

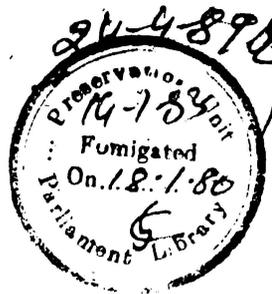
2nd March 1944

THE  
LEGISLATIVE ASSEMBLY DEBATES  
Official Report

Volume II, 1944

*(29th February to 27th March, 1944)*

TWENTIETH SESSION  
OF THE  
FIFTH LEGISLATIVE ASSEMBLY  
1944



# LEGISLATIVE ASSEMBLY

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Mr. N. M. JOSHI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Thursday, 2nd March, 1944.

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) CRAL ANSWERS.

#### MR. ZAHUR ALI'S SCHEME RE ENTERTAINMENT OF INDIAN TROOPS.

287. \*Qazi Muhammad Ahmad Kazmi: (a) In connection with answers to the questions regarding the Welfare Directorate in the last Session of the Assembly, will the Honourable the Defence Member please state if it is a fact that Mr. Zahur Ali, Bar.-at-Law, Lucknow, had some correspondence with the Honourable the Defence Member direct in connection with the Welfare Directorate?

(b) Is it a fact that the Honourable Mr. P. N. Sapru took an active part in drawing the attention of the Honourable the Defence Member to the need for establishing an Indian Section of the Welfare Directorate attached to the one now existing?

Sir Charles Ogilvie: (a) Yes.

(b) I suggest that the Honourable Member should make enquiries from the Honourable Mr. Sapru.

#### MR. ZAHUR ALI'S SCHEME RE ENTERTAINMENT OF INDIAN TROOPS.

288. \*Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Defence Member please state the principal defect, if any, detected in Mr. Zahur Ali's scheme for the entertainment of Indian troops, and the difficulty in the way of authorities for giving it a trial?

(b) When, for the first time, was the alleged defect discovered, and was it before or after the scheme had been appreciated and accepted by the Welfare Directors in February last?

(c) Who noticed this defect, and was this ever pointed out to Mr. Zahur Ali that his scheme was unworkable due to that defect?

(d) Is it a fact that the Director General of the Welfare Department had observed that Mr. Zahur Ali's scheme was fully in accordance with their own accepted policy, and that it fitted exactly with the requirements of their own settled organisation?

(e) Is it a fact that while at Simla, Mr. Zahur Ali was handed over a note under General Lewis' signature for accepting his scheme practically *in toto* and further giving him letters of introduction to Commandants of Perozepur, Bareilly and other places to study the situation on the spot in the light of suggestions made by him?

(f) Was any report submitted by Mr. Zahur Ali? If so, did it contain the information that suitable men for the work were available in the troops and the work could be carried on with little cost to the Army Department?

(g) Does the Honourable Member propose to lay a copy of the report on the table of the House?

Sir Charles Ogilvie: (a) Mr. Zahur Ali's scheme involved the establishment of an Indian Branch of the Directorate of Welfare at Lucknow and centralisation of the provision of entertainment in that Branch. It is considered essential that the co-ordination of welfare and amenities should be centralised in one office, namely, that of the Directorate in Simla, while the actual provision of entertainment should be decentralised to the greatest possible extent.

A second defect is that Mr. Zahur Ali's scheme involved the formation of permanent Indian entertainment parties composed chiefly of serving soldiers, and it was considered improper to divert serving soldiers entirely from their legitimate employment.

(b) and (c). The first defect was noticed from the beginning and in a note which was handed to Mr. Zahur Ali it was explicitly stated that there was no need for a separate Indian Branch of the Directorate of Welfare and Amenities.

(d) In the note to which I have just referred, the Director General observed that the main idea expressed in Mr. Zahur Ali's memorandum was one which was in accordance with accepted policy. The idea which the Director-General had in mind was the entertainment of the troops by the troops in their spare time. It is probable that there may have been some misunderstanding owing to circumstances preventing a personal meeting between the Director-General and Mr. Zahur Ali. An increase in the entertainment of troops by troops was to be obtained by decentralisation and lower formations were encouraged to raise their own entertainment parties. A large number did so and were assisted financially in obtaining costumes, etc. The note made it clear that it was in the obtaining of professional assistance and drama material, in which Mr. Zahur Ali could be of the greatest help. His scheme was not, however, accepted or acceptable as a whole.

(e) A note was handed over, and letters of introduction were given. I have already explained that the note did not accept the scheme *in toto*. Mr. Zahur Ali's visit to the stations mentioned was intended to enable him to see what was being done and to assist similar enterprises elsewhere.

(f) Yes. The report voiced the opinion quoted in the question, but as previously explained it was not possible to take away men permanently from their military duties, as would have been involved under Mr. Zahur Ali's scheme.

(g) No.

**Qazi Muhammad Ahmad Kazmi:** So far as the principle is concerned, I understand that the Government accept the principle that entertainment of soldiers by soldiers can be allowed?

**Sir Charles Ogilvie:** In their spare time, yes, *i.e.*, the troops may amuse each other but parties or troupes will not be formed on a permanent basis to go round the country entertaining other troops.

**Sardar Sant Singh:** Was the scheme ever published?

**Sir Charles Ogilvie:** Whose scheme?

**Sardar Sant Singh:** Zahur Ali's.

**Sir Charles Ogilvie:** Not that I know of!

**Qazi Muhammad Ahmad Kazmi:** Is it a fact that so far as British units are concerned, persons of these units are allowed to join concert parties?

**Sir Charles Ogilvie:** I am answering another question on this point by the same Honourable Member shortly.

**Qazi Muhammad Ahmad Kazmi:** Then, are the Government prepared to accept this scheme of entertainment of troops only in the particular units in which those troops are attached or in a general way?

**Sir Charles Ogilvie:** Government are definitely not prepared to allow troops to become permanent entertainers.

**Qazi Muhammad Ahmad Kazmi:** As to the establishment of an Indian Directorate who can look to the tastes of the Indian troops, are the Government prepared to consider that or not?

**Sir Charles Ogilvie:** I have already answered that Government have no intention of splitting up the Directorate.

(Qazi Muhammad Ahmad Kazmi again rose in his seat.)

**Mr. President** (The Honourable Sir Abdur Rahim): Next question. The Honourable Government Member has made the position quite clear.

**MR. ZAHUR ALI'S SCHEME RE ENTERTAINMENT OF INDIAN TROOPS.**

289. **\*Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable the Defence Member please state if it is a fact that, in spite of the recognised and acknowledged merits of the scheme of Mr. Zahur Ali, the authorities of the Welfare and Amenities Department are constantly evading a direct discussion of its merits and its enforcement?

(b) If the answer to (a) be in the affirmative, what is the reason for that?

**Sir Charles Ogilvie:** (a) and (b). I refer the Honourable Member to the answer given to part (a) of question No. 288.

#### CONCERT PARTIES FOR INDIAN TROOPS.

**290. \*Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable the Defence Member please state if it is a fact that for concert parties, sanction is accorded to English soldiers for taking part in them? If so, why is no such permission sought by and granted to Indian soldiers?

(b) Is it a fact that General Lewis gave Mr. Zahur Ali to understand that he was encouraging Formations and Units to form concert parties at no cost basis, as suggested by the latter?

(c) Have any steps yet been taken?

**Sir Charles Ogilvie:** (a) Yes. Sanction was accorded for the employment of 24 British soldiers, who were professional actors in civil life for the 3 British Concert parties organised by G.H.Q. British parties composed wholly of professionals could not then be assembled in India owing to lack of such artistes.

A similar sanction could have been obtained for a few Indian soldiers, but there was no necessity since sufficient Indian professional talent was available.

With the arrival of ENSA British soldiers have been eliminated from concert parties.

(b) and (c). I would refer the Honourable Member to my answer to question No. 288.

