

THE
LEGISLATIVE ASSEMBLY DEBATES
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(28th March to 5th April, 1944)

TWENTIETH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1944



LEGISLATIVE ASSEMBLY

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Deputy President :

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LEGISLATIVE ASSEMBLY

Friday, 31st 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) ORAL ANSWERS

PENDING PROSECUTIONS CONCERNING AUGUST 1942 DISTURBANCES.

728. *Mr. K. S. Gupta: (a) Will the Honourable the Home Member please state how many cases of prosecution in connection with the August disturbances of 1942 are still pending before various courts of law in India?

(b) Would such cases be placed before the Advocate General of every Province before a regular trial commences in each case to avoid unnecessary and unjust waste of public funds?

The Honourable Sir Reginald Maxwell: (a) I have no information.

(b) This is a matter for Provincial Governments.

SALE OF NATIONAL SAVING CERTIFICATES.

729. *Maulvi Muhammad Abdul Ghani: Will the Honourable the Finance Member please state:

(a) the quota fixed for the sale of National Saving Certificates for each Province;

(b) whether the Central Government have issued any rule for the guidance of various provincial Governments for the sale of National Saving Certificates;

(c) whether the Central Government have imposed any punishment for the use of compulsion or abuse of powers by Magistrates or persons in authority selling National Saving Certificates; if not, why not;

(d) whether it is a fact that Sub-Divisional Officer at Siwan (in the district of Saran) used compulsion on the Gun licences to purchase National Saving Certificates for Rs. 500 for the renewal of a D.B.B.L. gun and Rs. 400 for a S.B.B.L. gun and refused renewal of gun licences of those who could not purchase National Saving Certificates of the said amount or who could not pay as donation at least Rs. 100 to Red Cross;

(e) whether it is a fact that the Collector in charge of land revenue at Assah refused to receive land revenue of some zamindars but had to accept it when ordered by the Provincial Revenue Member on the representation of the Bihar Land Holders Association;

(f) whether Government are aware that renewal or grant of licences or permits of different nature is never had in the Province of Bihar and elsewhere without purchase of National Saving Certificates;

(g) whether it is a fact that even *chawkidari* tax payer in Bihar has to purchase National Saving Certificates of the amount equal to ten times the amount of his *chawkidari* tax; and

(h) whether it is a fact that in Bihar and the United Provinces 2 annas per maund of sugar cane price is being deducted by sugar factories towards the compulsory purchase of National Saving Certificates by every cane cultivator?

The Honourable Sir Jeremy Raisman: (a) The Government of India have not fixed any quota for the sale of National Savings Certificates in each province.

(b) and (c). I would refer the Honourable Member to the remarks which I made in this House on the 28th instant, when moving Supplementary Demand No. 21.

(d) to (h). The Government of India have no precise information as to the details of the facts stated.

Mr. Lalchand Navalrai: What is the information that the Government has if this is not detailed?

The Honourable Sir Jeremy Raisman: Information that is not detailed.

COMMISSIONERS OF INCOME-TAX, PUNJAB, NORTH-WEST FRONTIER AND DELHI.

730. *Maulvi Syed Murtaza Sahib Bahadur: (a) Will the Honourable the Finance Member be pleased to state the number of Commissioners of Income-tax, who have held the charge of the Punjab, North-West Frontier and Delhi Provinces since the beginning of the Income-tax Department giving (i) the Provinces of their origin, and (ii) the period for which they have held that post?

(b) Had there been any Muslim Commissioner of Income-tax in the above-mentioned Provinces? If not, will Government be pleased to explain the failure of Government to appoint a Muslim to this important post in these majority Provinces?

(c) Do Government propose to redress the grievances of the Muslims of these majority Provinces by appointing a Muslim to the said post by the end of this financial year when the question of appointments and transfers is considered?

The Honourable Sir Jeremy Raisman: (a) The information asked for is not readily available and its collection would involve an expenditure of time and labour that would not be justifiable in war time.

(b) and (c). No Muslim officer has hitherto been appointed Commissioner of Income-tax in the Punjab, North-West Frontier Province and Delhi. Appointments to the posts of Commissioner of Income-tax are made by selection. Moreover it is not the policy of the Government to post a particular officer to a particular charge on grounds other than administrative convenience. Thus, even if a Muslim Officer were selected, I could give no guarantee that he would be appointed to the Punjab.

ASSISTANT COMMISSIONERS OF INCOME-TAX, ETC., PUNJAB, NORTH-WEST FRONTIER AND DELHI PROVINCES.

731. *Maulvi Syed Murtuza Sahib Bahadur: (a) Will the Honourable the Finance Member be pleased to state the number of Assistant Commissioners, Income-tax Officers and Inspectors of the Income-tax Department of the Punjab, North-West Frontier and Delhi Provinces, and the communities to which they belong?

(b) Does the present number of the above-mentioned officers represent a fair communal proportion? If not, will Government be pleased to state the measures which they propose to take to redress the grievance of Muslims for not giving them a fair communal representation in superior posts?

(c) Had there been a recent selection for the posts of Income-tax Officers in the Income-tax Department of the Punjab, North-West Frontier and Delhi Provinces? If so, will Government be pleased to throw light on the point whether the selection was made by a Board of Selection or by the Commissioner of Income-tax alone?

