proper place from which questions should be addressed to Provincial Governments as regards their local treatment of prisoners.

Sardar Sant Singh: If they refuse to answer questions?

The Honourable Sir Reginald Maxwell: I am not concerned with that. Those Governments were put in power by the people of those provinces.

Sardar Sant Singh: When they refuse to answer questions about these detenus?

The Honourable Sir Reginald Maxwell: So, the position is that the Central Government is directly responsible only for treatment in Chief Commissioner's provinces, although what it does and says to some extent influences the policy in these matters in the Governor's provinces.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): What about those Provinces where Legislatures are not functioning, for instance, Bihar?

The Honourable Sir Reginald Maxwell: It is not my fault that there are no Legislatures functioning in those Provinces. Those Legislatures were withdrawn by the very people who have supplied this class of security prisoner.

Nawabzada Muhammad Liaquat Ali Khan (Rohilkund and Kumaon Divisions: Muhammadan Rural): And thank God for that!

The Honourable Sir Reginald Maxwell: A copy of the Central Government Security Prisoners Order, 1942 has, I think, been placed in the Library of the

House. The revised order was issued after the closure of the Deoli Detention Camp, and in that order the Government of India put into practice the recommendations of Mr. Joshi which they had accepted. Any one who refers to that order will see that on the whole the treatment allowed to security prisoners is humane and reasonably liberal in the matter of privileges; but, of course, the latitude allowed, or privileges allowed, must be consistent, first, with the reasons and objects of the detention of those prisoners, and secondly, with the practical possibilities of jail administration. Of these practical possibilities, the Provinces within their own sphere must naturally be the judges. It is impossible for us to make demands on the Provinces which would place intolerable burdens on their jail staffs. We must recognise that there are limitations in the amount of freedom which can be given to persons detained; for instance, an increase in the number of letters would mean a very large increase in the staff. Similarly, an increase in the number of interviews would place a burden on the supervising staff.

Mr. T. T. Krishnamachari: May I ask the Honourable Member. . .

The Honourable Sir Reginald Maxwell: I think I had better get along, if the Honourable Member would allow me. I wish now to say a word about security prisoners detained in connection with the present movement. These security prisoners are governed by the same rules that apply to all security prisoners in general which I have just explained. But there are certain modifications which have been based on the reasons and objects of their detention and these modifications must be regarded not as penal but as precautionary. The modifications in the Chief Commissioners' Provinces are, first, that they are put in a single class called Q class with separate accommodation from other prisoners, including other security prisoners; secondly, their scales of diet are intermediate between class 1 and class 2 of ordinary security prisoners; thirdly, that no interviews are allowed and, fourthly, that they may write and receive letters on the same scale as class 2 security prisoners, that is to say, they may write two and receive four letters a week; but the correspondence allowed must be with members of their family only and must be limited to personal matters, that is, they may not discuss politics in these letters. So far as I know, most Provinces have adopted similar precautions but there have been some relaxations. I believe, as regards interviews in four of the Provinces.

Now, I want to say a word about the need of these special restrictions. As I have said, they were not penal but precautionary. The persons concerned were detained to prevent them from leading, organising or instigating this Congress movement, the character of which the House by this time fully appreciates; and the action taken was largely successful in arresting its development as planned. In fact, the movement, such as it is, continues now only because certain other leaders, organisers and instigators remain at large. We must remember that as active organisers most of the persons detained are probably even more dangerous than many of those who have been convicted, who were in many cases merely the tools of these other people—criminals, no doubt, but still tools. I must emphasize that from the first the Government did take and they still take a very serious view of the danger to which India was and is exposed by such a movement and they cannot take any risks in dealing with it. For this reason, the policy from the first has been to segregate these persons to the extent necessary to prevent them from establishing any contact with other prisoners or with the outside world, including, of course, especially contact with the underground organisers who are still at large. They are allowed communication by letter with members of their families. They are not cut off from their families in this sense and these letters may extend to all personal and domestic matters; and, so far as I know, that restriction is liberally interpreted. But interviews even with the members of the prisoner's own family give too much opportunity for the conveyance of messages into jail or out of jail. The House will have within its recollection the case of Jai Prakash Narain, at Deoli, where he was found

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transmitting certain written instructions through his wife at the time of an interview.

Now, I do not think that any relaxation of these special restrictions, such as they are, can at present be contemplated, first, because the war is not yet won: the danger is still there and we have to guard against it. Secondly, the Congress movement is not yet dead. I could quote many instances to show that bomb outrages, acts of railway sabotage, arson and so forth are still occurring. Thirdly, the underground organisation of the Congress still exists and is bent on carrying on the movement and, fourthly, the more we relax these restrictions, the more cases occur of escapes from jails and other acts of indiscipline such as mutinies within the jails. It is notable that the instances I have been given of such occurrences—and they are a fairly long list—have all occurred in the provinces where restrictions on interviews with these prisoners had been relaxed—every one of them.