**Qazi Muhammad Ahmad Kazmi:** Is the practice still prevalent so far as British units are concerned that they form concert parties out of the units themselves?

**Sir Charles Ogilvie:** The position has been explained at length by me to the answer to this part of the question. 24 soldiers have been employed but are not now.

**Qazi Muhammad Ahmad Kazmi:** They are stopped now?

**Sir Charles Ogilvie:** I have said so twice.

#### ALLOTMENT ON ENTERTAINMENT OF BRITISH AND INDIAN TROOPS.

**291. \*Qazi Muhammad Ahmad Kazmi:** (a) Will the Honourable the Defence Member please state if it is a fact that Government allotment for the British as well as Indian troops on entertainment is on a *per capita* basis?

(b) What sum of money has been spent on the two, from January, 1941, separately?

(c) Is it a fact that professional singers engaged for concert parties are not so varied in their selection as the troops they have to entertain, and, as such, cannot provide entertainment to the Indian troops in general?

(d) Have Government considered the advisability of enforcing the no-cost scheme as put forward by Mr. Zahur Ali?

**Sir Charles Ogilvie:** (a) and (b). There is no *per capita* allotment specifically for concert parties. The expenditure on concert parties and similar forms of entertainment in 1942-43 was :

B.T.—Rs. 60,000.

I.T.—Rs. 1,14,000.

The estimated expenditure for 1943-44 is :

B.T.—Rs. 1,75,000.

I.T.—Rs. 3,60,000.

(c) It has, of course, always been recognised that troops from different parts of India require different kinds of entertainment, and the centrally organised parties cover the field as far as possible. Their reception, wherever they have been, has in the main been very favourable.

(d) I would refer the Honourable Member to my reply to question No. 288.

**Mr. Lalchand Navalrai:** May I know if there is any obstruction to these Indians for the sanction of these entertainments?

**Sir Charles Ogilvie:** What sort of obstruction, Sir?

**Mr. Lalchand Navalrai:** Are they allowed as much freedom as the European soldiers?

**Sir Charles Ogilvie:** What sort of freedom?

**Mr. Lalchand Navalrai:** In getting sanction.

**Sir Charles Ogilvie:** I still do not quite understand, I am afraid. I have stated what the sanctioned expenditure was on both, and everything which can be done is being done.

**Mr. Lalchand Navalrai:** Equally or not?

**Sir Charles Ogilvie:** Equally, yes; certainly.

**Qazi Muhammad Ahmad Kazmi:** May I know, since it is said the expenditure is not *per capita*, what is the standard by which they determine the amount that has to be spent on British troops and on Indian troops?

**Sir Charles Ogilvie:** The cost of the parties concerned and the number of them.

#### REVIEW OF CASES OF DETAINED SIND M. L. A's, ETC.

292. **\*Mr. Lalchand Navalrai:** (a) Will the Honourable the Home Member be pleased to state if the case of the Members of the Sind Legislative Assembly who have been detained under the Defence of India Rules, has been reviewed in accordance with the new ordinance? If so, which of them have been released, and which of them have not been released and for what reasons?

(b) Are the cases of political and security prisoners being committed for review to tribunals appointed for the purpose? If so, what will be the composition of such tribunals? If not, why not?

(c) If the reply to (b) be in the negative, what other method for review of cases is the Honourable Member going to adopt?

(d) Has the attention of the Honourable Member been drawn to the statement in the *Hindustan Times*, dated the 15th February, 1944, to the effect that it is learnt that the Government of Bengal will shortly set up a tribunal for the review of cases of security and political prisoners who have been detained under the Defence of India Rules?

(e) Do Government propose to adopt or recommend to the Provincial Governments to adopt a uniform method for review by the independent and judicially minded people? If not, why not?

**The Honourable Sir Reginald Maxwell:** (a) This is a matter for the Provincial Government and I have no information.

(b), (c) and (e). No such procedure is enjoined by Ordinance III of 1944 but Provincial Governments are free to decide their own methods of review. No Tribunal is being appointed for the review of cases of Central security prisoners.

(d) Yes.

**Mr. Lalchand Navalrai:** Have any instructions been given by the Central Government, because this is a new thing—how the review is to be made, whether it is to be by a committee or by certain officers or a tribunal?

**The Honourable Sir Reginald Maxwell:** No instructions have been issued: as I have said, the Provincial Governments are free to decide their own methods.

**Mr. Lalchand Navalrai:** Has the Honourable Member got information from them as to how they are doing it?

**The Honourable Sir Reginald Maxwell:** No.

**Mr. Lalchand Navalrai:** Will the Honourable Member do it for the information of this House?

**The Honourable Sir Reginald Maxwell:** I am not in a position to say yet when we shall have the information. I must remind the Honourable Member that under Ordinance III of 1944, the stage for review has not arrived yet. The review under section 9 of the Ordinance is to take place when there is any question of extending the duration of an order. At the present moment, we ourselves and the Provincial Governments are only receiving representations from prisoners under section 7 of the Ordinance and, of course, we are considering them, but that does not mean a formal review of the cases.

**Mr. N. M. Joshi:** May I ask what is the method by which the Government of India themselves propose to make a review of the cases for which they are responsible?

**The Honourable Sir Reginald Maxwell:** As I said, that stage has not yet arrived.

#### SEDITIONOUSNESS OF CONGRESS PLEDGE.

**293. \*Mr. K. C. Neogy:** (a) With reference to his statement in the Legislative Assembly on the 7th February last, that Government have been advised legally that the "Congress pledge" is a seditious document, will the Honourable the Home Member be pleased to state when this legal advice was taken by Government, and who were the legal authorities who gave the opinion?

(b) Does the Honourable Member propose to lay a copy of the legal opinion on the table?

**The Honourable Sir Reginald Maxwell:** (a) I would invite attention to my reply to Mr. A. C. Datta's question No. 255 on February 26th.

(b) No.

**Mr. K. C. Neogy:** I do not know whether the Honourable Member has meant his statement to cover the second part of part (a) of my question, that is to say, when this legal advice was taken by Government, and who were the legal authorities who gave the opinion?

**The Honourable Sir Reginald Maxwell:** I answered the question of when, in answer to part (c) of Mr. Datta's question on the 26th February.

**Mr. K. C. Neogy:** Who are the legal authorities?

**The Honourable Sir Reginald Maxwell:** It is not the practice of Government to disclose the legal authorities, from whom they receive advice or to make public the advice which they receive.

**Mr. K. C. Neogy:** When was this advice obtained and first acted upon by way of prosecution or anything like that?

**The Honourable Sir Reginald Maxwell:** I answered that question in reply to supplementaries on the last occasion.

**Sardar Sant Singh:** May I know if this Congress Pledge, being a seditious document, was a discovery or an invention?

(No answer.)

#### AMENITIES TO MAHATMA GANDHI AND MEMBERS OF THE CONGRESS WORKING COMMITTEE.

**294. \*Mr. K. C. Neogy:** (a) Will the Honourable the Home Member be pleased to state whether Mahatma Gandhi and Members of the Working Committee of the Congress are allowed to receive articles of comfort, books, periodicals, newspapers, etc., from outside? Are there any restrictions in the matter of supply of books, periodicals and newspapers? If so, what, and in respect of what books, periodicals and newspapers have these restrictions been actually enforced so far?

(b) What monthly expenses are allowed for Mahatma Gandhi, and how much for the Members of the Working Committee each?

(c) What are the rules regarding the grant of interviews to relatives and friends with Mahatma Gandhi and Members of the Working Committee?

(d) Were some of the relatives or friends of Mahatma Gandhi refused permission to interview him on any occasion? If so, who are they, and why were they refused such permission?