The Honourable Sir Jeremy Raisman: (a) and (b). All the information asked for by the Honourable Member is not readily available and Government consider that its collection would involve an expenditure of time and labour that would not be justifiable in war time. Much of the information is, however, contained in the Establishment List of the Income-tax Department, Punjab, North-West Frontier and Delhi Provinces, a copy of the latest edition of which has been placed in the Library of the Legislative Assembly. I may assure the Honourable Member that the orders regarding communal representation in the Department are being strictly adhered to.

(c) Yes. The selection was made by the Commissioner of Income-tax in consultation with the Central Board of Revenue.

DISSATISFACTION AMONG INDIAN OFFICERS OF I. M. S.

732. *Mr. K. S. Gupta: (a) Will the War Secretary please state how many senior Indians in the I. M. S. have left service as a protest against un-fair treatment?

(b) How many senior Indians in the I. M. S. have been superseded by junior European officers for commands and special jobs, without any reasons being given for their supersession?

(c) How many junior European Captains and Majors have been promoted to special jobs as Lieutenant-Colonels and Colonels though there are many of Indians senior to them with better service records and better qualifications?

(d) How many senior Indian Captains, Majors and Lieutenant-Colonels are being made to do work which the junior officers are expected to do?

(e) How many Indians are there as Assistant Directors in the Office of the D. M. S.?

(f) How many senior Indian Lieutenant-Colonels are there fully qualified for the Assistant Director's posts?

Mr. C. M. Trivedi: (a) None, Sir.

(b) 288 European I.M.S. officers and 276 Indian I.M.S. officers have been granted acting promotion during the present emergency. Information regarding the reasons for supersession in each individual case is not readily available and its collection would involve an amount of time and labour which would not be justifiable in war time.

(c) 59 European Captains and 65 European Majors have been promoted to the rank of Lieutenant-Colonel, and five European Captains and twelve European Majors have been made Colonels. I may add that 15 Indian Captains and 37 Indian Majors have been promoted as Lieutenant-Colonels and three Indian Majors have been promoted to the rank of Colonel. The proportion of European to Indian regular officers (from whom such promotions are made) is approximately 16 to nine.

I would add that the policy in the matter of selection of officers for special appointments is to take the most suitable officer irrespective of race or seniority.

(d) There are nine Indian Lieutenant-Colonels holding appointments incommensurate with their seniority. Of these, three are specialists and six are of low medical category, or of advanced age. I should add that there are six European Majors and Lieutenant-Colonels who also hold appointments incommensurate with their seniority.

(e) Two.

(f) Senior Lieut.-Colonels, whether European or Indian, are not considered for appointment to the posts of Assistant Director in G. H. Q. which are filled by officers lower in rank than that of substantive Lieut.-Colonel. Substantive Lieutenant-Colonels are considered for more senior appointments than that of Assistant Director, G. H. Q.

Mr. Lalchand Navalrai: With regard to part (a), do I understand the Honourable Member aright that some I.M.S. people have given up service on account of unfair treatment?

Mr. C. M. Trivedi: No. I said that no officer had given up service as a protest against unfair treatment. Nine officers retired before the age of superannuation, and all of them were invalidated.

Mr. Lalchand Navalrai: The Honourable Member says that they have not left on account of protest. Did they leave for other reasons?

Mr. C. M. Trivedi: I said that nine officers have retired before attaining the age of superannuation, and every one of them was invalidated.

Mr. Lalchand Navalrai: Have they given any reasons?

Mr. C. M. Trivedi: No, Sir.

Sardar Sant Singh: With reference to the reply to part (b) of the question, may I ask if the number of Indians superseded is so great that the War Department is unable to collect the information relating to the same?

Mr. C. M. Trivedi: I do not know about that, but the position is as I have stated,—that the information is not readily available. Its collection would involve an amount of time and labour that would not be justified in war time. The whole list of officers would have to be gone through.

Sardar Sant Singh: A definite question has been asked: Is it for the purpose of evading the information asked for, or is it such a troublesome task for the War Department?

Mr. C. M. Trivedi: I can assure the Honourable Member that I have not given this answer with a view to evading giving of any information. I can only repeat that its collection would involve an amount of time and labour which would not be justified in war time.

PRIVATE BOATS COMMANDEERED IN CERTAIN PROVINCES.

733. *Mr. K. S. Gupta: (a) Will the War Secretary please state how many boats have been taken away from the people of Bengal, Assam, Orissa and Madras Provinces since the war began?

(b) What is the purpose in doing so?

(c) How many of the boats captured were burnt or destroyed?

(d) What is the total compensation paid, and to how many individuals, and for how many boats?

(e) Is it not a fact that fishing trade suffered a good deal and thereby many who lived on fishing had to be thrown out of occupation? What was the remedy offered to such sufferers by the Government of India as a substitute for the loss of their earnings from fishing?

(f) Are the Government of India prepared to release the boats captured, and to return them to their respective owners? If so, when, and how many? If not all, why not?

(g) Are the Government of India prepared to rebuild the boats destroyed, and to return them to their owners to rehabilitate them in their occupation as a war measure? If not, why not?

Mr. C. M. Trivedi: (a) About 25,000 boats were removed in 1942 from a certain limited area in Bengal.

(b) The object was to deny boats to the enemy in case of invasion.

(c) I have received no information from Provincial Governments about boats being burnt or destroyed.

(d) Approximately Rs. 82 lakhs were paid as compensation in Bengal. Information regarding the number of persons who received compensation is not readily available and its collection would involve an amount of time and labour incommensurate with the results. I regret, therefore, that I am unable to ask the Provincial Governments to undertake the collection of this information, but I would add that the information at my disposal shows that compensation was given by the officers of the Provincial Governments on a generous scale.