Now, I cannot deal with all the various amendments that have been brought forward

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can go on for some time after five o'clock, if he wishes to.

The Honourable Sir Reginald Maxwell: If the House will agree to sit for a few minutes after 5 . . . (Voices: "Yes") I will touch on some of the amendments. I am at some disadvantage in referring to the amendments, without having heard the arguments of the Honourable Members who intend to move them. But I should like to refer to some of the specific suggestions that have been put forward in the light of what I have already explained. The first is as regards the maintenance of families. The principles on which allowances for the maintenance of families were granted were liberalised to a considerable extent on the basis of Mr. Joshi's recommendations but in the case of security prisoners of the Q class, in Chief Commissioners' Provinces at any rate, we propose to apply a somewhat stricter standard, namely, the standard of proved necessity which formerly applied to all security prisoners. It must be remembered that persons who are in open rebellion with the object of overthrowing the existing Government have little personal claim on that Government and also that many of these persons who are detained, being as I say rather prominent persons in the Congress organisation, are in a different position from the poorer class of detenus. I am not aware of what principles the Provinces are following in this respect but I have not heard of cases, either coming to the Centre or to the Provinces, in which complaint has been made that families have been thrown into destitution by the action taken against security prisoners.

Another point raised by these amendments is that of visits from Members of the Central Legislature and other public men, (this is Pandit Nilakantha Das' amendment) to interview prisoners for certain purposes, which differ in the main Resolution and in his amendment. Now, on this point, I should like to remind the House that Members of the Central Legislature have no particular status in advising their Provinces on matters of provincial administration, although they would have some status in Chief Commissioner's Provinces which have not been specially alluded to by the Honourable the Mover. Secondly, I would remind the House that the jail manuals of all provinces contain provisions for the appointment of non-official visitors in their jails. These non-official visitors are appointed to look after the welfare of prisoners in all respects, including the sanitation of the jails and all other matters affecting their well-being, and complaints may be made to them and must be attended to. But the Report of the Indian Jails Committee suggests that visitors should be selected for their own qualifications and their own knowledge of jail matters and not solely, as it says, on the ground of social position, wealth or political influence. In other words, these visitors are to be appointed for the purpose for which the system of non-official visitors was conceived. So far as I know, the non-official

visitors are allowed to visit security prisoners in the provinces but I have not got exact information.

Dr. P. N. Banerjea: What would happen when non-official Visitors are themselves put in jail?

The Honourable Sir Reginald Maxwell: Then, they are there all the time. Thirdly, in at least two provinces the rules in the Jail Manual relating to non-official visitors provide that members of the Provincial, not the Central, Legislature shall be appointed as visitors or shall be ex-officio visitors in the provincial jails and I would suggest that if there is any question of using members of the Legislature, that is the proper system which should be followed and not that Members of this House should attempt to intervene in provincial matters. Another suggestion which was made by Mr. Joshi was that a Consultative Committee of the Legislature should be appointed to go into these matters and advise. Here he reverts to his Resolution of the 15th November, 1940, on which I have already commented in my speech delivered in this House on the 12th February, 1941. And I only need remind the House once more that the Governments concerned, meaning mostly the Provincial Governments who have the care of these prisoners, have themselves to take the full responsibility for their treatment with the knowledge which they have of the reasons and objects of detention and of the practical possibilities of their jail administration. It is very easy for those who are not themselves responsible for these matters to advise sweeping concessions, but it is not equally easy for those who have the responsibility to accept such suggestions. But, as I have reminded the House, Government have already paid much regard to the advice given by Mr. Joshi as an individual. But I do not think that it would be appropriate for the Government formally to associate with themselves a Committee of the Legislature to deal with matters which, on the face of them, require executive decision and action. And still less will that be appropriate when the matters to be dealt with are within the exclusive executive authority of the Provincial Governments. Many of these Provincial Governments, as I said, have responsibility in these matters to their own Legislatures.

Now, I come to the point raised by Mr. Joshi about the review of cases. The House will remember the previous review of cases, which took place at the instance of the Central and Provincial Governments, of persons who were then detained, and I have no doubt that Mr. Joshi in moving his amendment had that precedent in mind. But I would ask the House carefully to note the difference between that case and this. The persons whose cases then came under review were not detained in connection with a specific movement. They were detained because of their own general activities and because of what was known about their antecedents and programme. In those circumstances, there was, without such a review, a real danger of indefinite detention and we had to be satisfied that those persons were not kept under detention for longer than was really necessary. But in the present case—and I am referring to security prisoners detained in connection with the present movement—the persons detained are detained in order to prevent them from participating in a movement which is still alive and still dangerous. I have already explained the position in speaking of the need for retaining special restrictions upon them and I do not think I need repeat all that again. But the point is that their detention is related to a particular situation now existing, a situation which in the nature of things must be temporary, at least I hope it will be, but I cannot say how long it will last. Therefore, there is every difference between the case of these persons and those who were detained not in connection with any particular situation which might be expected to come to an end at a particular time.