**The Honourable Sir Reginald Maxwell:** (a) There is no restriction on the receipt of articles of comfort by Mr. Gandhi or the Working Committee or on the books and periodicals which they are allowed to receive, if on examination they are found to be unobjectionable. A large number of books, etc., has in fact been reaching the prisoners in question. As far as newspapers are concerned, I lay on the table lists of those supplied to (i) to Mr. Gandhi, and (ii) to the Members of the Working Committee.

(b) The provision made for Mr. Gandhi and those detained with him in His Highness the Aga Khan's Palace amounts to about Rs. 550 per mensem, while that for the Members of the Working Committee amounts to Rs. 100 per mensem each.

(c) and (d). Neither Mr. Gandhi nor the Members of the Working Committee are permitted interviews with either relatives or friends. In the case of Members of the Working Committee this rule has been strictly enforced. In the case of Mr. Gandhi, as the Honourable Member is aware, the rule was relaxed during his fast in February 1943, when a large number of friends and relatives were permitted to visit him and again recently when relatives were allowed to interview the late Mrs. Gandhi during her illness, on which occasions Mr. Gandhi was also of course present.

The above information relates only to the parties detained in the Aga Khan's Palace and at Ahmednagar. Two members of the Working Committee, Rajendra Prasad and Jairamdas Daulatram, are detained in their Provinces and I have no precise information that would enable me to answer the various parts of the question relating to them.

*Newspapers supplied to Mr. Gandhi.*

1. Bombay Samachar (Bombay).
2. Bombay Chronicle (Bombay).
3. Dawn (Delhi).
4. Gram Udyog Patrika (Maganwadi—Wardha).
5. Hindu (Madras).
6. Hindustan (Lucknow).
7. Hindustan Standard (Calcutta).
8. Hindustan Times (Delhi).
9. Khadi Jagat (Wardha).
10. Modern Review (Calcutta).
11. Rashtra Bhasha Samachar (Wardha).
12. Sarvodya (Wardha).
13. Statesman (Calcutta).
14. Tamil Sangh Magazine (Wardha).
15. Times of India (Bombay).

*Newspapers supplied to members of the Working Committee.*

1. Times of India (Bombay).
2. Bombay Chronicle (Bombay).
3. Bombay Samachar.
4. Nav Prakash (Bombay).
5. Kesari (Poona).
6. Illustrated Weekly of India (Bombay).
7. Bombay Chronicle Weekly (Bombay).
8. Bombay Samachar Weekly (Bombay).
9. Sandesh Praja Bandhu (Bombay).
10. Amrit Bazar Patrika (Calcutta).
11. Hindu (Madras).
12. Tribune (Lahore).
13. Statesman (Calcutta).
14. Leader (Allahabad).
15. Manchester Guardian Weekly (London).
16. New Statesman (London).

**Mr. K. O. Neogy:** May I take it then, that so far as the two members of the Working Committee specifically mentioned by the Honourable Member are concerned, the Provincial Governments concerned are the final authorities in regard to all these matters?

**The Honourable Sir Reginald Maxwell:** Yes, Sir.

**Mr. K. O. Neogy:** With regard to the Honourable Member's reply to part (a) of my question, will the Honourable Member be pleased to indicate the authority who is responsible for examining the books and periodicals for judging their suitability?

**The Honourable Sir Reginald Maxwell:** The Provincial Government.

**ACCIDENTS DUE TO EXCESSIVE SPEED OF SERVICE VEHICLES.**

**295. \*Mr. Ananga Mohan Dam:** Will the War Secretary please state:

(a) whether he has got any representation from the Bengal Chamber of Commerce stating that excessive speed is the principal cause for accidents occasioned by service vehicles, especially on the Barrackpur and Grand Trunk Roads;

(b) whether Government have made any enquiry into the complaints made by the public; if so, with what result; and

(c) what Government have done for a greater measure of supervision and discipline as demanded by the public?

**Mr. O. M. Trivedi:** (a) Yes, Sir, a representation was received by the local military authorities in December 1943.

(b) Enquiry reveals that room still exists for considerable improvement in the driving of service vehicles.

(c) The matter has been receiving the personal attention of all formation and unit commanders who have been enjoined to take all possible measures for enforcing careful driving of service vehicles.

**REFERENCE TO MR. GANDHI IN THE BOOKLET "INDIA TO-DAY AND TOMORROW".**

**296. \*Mr. K. S. Gupta:** (a) Is the Honourable the Home Member aware that an ex-Governor of the Punjab published a booklet "India to-day and to-morrow"?

(b) Is he also aware that the following statement "Mr. Gandhi embarked on a 21 day fast to engineer his unconditional release, etc.," contained in the booklet is being resented to by all political circles in London and by every Indian patriot? If so, does he propose to make a representation protesting against such an insinuation?

**The Honourable Sir Reginald Maxwell:** (a) Yes.

(b) The answer to both parts of the question is in the negative.

**ABSORPTION BY HIS MAJESTY'S GOVERNMENT OF DOLLAR CREDITS ACCRUING TO INDIA.**

**297. \*Mr. T. T. Krishnamachari:** Will the Honourable the Finance Member please state:

(a) if his attention has been drawn to the statement issued to the Press by the President of the Federation of Indian Chambers of Commerce and Industry on the 16th January, 1944, protesting against absorption by His Majesty's Government of dollar credits accruing to India;

(b) if the answer to (a) is in the affirmative, what dollar credits have accrued in the aggregate to India, as a result of the favourable balance of trade since the beginning of the war till the end of 1943;

(c) whether such credits have been taken over by His Majesty's Government and converted into sterling credits, or, whether any portion of dollar credits has been used to pay for goods originally imported from the United States of America under the Lease-Lend arrangement; and

(d) whether Government propose to issue a rejoinder in reply to the statement of the President of the Federation of Indian Chambers of Commerce and Industry, dated the 16th January, 1944?

**The Honourable Sir Jeremy Raisman:** (a) Yes.

(b) In the case of each member of the sterling area as dollars accrue they pass into the pool which serves the whole sterling area, the member receiving corresponding credits in sterling. At the same time the dollar needs of each member are met from the pool as and when they arise, the member receiving corresponding debits in sterling. No separate account had hitherto been maintained for India.

(c) From what I have said in reply to part (b), it will be evident that any net surplus of dollars accruing on Indian account in the course of a year will remain at India's credit in sterling. No payments are made for goods procured on Lease-Lend.

(d) I would refer the Honourable Member to the statement I made on this subject in paragraph 52 of the Budget speech.

**Mr. T. T. Krishnamachari:** May I ask if the Honourable Member is in a position to tell what is the total amount to the credit of this country in the Empire Pool?

**The Honourable Sir Jeremy Raisman:** I explained there is no special sum in dollars to the credit of any member in the Empire Pool; but as I mentioned in the Budget speech, under the new arrangement there will be an account in which credits will be made to India.

**Mr. T. T. Krishnamachari:** I am unable to understand the Honourable Member. Does he mean to say that the export surplus of this country vanishes into thin air, and that there is no account kept of the amount of the export surplus, and its equivalent in dollars?

**The Honourable Sir Jeremy Raisman:** I mean that the export surplus of the whole sterling area is treated as one and that similar imports which have to be paid for in dollars are met from that pool. That is the meaning of the pool. India in the end is left with a balance in sterling, that is the arrangement up to now.

**Mr. T. T. Krishnamachari:** I am afraid that I am not a little wiser for this reply. I might ask the Honourable Member whether all those exports that are to be made or have been made under reciprocal aid—who takes over the question of payment at the Indian end? Do the Indian Government do it?

**The Honourable Sir Jeremy Raisman:** I did not catch the last part of the Honourable Member's question.

**Mr. T. T. Krishnamachari:** The exports that are to be made or have been made under reciprocal aid scheme—who takes over liability for payment at the Indian end?

**The Honourable Sir Jeremy Raisman:** Goods supplied on reciprocal aid are not paid for any more than goods received on lend-lease. Reciprocal aid is the obverse of lend-lease and no country gets any actual payment for goods supplied on reciprocal aid.