(e) The fishing trade undoubtedly did suffer, but adequate compensation was paid and the Provincial Governments reported at the time that every effort was being made to find alternative employment for fishermen who were affected.

(f) The release of all boats taken over has been agreed to with the exception of those required for military use in Eastern Command which are estimated to be about 1,250. It has not been found possible to return each boat to its respective owner as many of them when taken over were in a poor state of repair, and identification of them has become impossible. The decision to release the boats, subject to a measure of control, was taken in March 1943 and their complete release was permitted in November 1943.

(g) The Bengal Government have agreed to build 10,000 new boats, 5,000 now and 5,000 later, and the military authorities have undertaken the salvage and repair of about 6,700. These boats will be disposed of as far as possible to the persons from whom they were taken.

(h) Information asked for by the Honourable Member in parts (a), (d) and (g) of the question in so far as they refer to Assam, Orissa and Madras Provinces is not available here. It will be collected and laid on the table of the House in due course.

UNSTARRED QUESTIONS AND ANSWERS

POSTAGE STAMPS CONSIDERED AS LEGAL TENDER BY GOVERNMENT RAILWAY POLICE AT LHAKSAR.

229. Mr. Kailash Bihari Lal: Will the Honourable the Home Member please state if it is a fact that the Government Railway Police at Lhaksar on the

East Indian Railway considers the tendering of the Indian postage stamps in exchange of currency notes legal under the Indian Coinage Act? If so, what steps have been taken to educate the said Police with the Indian Coinage Act? If no steps have been taken what are the reasons therefor, and, if not so, what is the correct fact?

The Honourable Sir Reginald Maxwell: I have no information about the views of the Railway Police at Lhaksar in the matter. The question concerns the Provincial Government and not the Government of India.

DELAY IN TRANSIT OF POSTAL ARTICLES TO PERSONNEL OF DEFENCE SERVICES.

230. Mr. Kailash Bihari Lal: Will the War Secretary please state if it is a fact that postal articles of the personnel of Defence Services in India to their families are delayed considerably by the Censor and a letter from Quetta to Saharanpur never reaches the families before a fortnight; if not so, what the correct fact is?

Mr. C. M. Trivedi: The orders in force are that no postal article from Defence Services personnel should be delayed more than a maximum of 24 hours in censorship, unless it contains objectionable matter.

SHOOTING OF SERGEANT R. R. STUART OF CALCUTTA POLICE.

231. Mr. Frank B. Anthony: (a) Will the Honourable the Home Member be pleased to state if it is not a fact that the late Sergeant R. R. Stuart of the Calcutta Police was shot dead by one Sergeant L. G. Caufield in the Police Mess at Calcutta on the 29th September, 1943?

(b) Is it not a fact that the Commissioner of Police admitted, in reply to the step-father of the deceased, in a memo., dated the 6th November, 1943, that the death was due to the carelessness of the culprit?

(c) Is it also not a fact that no legal action was taken against the person who caused the death of this young man? If not, why not?

(d) Do Government propose to enquire into the circumstances of the case and ascertain why the law was not allowed to operate normally and the person causing the death prosecuted?

(e) Do Government propose to direct that the culprit be dealt with by the normal processes of the law?

The Honourable Sir Reginald Maxwell: (a) to (e). The Government of India have no information. The matter is the concern of the Provincial Governments only.

ORDER RE SUBSTANTIVE APPOINTMENTS IN TEMPORARY WAR POSTS.

232. Mr. Muhammad Azhar Ali: Will the Honourable the Finance Member please refer to his office memoranda No. 11(44)-Ex. 1/41, No. F-20(7) Ex. 1/42 and No. F-20(7) Ex. 1/42, dated the 5th November, 1941, the 8th December, 1942, and the 9th July, 1943, respectively, regarding substantive appointments in temporary war posts, and state:

(a) if it is a fact that the privileges granted to the staff by those orders are not enjoyable during the currency of the financial year; and

(b) whether Government propose either to give those orders retrospective effect or to issue orders in the beginning of the year; if not, why not?

The Honourable Sir Jeremy Raisman: (a) and (b). The orders mentioned by the Honourable Member fix certain dates, temporary posts created up to which may be held substantively by their holders. Substantive appointments to such posts are permitted to be made retrospectively with effect from the date of their creation. All the advantages of such appointment accrue to the holder from the date he is so appointed.

PETITIONS FOR DISCHARGE OF CERTAIN PERSONNEL IN DEFENCE SERVICES FROM BIHAR.

233. Mr. Muhammad Azhar Ali: Will the War Secretary please state the number of petitions received by him, or the Defence Department or the Adjutant General in India during the preceding six months from the families of the personnel in Defence Services residents of Bihar requesting for discharge of their wards, husbands or other relatives on compassionate grounds duly recommended

by the Provincial Soldier Boards, and the action thereon; if no action has been taken, the reasons therefor, as the delay in action is causing anxieties to them?

Mr. G. M. Trivedi: The power to authorise discharge of Indian Army personnel (i.e., Viceroy's Commissioned Officers, Indian Other Ranks and Non-Combatants) is vested in the local military authorities. Any petitions addressed to General Headquarters (India) or to the Government of India, are immediately forwarded to the authorities concerned for necessary action. The expenditure of time and labour involved in the collection of detailed information about such petitions would not be justifiable in war-time. I may however add that they are invariably given sympathetic consideration in consultation with the civil authorities and in cases in which it is proved that genuine reasons exist, discharge is authorised.