I have only one word more to say about the amendment moved by Mr. Nilakantha Das in which he says

Mr. President (The Honourable Sir Abdur Rahim): If the Honourable Member wishes to have more time, I do not think the House would be in a hurry to rise.

The Honourable Sir Reginald Maxwell: His amendment is that the policy should be such as to facilitate the release of those who are in favour of co-operating in the war efforts and with this object in view to allow interviews with the political prisoners by Members of the Central Legislature. I would remind the House of the results of releasing the Satyagrahi prisoners in December, 1941. Eight months afterwards we found ourselves involved in this Congress rebellion and I should like to know, although I have not yet got the particulars, how many of the persons whom we had to convict or detain in connection with the present movement were persons to whom the benefit of that general release was extended? But I should like to ask in relation to Pandit Nilakantha Das' amendment, how could Members of the Central Legislature, as a result of the proposed interviews, guarantee the co-operation of those persons in the war effort? What trust could be placed in second-hand accounts of the attitude of mind of people who at one moment were attempting to sabotage the war effort and at another moment professing to support it? Who is to know which attitude is sincere? We must have something more tangible than that. We must know that India's defence and our own obligations towards the Allied Nations stand in no further danger from these people while the war lasts. So long as the Congress resolution stands and so long as an underground organisation exists bent upon carrying it out, we can, in the nature of things, have no such confidence. We can take no more risks for the future. We must know exactly where we stand.

I am afraid that my remarks have meant pouring cold water on most of the proposals which have been made in this Resolution and the amendments, but I would remind the House once more that these restrictions are governed by the nature and the continued existence of the situation with which we have to deal. But, at the same time, as I have tried to explain, the conditions under which these people are kept have in the past received careful consideration and the restrictions which are placed on security prisoners detained in connection with the present movement are not so widespread as, I think, Members were inclined to assume. I do not say that all these persons will be detained indefinitely. Some of the provinces are already, I think, releasing persons whom they deem to be comparatively unimportant considering the present state of the movement and they may be relied upon to take advantage of any opportunity which presents itself because they are no less anxious than I to relieve the pressure on all the jails which exists at the present moment. The House will realise that this state of things gives no pleasure to the Provincial Governments. I have no doubt whatever

that, with due caution, considering as I said the continued existence of the emergency, they will do their best to allow these people to go. But in the meanwhile, as I have tried to show to the House, there is really no room for any special investigation into the conditions of detention of these people. Some inconveniences may no doubt arise from the fact that accommodation is congested. That is a regrettable fact which the present situation has imposed upon us. But as I have already told the House the number of such prisoners under detention at present is not much more than eight thousand in the whole of India.

As regards the particular cases quoted by my Honourable friend the Mover, he will naturally understand that I cannot enter into the details of all those cases as I had no previous notice of them and, secondly, they are matters of provincial arrangement.

An Honourable Member: Will you enquire into them?

The Honourable Sir Reginald Maxwell: If I have any specific cases which I think require elucidation I shall be prepared to go into them. But I naturally cannot undertake to go into hundreds of individual cases in each province.

An Honourable Member: What about Mr. Satyamurti?

The Honourable Sir Reginald Maxwell: I understand that Mr. Satyamurti has been released. While he was under detention in the Central Provinces the

Government of that Province took all care of him that was possible and I do not think any complaint is made of the care that he received up to the time when he was transferred back to Madras. Very special care was taken of him while he was sick. Generally speaking, a security prisoner whose health is such that he can no longer take any active part in the movement is released by the Provincial Government and I have heard of a considerable number of such cases. I hope the House will realise that a reasonable attitude is adopted towards these prisoners.

Sir, that is all I can explain to the House now. But, I hope, if necessary, I shall have an opportunity of speaking later in this debate if it continues during the next Session.

STATEMENT OF BUSINESS.

The Honourable Sir Sultan Ahmed (Leader of the House): Sir, the prospects of concluding the outstanding official business of the Session on the three remaining days, *i.e.*, Monday, Tuesday and Wednesday, seem to be almost *nil*, and I anticipate, therefore, that meetings will be required to be held on Thursday the 1st April and Friday the 2nd April. I would request you, Sir, to see that meetings are arranged accordingly.

Mr. President: (The Honourable Sir Abdur Rahim): I direct that the Assembly shall sit on the 1st and the 2nd April, 1943.

The Assembly then adjourned till Eleven of the Clock on Friday, the 26th March, 1943.