**Mr. T. T. Krishnamachari:** May I refer the Honourable Member to his own speech the other day where he has said that extension of reciprocal aid to raw materials and foodstuffs is being contemplated. They must be purchased from somebody and somebody will have to pay for them.

**The Honourable Sir Jeremy Raisman:** Reciprocal aid is no more paid for by America than lend-lease goods are paid for by the other United Nations. It is essentially a system of free international supply, mutual aid.

**Mr. President** (The Honourable Sir Abdur Rahim): This is not the occasion for pursuing the subject any further. Order, order.

#### UNSTARRED QUESTIONS AND ANSWERS.

##### MEMORIAL SUBMITTED BY THE GUJARAT TOBACCO MERCHANTS' ASSOCIATION, NADIAD

89. **Mr. Jamnadas M. Mehta:** (a) Will the Honourable the Finance Member please state if it is a fact that the Gujarat Tobacco Merchants' Association, Nadiad, submitted a memorial, dated the 25th June, 1943, to the Central Board of Revenue?

(b) Has consideration been given to the submission made in the last paragraph of the memorial?

(c) If the answer to the above question is in the affirmative, what are their proposals with regard to the amendment of the Tobacco (Excise Duty) Act and Rules thereunder?

(d) Do Government propose to make necessary amendments in the Tobacco (Excise Duty) Rules, 1943, to lessen the burden on the grower and the trader, in the light of the experience gained during the working of the Act and Rules for nearly eight months?

(e) Is it a fact that Government have received representations from various tobacco growers Associations from all over India representing the difficulties experienced by them due to the Tobacco (Excise Duty) Rules, 1943?

(f) If the answer to (e) is in the affirmative, do Government propose to consider a proposal about a Conference of Government officials and tobacco growing interests?

(g) Has legal opinion been obtained by Government with regard to the legal position as regards the enactment of the Tobacco (Excise Duty) Act by the Central Legislature?

(h) Has the acreage under cultivation of tobacco been reduced, due to the coming into force of the Tobacco (Excise Duty) Act, 1948?

(i) If the answer to (h) is in the affirmative, will Government be pleased to state the percentage of reduction now that the tobacco planting season is over and figures of plantation are available?

(j) Are Government prepared to consider simplifications of rules so far as they affect tobacco growers, in view of the fact that more than 90 per cent. of the peasants are illiterate and likely to be harassed by exacting Government officials?

(k) Are Government prepared to consider a proposal to simplify the rules so that small traders may not be driven away from the trade by the intricacies and costliness of permits, licences, warehouses, bonds, etc.?

**The Honourable Sir Jeremy Raisman:** (a) and (b). Yes.

(c) and (d). Government are satisfied that the obligations imposed on tobacco growers and merchants are not excessive. Certain of the rules provide for special treatment in particular circumstances and some minor adjustments of the Rules have been made to suit trade convenience. Government do not contemplate any amendments beyond those made in the consolidated Act and Rules which came into force on the 28th February.

(e) Some representations were received in the first few months after the introduction of the Act. Doubts and misgivings such as were expressed in these representations are inevitable during the initial stages of any excise system of this kind and magnitude. Central Excise officers were accordingly instructed at the outset to explain the system to all concerned and to remove misunderstandings; and printed explanatory pamphlets in the local languages were distributed to growers and curers. These precautions had the desired effect and no representations have been received for some time.

(f) No. Consultation is continually taking place between Government officials and tobacco interests and Government consider that a formal conference would serve no useful purpose.

(g) Yes.

(h) The acreage under Virginia tobacco is reported to be expanding owing to increased demand for cigarette tobacco. The acreage under country tobacco has undergone some reduction during the year, owing, in some areas, to cyclone damage and, generally, to the "Grow More Food" campaign and the high prices obtainable for other crops.

(i) The figures are being collected and will be laid on the table of the House in due course.

(j) The high percentage of illiteracy among tobacco growers was taken into account in framing the Rules and such information as is required from the great majority is taken orally by officers who visit them for this purpose. Government have not received any complaint of harassment, and the departmental instructions expressly enjoin officers to show courtesy and consideration to all those with whom they have official dealings.

(k) Government are always prepared to consider genuine grievances. The obligations laid on dealers are not difficult to carry out. No fees are charged for permits; and licence fees for small traders have been reduced from Rs. 5 to Rs. 2. The warehousing of tobacco until clearance for final sale or manufacture is a unique concession which confers substantial advantages on the traders.

#### GODOWNS FOR STOCKING TOBACCO.

90. **Mr. Jamnadas M. Mehta:** (a) Will the Honourable the Finance Member please state whether Government propose to consider proposals to simplify the rules as regards compulsory godowning of stocks of tobacco, in view of the fact that no godowns are built to the specifications required by rules, and that by the very nature of the tobacco growing areas, no such buildings are possible?

(b) Do Government propose to build godowns in sufficiently large numbers in tobacco growing areas?

(c) If the answer to (b) is in the negative, due to the present extraordinary circumstances, or to the hugeness of the task, do Government propose to view the question from the growers' and traders' standpoint and simplify the rules as regards godowns?

(d) Is it a fact that the consumer of the country tobacco in the form of *biris* is made to pay one and a half times to twice the price he used to pay before the Tobacco (Excise Duty) Act came into force, and not the twenty per cent. increase as the Honourable the Finance Member foretold and assured in the Legislative Assembly when the Bill was on the anvil?

(e) Is it justifiable to tax the lower kind of tobacco, such as second crop or Ratoon and such other tobacco gathered haphazardly by poor labourers from the stumps of tobacco plants after the leaves, that is, the tobacco properly so-called is removed, after an experience of the working of the Act for nearly eight months?

(f) What amount of duty do Government expect to receive from tobacco during the current year from the expected figures after the working of the Act for nearly eight months?

(g) Is it a fact that on calculating the duty on the stock of tobacco at the time the Act came into force, the amount is likely to exceed enormously the expected amount of ten and a half crores?

(h) If the answer to (g) is in the affirmative, do Government propose to consider the advisability of reducing the rate of duty?

(i) If the answer to (h) is in the affirmative, do Government propose to consider the advisability of remitting duties on the old stock, as in the case of vegetable products for which no duty is levied on the old stock when the Act came into force?

(j) What made Government to tax the old stock as well in the particular case of tobacco, while other commodities were exempted?

(k) Do Government propose to consider the advisability of printing various forms in regional languages and to supply these forms in sufficient number to Excise Officers as well as traders?

**The Honourable Sir Jeremy Raisman:** (a) There is no compulsory warehousing of tobacco. The Rules lay down no specifications in regard to warehouses.

(b) and (c). It would not be practicable to build or purchase buildings for public warehouses at present because building costs are now exceptionally high and because such warehouses must obviously be carefully sited. After some years' experience has been gained and it is possible to gauge the future development of the tobacco trade, the erection of such warehouses may be possible. In the meantime Collectors have been authorised to appoint suitable existing buildings as public warehouses, provided that this entails no cost or liability to the Department. So far, the trade has not availed itself of this facility.

(d) The price of *biris* has substantially increased. For example, in Madras it has advanced on the average from Rs. 1/11/- to Rs. 2/9/- per thousand; but only 6 annas of this 14 annas increase represents duty.

(e) Where such tobacco is gathered by poor people for their own consumption it will not come under excise. If it is marketed, it must of necessity pay the same duty as tobacco of a similar kind harvested in the ordinary way.

(f) Rs. 9 crores.

(g) No.

(h) and (i). Do not arise.

(j) The circumstances of the trade in unmanufactured tobacco are exceptional. Such tobacco is stored for long periods (sometimes extending to two years) and to have exempted the stocks, therefore, would have greatly prejudiced the security of the revenue.

(k) This is already being done.