MOTIONS FOR ADJOURNMENT.

DISMANTLING OF GOURIPUR MOHANGANJ JHARIA JHANJATE RAILWAY LINE.

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of a motion for the adjournment of the business of the House from Mr. Lahiri Chaudhury. He wants to discuss a definite matter of urgent public importance and of recent occurrence, namely, dismantling Gouripur Mohanganj Jharia Jhanjate line.

I should like to know what the facts are.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): I received a telegram this morning at about 7-50 A.M. It reads as follows:

"Netrokona people learn with great concern dismantling railway Gouripur Mohanganj Jharia River silted. No other means of transport conveyance labourers not available solicited taking immediate steps maintaining most essential Gouripur Netrokona Railway connection at least."

This is the only information I received and I gave notice of this adjournment motion.

The Honourable Sir Edward Benthall (Member for Railways and War Transport): This matter is merely a project, which is under discussion with the Government of Bengal. No action has been taken in regard to the matter. The position is that rails are wanted for strategic purposes in the Eastern region and one of the possible sources of obtaining them is from the lifting of these branch lines. If the lines are to be lifted, alternative means of transport will be provided and that is a subject which is under discussion with the Bengal Government.

Mr. President (The Honourable Sir Abdur Rahim): The line has not been dismantled yet?

Mr. D. K. Lahiri Chaudhury: The point on which I want an assurance from the Honourable Member is, if the line is dismantled, whether adequate provision will be made.

Mr. President (The Honourable Sir Abdur Rahim): The matter is under discussion. On the facts as stated by the Honourable the War Transport Member this motion is not called for. The matter is still under discussion between the Government of India and the Government of Bengal and no line has yet been dismantled.

Mr. D. K. Lahiri Chaudhury: I should like to mention that the proper time for moving the adjournment motion is before the dismantlement and not after it.

The Honourable Sir Edward Benthall: This has nothing to do with a matter of recent occurrence. The whole subject is under consideration.

INJUSTICE TO MUSLIMS IN BIHAR IN THE MATTER OF GRANT OF SUGAR LICENSES.

Mr. President (The Honourable Sir Abdur Rahim): I have received another notice of an adjournment motion from Maulvi Abdul Ghani. He wants to discuss a definite matter of urgent public importance, namely: the action of the Honourable the Food Member to justify the action of the Bihar Government to perpetuate the injustices done to Muslims in matter of grant of sugar licences to

Muslims, i.e., 3 out of 178 as revealed yesterday from the replies to starred question No. 710 of yesterday's date.

I understood that the Honourable the Food Member has not got sufficient information.

The Honourable Sir Jwala Prasad Srivastava (Food Member): The information has been called for. As I said yesterday, I was satisfied that justice had been done but we have no detailed information yet.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I want to submit . . .

Mr. President (The Honourable Sir Abdur Rahim): I do not want any arguments.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): The Honourable Member tried to justify his action.

The Honourable Sir Jwala Prasad Srivastava: I have got here a transcript of my answers.

Maulvi Muhammad Abdul Ghani: Sir, I want to

Mr. President (The Honourable Sir Abdur Rahim): As objection has been taken to leave being granted, will those Honourable Members who are in favour of leave being granted rise in their places? (After counting.) As not less than 25 Members are in favour of leave being granted, the motion will be taken up at 4 O'clock.

STATEMENT *RE* WAR SITUATION ON THE BURMA FRONT.

His Excellency the Commander-in-Chief: Sir, I understand that there is a desire on the part of Honourable Members of this House that I should inform them of the course of operations on the Burma Front. With your permission, Sir, I shall make a short statement describing the situation as made known to me by Lord Louis Mountbatten, who is, as the House is aware, responsible for operations on this Front.

My statement of the 22nd March in the Council of State described the initial development of the Japanese advance in the jungle mountain tracts where the State of Manipur borders on Burma. The Burma Front offers two main lines of approach to the Japanese, one in the south from Arakan towards Chittagong and the province of Bengal, and the other in the north through very mountainous country towards Manipur and Assam.

I have already described the failure of the Japanese effort in Arakan. We are still on the offensive in this sector and in the face of stubborn and sometimes suicidal resistance our troops are gradually forcing the enemy back from the strategically important lateral road which connects Buthidaung with Maungdaw. The Japanese are fighting very hard to retain their hold on this, but, as I said, they are steadily losing ground and suffering very heavily in the process.

On the second line of approach in the north, the enemy is endeavouring to penetrate the formidable physical barrier of mountain and jungle which stretches over 200 miles from the Chin Hills south of Imphal to the Somra Hill tracts to the east and north east of that place. In this area our main line of supply by the road from Manipur Road through Kohima to Imphal, runs parallel to the battle front. This is a strategical disadvantage but is dictated by the lie of the country, as the hills in this part of the world run north and south, and the valleys between them, offer the only possible means for movement of troops and stores on a large scale. It is this fact which makes it vulnerable to attack by enemy raiding parties which may be able to penetrate along the various trails and footpaths through the mountains. There are many of these trails and paths and to attempt to defend them all would only serve to dissipate our strength and make us weak everywhere.

The enemy's main advance is taking place against this line of communication from Manipur Road in the north to Tiddim and Tamu in the south, and it is in this area that the most important operations are now taking place. The enemy is fighting for a quick decision. He has no well organised line of communication immediately behind him, and in Central Burma his rear is threatened by our forces which have been landed from the air. These forces by destroying railways,

[His Excellency the Commander-in-Chief.]

interrupting movement by river, and generally attacking the enemy's supply organisation, are now beginning to make their presence felt. As they expand their operations, it is to be hoped that the enemy who is thrusting forward towards Manipur will find himself short of supplies and be compelled to detach troops to remove the threat to his rear. The full pressure of our forces which are operating inside Burma behind the enemy's lines cannot, of course, be felt immediately, but the effect of it is likely to be cumulative. The enemy's lines of communication and forward bases are also threatened by the southward advance of the Chinese and American troops under General Stilwell, who are operating in the Hukawng Valley. These forces have had considerable successes, and here again, as in the extreme south, very heavy losses have been inflicted on the Japanese, who have been forced to withdraw for a considerable distance. Apart from all this pressure on the enemy, our air forces are hammering steadily at his communications—they are striking at his railways, his riverways, his depots, and in fact at the whole of the great organisation which is necessary to keep his armies in the field. The weight and frequency of the air attack is steadily increasing and we have ample evidence of the delay and loss which they are causing the enemy.

Prior to the enemy's crossing of the Chindwin and his subsequent advance towards Imphal and Manipur, our forces were operating in the Tiddim and Tamu areas. We had constructed roads connecting both these places with our advanced base at Imphal. The enemy's object appears to be to establish himself before the monsoon in the Imphal-Kohima area and then to attempt to strike at our rail and river communications leading from Calcutta, along the Brahmaputra, into north-eastern Assam. In order to effect this object, the enemy developed their offensive as follows. First, they made a threat against Imphal from the south, and, secondly, they advanced on Imphal from the east and the north-east. In the south, that is in the Tiddim area, the enemy's intention was apparently confined to getting behind our forward troops and establishing blocks across the road on which they depended for their supplies.

It does not appear that he has any intention, at any rate, for the present, of trying to attack Imphal itself from this direction. Tiddim is of no particular strategic value to us and therefore we did not attempt to hold it. In accordance with the correct principles of war, our commanders decided that their proper objective was the enemy force which was trying to hem them in from the north by blocking the roads. Our troops in the Tiddim area, therefore, moved northwards and have been steadily attacking and pushing back the enemy for some time past. They have been helped in this by troops which moved down from the north from the direction of Imphal itself, thus subjecting the enemy to pressure from both sides. These operations have been largely successful and the two forces have now joined hands. Heavy casualties have been inflicted on the enemy in these operations. There are still small parties of the enemy on the road between Tiddim and Imphal, but it looks as if it should not take long to remove them.

In the Tamu area itself the enemy have made little progress and have not succeeded in interrupting traffic on the road between Tamu and Imphal. Here again they have made several fruitless attacks and have again suffered casualties.

I would like to make it quite clear that Imphal is still in our hands, that it has not been captured by the Japanese, and that it is strongly defended. It is always possible that small parties of the enemy may penetrate into the Imphal Plain, because this is made easy by the nature of the country. Such penetration, however, is not likely to be of major importance. The opinion expressed in an American paper that the fall of Imphal would be of little importance is erroneous. Our commanders do not intend that Imphal shall fall into the enemy's hands.

In conjunction with this advance in the direction of Imphal, the enemy has made two further thrusts towards the northern part of the road from Imphal to

Manipur Road, which is our main railhead in this part of the world. Here the enemy have made some progress but it is only within the last day or two that they have come up against our prepared defences and met serious opposition on our part. This is in accordance with our pre-arranged plans. The country in this part of the world is extremely mountainous and intricate and the only transport which can be used are pack animals or porters. Kohima is held by our forces and strongly defended.

Throughout we have continued to maintain marked air superiority over the enemy and two days ago we inflicted a very heavy defeat on him in the air, destroying no less than thirty of his aircraft. When the size of the total enemy air force in Burma is taken into consideration, this constitutes a heavy loss to him.

As I said, before, in the Hukawng Valley General Stilwell's American and Chinese troops, assisted by British and Indian troops, are maintaining their advance and threatening the enemy who is covering Myitkyina.

In operations of this kind and especially in country of this nature, there must be at the outset thrusts by the enemy which cannot be finally countered until our commanders have ascertained his plans and disposed their own forces accordingly. Such thrusts rely on quick results for success. We have now reached the stage where the enemy's plan would seem to be sufficiently clear to enable our troops to be suitably disposed not only to protect our own vital points but also to drive back the enemy whence he came. These troops of ours are well acquainted with this most intricate country and have been trained to fight in it. Their morale and fighting spirit is of the highest. I repeat once more that I have no doubt myself as to the ultimate result of the fighting now in progress. We cannot stop every Japanese thrust as soon as it makes itself apparent, and it is therefore always possible that some of these may succeed in temporarily interrupting our communications. I am convinced, however, that the security of Assam has never been in danger, let alone the security of India. I feel certain that we shall maintain our forward lines of communication and ultimately drive the enemy back to his original positions and beyond.

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 referred to a Select Committee consisting of the Honourable the Law Member, Sir George Spence, Mr. Vishnu Sahay, Mr. Abdul Qaiyum, Mr. K. S. Gupta, Sir Muhammad Yamin Khan, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. Lalchand Navalrai, Pandit Lakshmi Kanta Maitra, Mr. P. J. Griffiths, Sardar Sant Singh, Mr. Abdur Rasheed Choudhury, Kunwer Hajee Ismaiel Ali Khan and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, the punishment of whipping was not provided in the Indian Penal Code. The Indian Penal Code provided for six kinds of punishments which are enumerated in section 53 of the Indian Penal Code and the punishment of whipping does not find a place there. The penalties contemplated by the Indian Penal Code are:

"death, transportation, penal servitude, imprisonment—rigorous or simple—forfeiture of property and fine."