**ELECTION OF MEMBERS TO THE STANDING COMMITTEE ON:  
PILGRIMAGE TO THE HEJAZ.**

**Mr. President** (The Honourable Sir Abdur Rahim): I have to inform the Assembly that up to 12 Noon on Friday, the 25th February, 1944, the time fixed for receiving nominations for the Standing Committee on Pilgrimage to the Hejaz, twelve nominations were received. Subsequently seven candidates withdrew their candidature. As the number of remaining candidates is equal to the number of vacancies, I declare the following Members to be duly elected, namely: (1) Sir Abdul Halim Ghuznavi; (2) Syed Ghulam Bhik Nairang; (3) Khan Bahadur Shaikh Fazl-i-Haq Piracha; (4) Mr. Hooseinbhoj A. Lalljee; and (5) Maulvi Syed Murtuza Sahib Bahadur.

**ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE  
CIVIL DEFENCE BRANCH OF THE DEFENCE DEPARTMENT.**

**Mr. President** (The Honourable Sir Abdur Rahim): I have also to inform the Assembly that up to 12 Noon on Wednesday, the 1st March, 1944, the time fixed for receiving nominations for the Standing Committee of the Civil Defence Branch of the Defence Department only five nominations were received. As the number of candidates is equal to the number of vacancies, I declare the following Members to be duly elected, namely: (1) Mr. Piare Lall Kureel; (2) Mr. Ananga Mohan Dam; (3) Khan Bahadur Sheikh Habibur Rahman; (4) Mr. Lalchand Navalrai; and (5) Mr. Amarendra Nath Chattopadhyaya.

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.**

(Amendment of sections 378 and 429.)

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, (*Amendment of sections 378 and 429*) be continued."

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

"That the Bill further to amend the Code of Criminal Procedure, 1898, (*Amendment of sections 378 and 429*) be continued."

The motion was adopted.

**THE ABOLITION OF WHIPPING BILL.**

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill to abolish the punishment of Whipping be continued."

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

"That the Bill to abolish the punishment of Whipping be continued."

The motion was adopted.

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.**

(Amendment of sections 162, 488 and 496.)

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, for certain purposes (*Amendment of sections 162, 488 and 496*) be continued."

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

"That the Bill further to amend the Code of Criminal Procedure, 1898, for certain purposes (*Amendment of sections 162, 488 and 496*) be continued."

The motion was adopted.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): Why don't you move that every Bill be continued?

**THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.**

**Khan Bahadur Shaikh Fazl-i-Haq Piracha** (North-West Punjab: Muhammadan): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, as reported by the Select Committee, be taken into consideration."

[Khan Bahadur Fazl-i-Haq Piracha.]

Sir, the Bill is a very short and simple one and has amply been discussed in the House on two previous occasions, firstly, when it was passed to be circulated for public opinion, and secondly, when a motion was made for the reference of the Bill to Select Committee. I therefore do not propose to add anything more to what has already been said by myself and other Honourable Members in support of the Bill.

Sir, as will appear from the Report of the Select Committee, the only change made in the Bill is the modification of sub-clause (2) of clause 1 of the Bill to provide for the postponement of the operation of the Bill owing to the present disturbed war conditions. Sir, the modification made in the Select Committee was due to the anxiety of the Honourable Member in charge of the Department to safeguard the interests of the shipping companies in times of war, although this safeguard is already amply provided in the 1st proviso to section 209A of the Indian Merchant Shipping Act which reads thus :

"Provided that, for the purpose of computing the said period of twenty-five days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah having been declared by proper authority to be infected or by reason of war disturbance or any other cause not arising from any act or default of the master, owner or agent."

The members of the Select Committee agreed to the modification on a clear assurance having been given by the Honourable Member in charge of the Department that the Government will enforce the Bill immediately after the cessation of hostilities and even before that, provided that the normal travelling conditions are re-established. I hope the Honourable Member will make a statement to that effect on behalf of the Government on the floor of the House. Sir, I move.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, as reported by the Select Committee, be taken into consideration."

**Mr. E. L. C. Gwilt** (Bombay: European): Like the Honourable the Mover I have very little to add to what I have already said on this Bill during its two preceding stages. I am glad that the Select Committee have agreed that its provisions shall not come into effect till after the war, and I would reiterate what I have said before, and that is, its probable effect will be to increase fares. That is all I have to say.

**The Honourable Dr. N. B. Khare** (Member for Indians Overseas): The only amendment that the Select Committee has made in the Bill, as stated by the Honourable the Mover, is a provision that the Bill shall come into force on such date as the Central Government may, by notification in the official gazette, appoint. I have no doubt that the House will appreciate, as the Select Committee did, that the exceptional period of the war is not an opportune time for making alterations in details of administration which are not quite essential or inescapable. I can, however, give the House an assurance that it is the intention of the Government to give effect to the measure as soon as the exceptional conditions under which we now live cease to exist. I have nothing more to add.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Khan Bahadur Shaikh Fazl-i-Haq Piracha**: Sir, I move :

"That the Bill, as amended, be passed."

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

"That the Bill, as amended be passed."

The motion was adopted.

THE INDIAN STATES (PROTECTION AGAINST DISAFFECTION)  
AMENDMENT BILL.

**Qazi Muhammad Ahmad Kazmi** (Meerut Division: Muhammadan Rural): Sir, I am moving No. 12.

**Mr. President** (The Honourable Sir Abdur Rahim): What about the others?

**Qazi Muhammad Ahmad Kazmi**: I am not moving them. Sir, I beg to move :

"That the Bill to amend the Indian States (Protection against Disaffection) Act, 1922, for a certain purpose, be circulated for the purpose of eliciting opinion thereon by the 15th August, 1944."

Sir, these are the days when there are limitations on speeches, when there are limitations on the news and everything is in the hand of the Press Adviser, even so far as the proceedings of this Assembly are concerned. There was a time when the atmosphere was more free and we find that unfortunately even at that time an Act which is called the States (Protection against Disaffection) Act was passed at the instance of the Government. The Government of India does not undertake only their own protection but the protection of States also who have got certain relations with them. In this connection, I do not want to cast any reflection on the States but we must at the same time understand that man is after all a man. Situated as the States are without any power whatsoever, with considerable amount of wealth and no ways of spending it but for their own personal satisfaction, we know very well what is the actual condition of the States today. We have got great appreciation of the Rulers of States who are looking to the welfare of their *riyaya*, looking forward to the betterment of the conditions of their people but at the same time there are many who are differently treating their subjects and there is no way in which we can redress those grievances. Government, in 1921, appointed a committee called the Indian Press Committee. That was a very general committee for considering the question of the Press Act itself and it was after the report of that Committee that this Act was enacted in this Legislative Assembly. That was as early as July 1921, and the Committee in their report while dealing with the question of the Princes, said :

"Perhaps the most important of these is the question whether the dissemination of disaffection against Indian Princes through the Press of British India should be penalised in any way. We have been handicapped in our examination of this question by the very inadequate representation of the views of the Princes, many of whom were unwilling to allow their opinions to be placed before the Committee. We have, however, had the advantage of seeing some minutes submitted by them and of examining Sir John Wood, the Secretary of the Political Department (because it is the Political Department who are more interested in the Princes than the Princes themselves). It has been argued that the Government of India is under an obligation. . . ."

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not read the whole document.

**Qazi Muhammad Ahmad Kazmi**:

" . . . to protect Indian Princes from such attacks, that the Press Act alone affords them such protection and that if it is repealed it is unfair, having regard to the constitutional position of the Government of India, *vis-a-vis* the Indian States, that the Press in British India should be allowed to foment disaffection against the rule of an Indian State. On the other hand, various witnesses have protested in the strongest terms against any such protection being afforded to the Princes."

**Mr. President** (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to read the whole of that Report?

**Qazi Muhammad Ahmad Kazmi**: Not the whole of it.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member can only read some necessary passages. The report, I suppose, is published.