These are the only punishments contemplated by the Indian Penal Code. Whipping is a separate punishment provided for by Act IV of 1909. I would just read to the House a part of the speech which the Law Member at the time made as to the reason why that Bill was introduced. He said:

"In the progress of public opinion, the infliction of whipping as a judicial punishment comes to be regarded with ever increasing disfavour. The object of this Bill is to mitigate the severity of the Whipping Act, and to bring into line with the public opinion of the present day. In India, the time has not arrived when whipping as a judicial punishment can be altogether dispensed with. In England, hundred years ago, punishment of whipping for many offences had been curtailed and dwindled down to the proportion which I have stated without prejudicing the safety of the community. Experience has shown that for most offences which were formerly punished with whipping a less revolting penalty is more efficacious. The history, of Indian jails tends to the same conclusion. I can well remember that when I first arrived in India thirty years ago (*that was in 1878*), whipping of a very

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severe nature was freely resorted to in jails as a punishment for very trivial offences. It is now inflicted as a jail punishment on rare occasions and only for serious offences. Yet the discipline of Indian jails is much better now than it was thirty years ago."

So, even according to the Mover of the Bill, the retention of whipping was only a temporary measure and he thought that with the advance of society, whipping must come to an end. There are only three sections in the Whipping Act which we have to consider in considering the opinions which have been received. The first is section 3 which provides whipping for certain offences in lieu of punishments that are provided by the Indian Penal Code and it contemplates offences which are mostly not considered very serious. It contemplates offences such as theft, theft in buildings and certain other offences of the same kind some of which may prove to be of a more serious nature, but which in their lighter form are considered by the author of the Act to be of such a nature as to justify the substitution of a sentence of whipping for the sentence that has been provided by the Indian Penal Code. So far as I have been able to understand, it means that in cases of ordinary crimes, when there is no heinousness in the offence, we are allowed to substitute the offence of imprisonment by punishment of whipping. Then, we have got section 4. Section 4 contemplates offences of a more serious nature and it is provided by section 4 that whipping may be substituted for the imprisonment or it may be awarded in addition to imprisonment or other punishments that are provided by the Indian Penal Code. Now, Sir, this section relates to much more serious offences, offences which are of a very heinous nature. A glance at the opinions that have been received would show that it is only in respect of these offences, that mostly persons are of opinion that whipping should not be abolished.

Then, section 5 deals with juvenile offenders and that again means that offences of an ordinary nature, not very serious ones in which a juvenile is involved, they can also be dealt with under the Whipping Act without giving them any further punishment. I, in the Statement of Objects and Reasons, have stated that almost in all countries whipping is being considered with disfavour and has been mostly abolished everywhere in the world with a few exceptions. It was pointed out on behalf of Government by Sir Cowasjee Jehangir that it still exists in England, and many of the opinions that have been received also say that it is being retained. In this connection I will read a passage which gives the interpretation of flogging in the Encyclopædia Britannica. The author of the article on Flogging says:

"With a growing consciousness that punishment is not so much a deterrent to crime as had been supposed, flogging, as a general practice, has been abandoned. Modern psychiatry and genetic psychology have shown the dangers inherent in flogging children, in that such procedure may develop inhibitions, antipathies and neurotic traits likely to undermine the whole mental and nervous system of the child."

So far as juvenile offenders are concerned, that is the opinion of the author and many Government officials who have given their opinion have said that juvenile offenders should not be punished with whipping. If necessary I will state the views of these people. But before dealing with that let us examine the state of the punishment of whipping in England itself. Section 787 in Vol. IX of Halsbury's Laws of England says:

"Whipping is a common law punishment for a misdemeanour, but is rarely now inflicted as a punishment except under statutory authority. It has been abolished as a punishment for females. The whipping of adult males in addition to or instead of any other punishment is authorised by statute."

The last portion of the above quotation covers those offences which are covered by section 4 of the Whipping Act. It says:

"(1) in the case of incorrigible rogues sentenced at quarter sessions; (2) in the case of persons who are convicted of discharging firearms or explosive substances at the Sovereign; (3) in the case of persons convicted of the offence of robbery with violence, or of the offence of robbery or assault with intent to rob, whilst armed with an offensive weapon or instrument; (4) in the case of persons convicted of the offence of attempting to choke, suffocate or strangle any one, or of using means calculated to do so with intent to commit or to enable any other person to commit an indictable offence."

Section 788 says:

"A fine, either with or without imprisonment, is a punishment for a common law misdemeanour. It is also a statutory punishment which may in certain cases be inflicted with or instead of imprisonment. A fine is rarely imposed except under a statute."

So to support the maintaining of the whole of the Whipping Act just at present we cannot have any help even from the English statute. If it can give us any support it can only be in respect of section 4 of the Whipping Act and not in respect of sections 3 and 5. It does not provide any whipping for juvenile offenders; I have not been able to find it.