**Qazi Muhammad Ahmad Kazmi**:

"It is alleged that the effect of any such provision in the law would be to stifle all legitimate criticism and deprive the subjects of such States of any opportunity of ventilating their grievances."

Then in the end they say:

"We do not, in the circumstances, think that we should be justified in recommending on general grounds any enactment in the Penal Code or elsewhere for the purpose of affording such protection in the absence of evidence to prove the practical necessity for such provision of the law."

[Qazi Muhammad Ahmad Kazmi.]

That was the clear dictum of the committee appointed by the Government of India themselves and it was in July 1921 and we find that only a year afterwards this Bill was brought before the House and though at the very inception of the Bill it was rejected, still it was enacted and guarantees were given that the Government of India will see that it is not misused. We have seen many of the guarantees given by this Government. We have been day in and day out complaining against that without any relief. We know how the working of the Defence of India Rules is going on. But that is only a recent thing. In this case and in this connection we have got the experience of 22 years. I think one further thing has to be considered by the Government in this connection—that in giving relief to the Princes in that way you have given a handle to them which, with their tremendous influences and big finances, is being used to harass and persecute persons who have got the audacity of simply criticising what is going on in the States. We do not exactly know as to how the grievances of the States subjects can be ventilated by the Press, if one is not allowed to criticise their activities. The difficulty is this. I know of cases in which certain criticisms are made against the State. The Editor is by hook or crook got hold of and once he entered the dominion of the States then he is gone. It is not any Act or law under the clutches of which he comes; it is under the clutches of the Ruler himself. I think the Political Department must have full knowledge of the instances of that kind. I know some. I do not want to mention the name of the State because that may not be considered to be proper. But I know the name of a State against which a certain article was published and the Ruler was criticised. A warrant was issued from a place which was quite near the State. The man was arrested, and he came to that place for putting appearance in the court. When he was coming out of the court, he was kidnapped to the State itself and there he was detained under some provision which may be like rule 26 of the Defence of India Rules. In that case the detention is unlimited. I do not know whether they have got any such rule in the States now, but the fact remains that the detention was unlimited. Now, this is how they are dealing with the persons who criticise them. Any number of instances can be quoted in support of this view.

Sir, I do not want to get the repeal of the Act itself. Had it been the question of the repeal of the Act, I think I would have been justified in asking this House to repeal the Act altogether. But I do not do that. What I want is only to get certain amplification by the Government themselves of the promises that were made at the time of the passing of that Act. The promise that they made was that the Act will not be misused and that appeals will lie to the High Court. What I now want is that the man may be tried not at the place where the paper is published or where it is sold but at the place of the residence of the man himself. I do not want to repeal the Act itself, but only to give this little facility to the person who is considered to be guilty of this offence and we want that he may be allowed to be prosecuted by courts of law at the place where he resides and the appeal should lie to the High Court. This is a very simple matter. There does not appear to be any difficulty in view of the facilities that the States command in such matters to prosecute the man not at the place which is far away from his own residence but at the place where he resides and give the power to the High Court in cases of this type to hear the appeal directly. Is it too much for me to ask that the appeal should lie to the High Court directly? In cases of sedition against the Government, the appeal lies to the High Court. When the Government is taking up the case of an Indian State, they may also be prepared to concede the concession that the appeal should lie to the High Court. I would very much like to know what the Government have got to say regarding the jurisdiction of the courts, whether the man should be prosecuted where the paper is published or where he resides. I see absolutely no hardship to the State. I see no reason why the States should have the abnormal right over persons who are not living within their territory

and I am only limiting them to the extent that it may not be possible for the States to bring the man near their own territory and just after the man has been put on his trial before a court of law to kidnap him to their own territory and make him undergo an imprisonment which knows no end. It is only with this view that I have brought this very simple and very innocuous measure. So far as the States are concerned, it does not take away any of their rights which have been recognised by the House under this Act.

Sir, I am asking only for the circulation of this measure and I am simply astonished to find that the Government are not prepared to circulate a Bill of this kind. What is the view of the Government? Are they the custodians of the welfare of the Princes only and not of the subjects who are residing in their own territories? I have just read out to the House the opinion of the Press Act Committee who said that no opinions were offered to them by the Princes. I have not heard of any representation by the Princes themselves. Are the Government prepared to get the opinion of the Princes themselves in respect of this measure and circulate it amongst them? Are the Government prepared to make an inquiry into the unlimited number of cases in which this Act has been misused? Are they prepared to call upon the States and ask them to give a reply to these charges? Instead of stifling the Bill at this stage, are the Government prepared to give the country an opportunity of expressing their experiences in the matter? The law has been in force for 22 years. Let us see whether during this time it has been rightly applied or whether it has been misused by the Princes? Even if that opinion is not required by the Government of India, who think that whatever the Princes do is right, then I want to deny that position most humbly but still very strongly because I doubt very much if they have got any expression of opinion from the Princes themselves.

Sir, I move.

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

"That the Bill to amend the Indian States (Protection against Disaffection) Act, 1922, for a certain purpose, be circulated for the purpose of eliciting opinion thereon by the 15th August, 1944."

**Mr. Lalchand Navalrai** (Sind Non-Muhammadan Rural): Sir, I rise to support the motion. This motion seeks to amend section 3 of the Indian States (Protection against Disaffection) Act of 1922. Section 3 of that Act makes the editor, the printer or the publisher and the author of any book punishable if he excites disaffection against the Ruler of any State. Now, by this amendment two demands are made. In the first place, a person who edits or publishes or prints any paper, which is considered to have excited disaffection against any State, should be tried in India or at the place where he resides or at the place where the paper or the book is printed and published. When an offence of this nature is committed in India, I think it will be committed by the Indian subjects and they should have some protection against any trial that takes place according to this Act in the territory of the States. I think if the Government of India allows that, for anything that is done in British India, and people are extradited to the State, then they would be giving away the rights of the people of British India of being tried in British India. Of course, they do many things. They try for all those heinous offences more heinous than the offences covered by this Act. Therefore it would be only fair that the trial should be given to them here. That will do two things, one is to give convenience to these people and second, to remove the difficulties of being extradited to the State thereby putting them to so much inconvenience and expense. Also, there would be less facility for legal advice to them in those States. To remove that inconvenience, this Bill is brought forward by my Honourable friend. Another advantage is that people tried in British India will get better justice than they would get in the States. The States are more or less politically backward. There are regulated and there are non-regulated places. Many of the States might as well be put into non-regulated category where people are considered not civilised yet. Why should a person be handed over to the State for trial? If you are going to give the Princes protection, then the people of British India

[Mr. Lalchand Navalrai.]

also should be given protection in the sense of being tried here. Therefore the demand of the Honourable the Mover is very reasonable. Their cases should be reviewed by the High Court. As my Honourable friend has put it, there was an assurance in black and white given by the Government at some time. That assurance must be fulfilled. Otherwise, they will be open to the charge of going back upon their promise. This House also should help in order to get that assurance of the Government fulfilled. I therefore submit that this Bill is a fair measure. The Honourable Member only wants to elicit public opinion. He is taking a cautious step. He has not asked that the Bill should be taken into consideration. Let us have public opinion, the opinion of even the Press that may be working in British India and in the States. Let us see what their view is, whether these editors are allowed freedom of speech or whether they are gagged and awarded severe punishment. That is why we should have public opinion. Let us examine and scrutinise their reasons and then it will be for the House and for the Government to accept this Bill or not. At this stage the Bill should not be thrown out, it should be allowed to be circulated.

**The Honourable Sir Asoka Roy** (Law Member): Sir, I oppose this motion for circulation of the Bill. I hope to be able to satisfy the House in a very few minutes that this Bill is entirely misconceived. Honourable Members will have noticed that the Honourable the Mover proposes to amend the Indian States (Protection against Disaffection) Act, 1922, by the insertion of a new sub-section after sub-section (2) of section 3. It would be useful if I reminded Honourable Members of the terms of section 3 of the Indian States (Protection against Disaffection) Act, 1922. That section runs in these terms:

"Whoever edits, prints or publishes, or is the author of, any book, newspaper or other document which brings or is intended to bring into hatred or contempt, or excites or is intended to excite disaffection towards, any Prince or Chief of a State in India or the Government or Administration established in any such State, shall be punishable with imprisonment. . . ."

I need not read out anything more.

The Honourable the Mover wishes to make an amendment to this Act and the amendment which he seeks to introduce runs in these terms:

"Every person accused of committing an offence under this section shall be prosecuted and tried in a Court of law in the town or district where such publications were printed and in every case the appeal shall lie to a High Court of Judicature."

Sir, I will deal separately with the two points involved in the proposed new sub-section. The first proposition, as Honourable Members will have noticed, is that every person accused of an offence under section 3 shall be tried in a court of law in the town or district where the offending publication was printed, as opposed to where the publication was in fact made. - Now, Sir, the place at which a criminal offence may be tried is determined by Sections 177—188 of the Code of Criminal Procedure. The primary rule is that contained in section 177, namely,—

"Every offence shall ordinarily be enquired into and tried by a Court within the local limits of whose jurisdiction it was committed."

Now, Sir, it is settled law that under the operation of this section an offence consisting in the publication of a document is within the local jurisdiction of any court having jurisdiction in any area to which a copy of the offending document has been sent. Thus in any case where the *factum* of an offence consists in the publication of a document—and, Honourable Members are aware, such offences may be punishable under a considerable variety of penal provisions—the prosecution has an option as to the venue and it is free to launch the prosecution in any of the places in which the offending document has circulated. Sir, it seems to me that it would be entirely illogical to deprive the prosecution of this option as to venue in the case only of offences punishable under section 3 of the Indian States (Protection against Disaffection) Act.

**Mr. Lalchand Navalrai:** That is what he wants.

**The Honourable Sir Asoka Roy:** That I think would be entirely illogical and unreasonable. If it were desirable to curtail this option the amendment of the law should be directed generally at all relevant offences and should be made with general effect in the Code of Criminal Procedure.

Sir, in this connection, I may be permitted to remind Honourable Members of this House who belong to the legal profession of Mr. Justice Stratchey's dictum in his charge to the jury in Tilak's case to the effect that the Bombay High Court had original jurisdiction by reason of copies of the offending journal which was printed in Poona having been sent to Bombay.

Again, Sir, I should like Honourable Members to consider if the proposed amendment of the law is reasonable. Take the case of an author who is sought to be proceeded against under this section; where is he to be prosecuted if, for instance, you find him residing in a particular place and the printing or the publication takes place elsewhere? The Honourable the Mover says in his Bill:

"Every person accused of committing an offence under this section shall be prosecuted and tried in a court of law in the Town or district where such publications were printed."

What are you going to do with the author who resides in one particular place and the publication is printed in another place? Are you going to prosecute that author in the place where the publication is printed and perhaps not published and where he is not to be found at all? I am only drawing your attention to this aspect of the matter but my main objection to the proposed amendment of the law in regard to the venue of trial is that it would be entirely illogical to single out this particular offence for special treatment.

**Qazi Muhammad Ahmad Kazmi:** The printer and publisher are also liable.

**The Honourable Sir Asoka Roy:** I know, but should you not be able to prosecute the author if you choose to do so? What I am trying to emphasise is this that there is no reason to single out this particular offence for special treatment.

**Qazi Muhammad Ahmad Kazmi:** Because it is a special favour to the States.

**The Honourable Sir Asoka Roy:** But the prosecutions are conducted under the terms of the Code of Criminal Procedure. The Act applies only to British India, a fact of which my Honourable friend, Mr. Lalchand Navalrai, does not seem to have been aware.

I shall now deal with the second proposition involved in the proposed amendment, which is that in every case an appeal shall lie to the High Court of Judicature. Sir, by section 5 of the Indian States (Protection against Disaffection) Act, 1922, an offence thereunder is triable by a court not inferior to that of a Presidency Magistrate or a Magistrate of the First Class. Where the offence is tried by a Presidency Magistrate the appeal will lie to the relevant Presidency High Court under section 411 of the Code of Criminal Procedure; where the offence is tried by a Magistrate of the First Class the appeal will lie to the Court of Sessions under section 408 of the Code. Here again I can see no case for a disturbance of the ordinary course of appeal with reference to an offence under this particular section. I should also like in this connection to draw attention to the fact that the Honourable the Mover has used in his Bill the words "High Court of Judicature". I do not know exactly what was in his mind when he used these words. Did he mean Chartered High Courts alone or did he mean any High Court within the meaning of the Code of Criminal Procedure?

**Qazi Muhammad Ahmad Kazmi:** Any High Court.

**The Honourable Sir Asoka Roy:** I do not know why the words "High Court of Judicature" were used at all.

There is one other matter I should like to deal with. In the Statement of Objects and Reasons there is an allegation that when the Act was enacted Government gave an assurance that in every case the defendant would have the right of appeal to a High Court. That allegation, is entirely incorrect. The allegation is presumably based on an observation by Sir William Vincent while speaking on the Bill in the other House. I will read his exact words. What he said was:

"Those who offend against this law will not be liable to summary action at the hands of the executive. They will be tried before a court of law or a Magistrate and the accused will, I suppose, ultimately have a right of going up to the High Court."

[Sir Asoka Roy.]

He did not say, he could not say and obviously he did not mean to say that an appeal would lie to the High Court. In observing that those who offend against the law would, he supposed, ultimately have a right of going up to the High Court, he doubtless had in mind the fact that the revisional jurisdiction of the High Court would be exercisable in favour of a person convicted under the Act by a Magistrate and whose appeal to the Sessions Court had been dismissed. I observe also that he did not refer to "High Court of Judicature", which expression as used in the Bill is presumably intended to denote a Chartered High Court. The revisional jurisdiction of the High Court will, of course, fall to be exercised by whatever High Court within the meaning of the Code of Criminal Procedure, whether a Letters Patent High Court, a Chief Court or a Judicial Commissioner's Court, is the court having jurisdiction in respect of a court in which the original conviction has been held or maintained on appeal. Here again there can be no case for interfering with the normal venue of revisional jurisdiction.

I shall now deal with certain points made in the course of speeches in this House. My Honourable friend the Mover made a speech which really was one which could appropriately have been made on a Bill to repeal this Act. My Honourable friend seems to have been quite aware of that because he took the precaution of maintaining in the course of his speech that he did not want a repeal of the Act. He was obviously feeling afraid that Members of the House might easily misunderstand him and believe that he was moving for the repeal of the Act.

**Mr. Lalchand Navalrai:** I do not think there is any misunderstanding on this side.

**The Honourable Sir Asoka Roy:** As regards my Honourable friend, Mr. Lalchand Navalrai, I have not been able to follow him at all. He talked of extradition; I do not know what made him think of extradition. The Indian States (Protection against Disaffection) Act, 1922, applies only to British India and the trials which we are concerned with would only be trials in British India. The Act does not purport to deal with trials in Indian States. Then again my Honourable friend, Mr. Lalchand Navalrai, talked of circulating the Bill in the Indian States. I do not know how that can be done.

**Mr. Lalchand Navalrai:** Through the press.

**The Honourable Sir Asoka Roy:** Or why it should be done when we are dealing with a Bill which is pending before the Legislative Assembly here.

**Mr. Lalchand Navalrai:** Because it affects them.

**The Honourable Sir Asoka Roy:** It does not affect the States at all.

**Mr. Lalchand Navalrai:** Rather it is in their favour.

**The Honourable Sir Asoka Roy:** My Honourable friend, Mr. Lalchand Navalrai, does not seem to be aware of the fact that we are dealing with a piece of British Indian legislation.