I have read out from the *Encyclopædia Britannica* what the general condition all the world over is. There are many places in the U.S.A. where the punishment of whipping has been abolished. As a matter of fact the whole question of corporal punishment is now under serious consideration of persons who are studying criminology and penology; and the general idea today appears to be that corporal punishment really is not of much avail in reducing crime, because it only hardens the criminal and does not remove the real cause of the crime itself. Jeremy Bentham, the great jurist, as far back as the 18th century, expressed his opinion about corporal punishment in the following words:

"The legislator who orders whipping knows not what he does, a judge is nearly as ignorant."

In 1938 Sir Samuel Hoare moved the Criminal Justice Bill in order to modernize penology in England and during the course of his exposition of the Bill in the House of Commons he said:

"In a scheme of this kind there is no place for the retention of a penalty that looked at the treatment of crime particularly from the angles of retribution and deterrence. I am therefore proposing to sweep away the remnants of former dispositions, now little more than the stage properties of Victorian melodrama, penal servitude, hard labour, ticket-of-leave, the name criminal lunatic these are changes and greater than changes of name that are the outward and visible signs of the new outlook upon the problems of crime and delinquency."

The point of view from which Sir Samuel Hoare looked at the question of penology in England was not a point of view peculiar to Great Britain of 1938 but it represented the viewpoint of the entire thinking world of at least a decade earlier. Sir Samuel Hoare advocated the abolition of corporal punishment and he gave the following reasons for its abolition: (1) That corporal punishment was completely out of date. (2) That it did not deter the particular individual upon whom it is inflicted from offending again. (3) That it did not protect society from similar crimes in future.

Sir Samuel Hoare further said that his beliefs were not grounded on vague sentiment but on facts. He said that they were founded on a great body of evidence which had been collected by a committee presided over by Mr. Edward Cadogan. The view which Sir Samuel Hoare expressed and the view which had been expressed unanimously by the Cadogan Committee had been expressed in England very much earlier; a century ago it had been expressed by Dr. Barnes as a member of the English Prison Commission of 1838. Dr. Barnes said:

"I never knew a convict benefited by flagellation. The beaten man becomes more desperate in character."

It would not be out of place to quote the observations of Dostoievsky, the well-known student of the criminal mind, who said:

"It is a thorough misunderstanding of the nature of the criminal to believe that the fear of intense physical pain would prevent an outbreak of his malice or passion."

I will only add one more quotation. Mr. Justice Hawkins, a distinguished judge with wide criminal court experience, in his book said:

"If you flog a man you make a perfect devil of him."

The experience of well-known Prison Officials also point in the same direction. To quote just one statement of a Jail Warden, from a well-known book—'His Majesty's Guests' by Warden:

"What I would particularly like to emphasise, however, is that I never in all my long experience knew of a single case in which the 'cat' did not brutalize a man. I never knew one of its victims who was not a worse man ever since afterwards than he was before It increases their contempt, it hardens them unspeakably and turns them out of prisons, at the end of their sentences, greater ghouls than when they entered. The

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'cat' practically in every case confirms criminology in the victim for ever. After that reform is hopeless—they become as hard as nails."

These are the general views. Just as I submitted in the very beginning, opinions from throughout India have been received on this Bill and I may just give the principles on which those views can be differentiated. I might just read out a passage from the opinion given by the Government of Assam. That will explain the whole thing:

"I am directed to say that this Government have consulted a large number of officials and non-officials and public bodies. There is general agreement among the former that punishment by whipping should not be abolished, reliance being placed on the judicial discrimination of the Courts, though an opinion was here and there expressed that amendment on the lines of the repeal of section 3 only of the Whipping Act was desirable."

That is to say, official opinion is in favour not of the abolition of the whole of the Whipping Act, but some of them do favour the abolition of section 3. It is further stated:

"2. Non-officials and public bodies, following the trend of modern public opinion, are in favour of the total abolition."

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot read these opinions at length.

Qazi Muhammad Ahmad Kazmi: Sir, I will only read the opinion given by the Government of Assam.

Mr. President (The Honourable Sir Abdur Rahim): They are all before the House.

Qazi Muhammad Ahmad Kazmi: Sir, I will only finish this quotation.

"This Government supports the view that the discretion to award a sentence of whipping, in addition to any other sentence awardable by law, should remain but should be confined to the offences of rape or other offences against women, unnatural offences, dacoity and more heinous forms of robbery."

This Government has given a summary of the whole official and non-official opinions. I have gone through the whole of it and the Honourable the Law Member and the other Honourable Members of the House must have seen that. I can very safely say that the majority of opinions is against the abolition of the whole of the Whipping Act. Then, the majority of opinions is for the repeal of sections 3 and 5 but for the retention of section 4. So far as non-officials are concerned, they are in favour of the repeal of the whole Act. So far as officials are concerned, a very large majority of them—even the Governments—are more in favour of the retention of section 4, but some Governments recommend the retention of sections 3 and 5 also: Section 3 is for ordinary offences in which whipping can be substituted and section 5 is for juvenile offenders.