**Mr. Lalchand Navalrai:** I do understand it.

**The Honourable Sir Asoka Roy:** And we are concerned only with trials in British Indian Courts under the Code of Criminal Procedure. We are not concerned in any way with trials in the Indian States. If my Honourable friend Mr. Lalchand Navalrai, ever does anything that would make him liable under the Indian States (Protection against Disaffection) Act, 1922, he, I suppose, would prefer to be tried in a British Indian Court and would not like to have any extradition proceedings taken against him. Sir, I could not help feeling that my Honourable friend, Mr. Lalchand Navalrai, was suffering from some confusion of mind when he . . . . .

**Mr. Lalchand Navalrai:** He is very clear always.

**The Honourable Sir Asoka Roy:** . . . . . got up to support the Honourable the Mover. My Honourable friend said he is very clear always. I shall say he is clear sometimes. Sir, I hope I have given sufficient reasons for asking this House to reject this motion.

**Mr. Lalchand Navalrai:** Not satisfactory reasons.

**Sardar Sant Singh** (West Punjab Sikh): Sir, I do not want to intervene in this debate except to bring to the notice of the Honourable the Law Member and the country at large the fact, which probably he will admit, that this piece of legislation is an extraordinary piece of legislation transgressing all the principles of British criminal jurisprudence. This legislation is intended to afford special protection to those who are not . . . .

**The Honourable Sir Asoka Roy:** I do not quite follow my Honourable friend. We are discussing the amendment of a particular Act which is already on the Statute-book, and my Honourable friend is talking of the original Act itself as being a bad piece of legislation. I submit that is a question with which the House is not at present concerned.

**Mr. President** (The Honourable Sir Abdur Rahim): The object of the Mover seems to be to amend the Act in such a way as to make it more acceptable, but he cannot now argue against the original Act itself.

**Sardar Sant Singh:** Sir, I am afraid the Honourable Member did not quite follow me. If I was not clear I shall make myself more clear on this point. What I was submitting was that the Indian States (Protection against Disaffection) Act is an extraordinary piece of measure. It transgresses all the principles of the British criminal jurisprudence and therefore if an amendment is attempted of that Act it is because the extraordinary cases must be met with extraordinary measures. That is my plea. Here, when a prosecution is launched by or on behalf of a Prince under this Act, you have to deal on one side with a man very resourceful both as regards finances as well as in other matters and on the other an accused person who is poor and who cannot afford to fight on equal terms with a Prince. A case has happened where the editor of a Paper in Delhi was prosecuted somewhere in C. P., at a distance of about 4 or 5 hundred miles from the headquarters. Cases have happened where Princes have brought all the resources of their States to bear upon the prosecution. Will he agree with me or not that the accused and the prosecutor should, on principle, be on the same level and should have the same facilities when such a prosecution is launched. If he is in favour of this, then in that case he will have to make an extraordinary provision which is quite apart from the provisions of the Criminal Procedure Code, namely, that the prosecution should be launched at a place where the publication takes place—and by publication. I mean original publication, and not the legal term 'publication'—or where the accused resides. I know we are departing from the principles of the Criminal Procedure Code when we are proposing to amend this legislation. I know this and I also agree with my Honourable friend that in ordinary cases the general principles of law should not be departed from, but if the Government has chosen to bring an extraordinary piece of legislation on the Statute-book, they should be prepared to make certain exceptions in order to see that the accused gets a fair trial, and he is not knocked out of the field by the more powerful force of his opponents. For that purpose, Sir, I support this amendment.

**The Honourable Sir Sultan Ahmed** (Leader of the House): I will put one question to Mr. Kazmi to which he may give his answer when he is replying. Supposing Mr. Kazmi wrote a book which was defamatory to any State, and that was printed in England, where will he be prosecuted?

**Qazi Muhammad Ahmad Kazmi:** Sir, I quite see the force of the observation of the Honourable the Leader of the House regarding the word "printed". When I was hearing the speech of the Honourable the Law Member I was thinking of that, and I have not the least hesitation in accepting the necessary amendment, and I hope that the Government will be as reasonable as my humble-self.

Now let us examine the objections that have been raised by the Honourable Government.

**An Honourable Member:** Honourable!

**Qazi Muhammad Ahmad Kasmi:** Yes, taking them to be so! Where was the necessity of this particular piece of legislation I have not been able to understand? Are the Princes part of British India? Have they got the same rights and liabilities as any other subject of the British India? If it were so, then there was no question of bringing this piece of legislation altogether. This piece of legislation has been enacted in order to give a handle to the Princes, who are not under any liability of British law, against persons . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is speaking against the entire Act.

**Qazi Muhammad Ahmad Kasmi:** The case of the Government is that because certain provisions of the Code of Criminal Procedure . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot argue against the Act itself.

**Qazi Muhammad Ahmad Kasmi:** . . . . will have to be modified on account of the amendment before this House, it will change the law of British India. Therefore, it should be rejected. My submission is that this law is against the law of British India itself, and if you want to support it you must also consider the convenience of the people who have got the misfortune of living as your subjects. Are the Princes the only ones who deserve your protection and you care for their convenience more than for the convenience of the people who are living in this unfortunate land? I perfectly agree that the objection is correct so far as the word "printed" is concerned but that is a matter which may be easily rectified in Select Committee.

I want to ask this question. Are the Government satisfied that there has been no misuse, no abuse of this law by the Princes? I quoted an instance in which a man was prosecuted quite near the borders of a State, and it was quite easy for the Ruler of the State to have the man kidnapped and keep him in detention and this facility was quietly enjoyed by the State. Or, as observed by Sardar Sant Singh, a case might be lodged at a place so far away from the place of publication that the man might be ruined on account of the extraordinary expenses of the litigation itself. Are these things approved by the Government? Do not Government consider the misuse to which this Act has been put? If it is so, then they should, dispassionately, consider the propositions that are placed before them. It is only after discussion, after asking people for their opinion about it that you can come to any decision in the matter and to some such result as may be acceptable to the parties concerned. I do not think that it is denied by the Government that the Act has been abused.

The very well reasoned speech by the Honourable the Law Member has been absolutely limited to the legal position. But even that position is not so difficult. I have already said that when you can oust the jurisdiction of the High Courts for your own purposes, this is not a very novel kind of legislation. I am only giving the High Court power to hear the appeal. Day in and day out, you are ousting the jurisdiction of the High Court. I admit that this House has never had the audacity to do that. But today in this country we find so called laws in the name of Ordinances which oust the jurisdiction of the High Courts and they are considered to be proper law according to some unknown principles of jurisprudence.

Now, what strange thing have I suggested? I have suggested that the High Court should have power to hear an appeal. If it requires a little amendment in the Code of Criminal Procedure that may be effected. What I say is that at present the place of trial is very unlimited. You can say that the Paper was circulated at such and such a place and so the editor can be prosecuted there. This is a very special piece of legislation in which the person who launches the prosecution is not subject to the laws of this land. This has been enacted in his favour and he is a person who can easily finance litigation. Let him spend a little more money and prosecute the man where he resides or where the paper is printed. I would add that the addition of the words "where the man resides" would take away the objection of the Honourable the Law Member. I move that the Bill be circulated.

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

"That the Bill to amend the Indian States (Protection against Disaffection) Act, 1922, for a certain purpose, be circulated for the purpose of eliciting opinion thereon by the 15th August, 1944."

The motion was negatived.

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THE DELHI MUSLIM WAKFS (AMENDMENT) BILL.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): Sir, I beg to move for leave to introduce a Bill to amend the Delhi Muslim Wakfs Act, 1943.

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

"That leave be granted to introduce a Bill to amend the Delhi Muslim Wakfs Act, 1943."

The motion was adopted.

**Maulvi Muhammad Abdul Ghani**: Sir, I introduce the Bill.

The Assembly then adjourned till Eleven of the Clock on Friday, the 3rd March, 1944.