I will now explain to the House the reasons why some Governments wish to retain these sections. It is only for political reasons, and I must tell the House that the misuse of the Whipping Act and the punishment of whipping that is inflicted in certain cases is, to a certain extent, responsible for the introduction of this Bill. I ask those persons who have been practising in Criminal Courts and happily I see that there are two distinguished lawyers who practised in such Courts and who have risen to high positions in the profession of law—I ask them as to how many cases of whipping they have come across. If you will see these opinions you will find that some Magistrates have said that this Whipping Law is almost out-of-date and is only seldom used actually in practice. As a matter of fact, people who want the retention of this law for heinous offences cannot cite a single instance in which whipping has been awarded to offenders in such cases. In a long experience of twenty-five years—one gentleman has said—that he came across four or five cases. Now, four, five or six such cases in a long experience of twenty-five years cannot justify the maintenance of an Act which has been condemned by the whole world at large. But if we come to the era of political agitation, there we find that this Act comes in full force and is utilized in a very brutal way. The main object in such cases is not only inflicting severe punishment but also degrading the individuals who are guilty of such

offences. That is the thing which cannot be justified on any principle of law whatsoever. On a previous occasion, when there was Martial Law enforced in Sind, we found how whipping was resorted to indiscriminately. In cases of very ordinary offences of picketing or reciting slogans people were made to suffer indignities that ought not to have been resorted to in the case of those persons who belonged to educated classes or middle classes. It is the common opinion and I would ask any Honourable Member, who thinks otherwise, to let me know a single instance in which, according to the modern ideas of jurisprudence, whipping is not to be reserved absolutely for lower classes of people who have nothing to lose and on whom only corporal punishment can have some effect. This is the general idea of the whole civilized world, that the idea of punishment is not to degrade the man from a higher level to a lower level, because the very idea of degrading from higher to lower level goes against reform. What I maintain is that every action that the State should take against a criminal should have a civilizing effect. If any punishment degrades the position of a man in his life and takes him to a lower grade, instead of civilizing him, it cannot be considered to be a reforming punishment. So, there is not the least doubt—and I would very much like to hear any authority from the Members who want to oppose this Bill to be quoted in support of the view that whipping can ever be justified in connection with offences committed by persons who have got a respectable position in the society—there is not the least doubt that in such cases whipping should not be resorted to.

Now, Sir, I may just summarise my position. The Bill was for the abolition of whipping but the opinions that have been received are
12 Noon. in favour of the abolition of sections 3 and 5 only and are against the deletion of section 4. In the Statement of Objects and Reasons, I have also stated that it is only in cases of heinous offences that this section is being retained in some countries. So if the House be of the opinion that the Act should be retained in respect of section 4, still we can send this Bill to the Select Committee, in respect of the sections which are being considered in and outside India to be improper and which should not be retained any longer on the Statute-book. So as an alternative, I suggest that this Honourable House may either accept the principle of rejecting the whole Whipping Act on the grounds and for the reasons that I have given or it may accept only the principle of abolishing or deleting sections 3 and 5 only.

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

"That the Bill to abolish the punishment of Whipping be referred to a Select Committee consisting of the Honourable the Law Member, Sir George Spence, Mr. Vishnu Sahay, Mr. Abdul Qaiyum, Mr. K. S. Gupta, Sir Muhammad Yamin Khan, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. Lalchand Navalari, Pandit Lakshmi Kanta Maitra, Mr. P. J. Griffiths, Sardar Sant Singh, Mr. Abdur Rasheed Choudhury, Kunwer Hajee Ismaiel Ali Khan and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, the principle of the Bill is for the total abolition of whipping and the principle of the Bill in section 3 is laid down that the Whipping Act of 1909 is hereby repealed. These are the words. This means that total abolition is underlying the principle of this Bill. My Honourable friend, Mr. Muhammad Ahmad Kazmi in the concluding paragraphs of his speech said that he would like that the principle be altered. I do not know how a Select Committee can alter the principle of the Bill. A Select Committee can only make alterations subject to retaining the principle of the Bill. A Select Committee cannot be authorised to alter absolutely and redraft a new Bill altogether for the purpose. If my Honourable friend has got in his view that a Bill like what he wants should be a limited Bill and he wants to retain certain sections and abolish others, *e.g.*, whipping in certain cases and its abolishment in others, then I think with this principle he can introduce a new Bill, and certainly the House will consider that, and that may be referred to the Select Committee to go into further details. But here, if the House accepts the principle underlying

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this Bill, I do not think, Sir, that you will allow it, if the Bill comes up in the altered form, to be discussed because that will not be treating the House properly.

As far as I remember in 1923 when the Criminal Procedure Code was revised thoroughly, I happened to be absent on one day from the House and I learned that in my absence whipping was, as far as it related to the European offenders, abolished. Then my friend, Venkatapatti Raju—I am speaking from memory—who had tabled an amendment for the abolition of whipping in respect of Indians too, brought forward the same arguments which my friend Mr. Muhammad Ahmad Kazmi has brought up today—that it is a degradation and it should be abolished on political grounds. To all this I listened but when I pointed out to him certain cases, the result was that Venkatapatti Raju quietly got up and withdrew his amendment. He was not willing to press it. Since then I thought that it was justifiable and I have not been able to alter my opinion since then.

My experience at the bar has been quite different. My friend may think that this punishment should not be given, but if he will listen to the cases which I will give him, I am sure he will say that this punishment should not be totally abolished.

I had given at that time the case of a child, a girl of three years old, who was raped by a boy of 18 years old and she was so badly injured that her parents felt very anxious about her recovery. That case came within my knowledge. Whipping is allowed in such cases and my honourable friend will never say that this man should not be whipped for an offence of this nature on an innocent girl of that tender age.

I had another case before me. It was of a girl of about 6 or 7 years of age. She was taking food for her father in the village. A robust young boy caught hold of her, dragged her into the sugar cane field and committed rape on her, and very badly injured this girl. That injury was so great that the whole of the perineum was ruptured and it was with the greatest difficulty that the doctors were able to cure her.

When this kind of cruelty is mixed up with a heinous offence of this kind, I think it requires a great deal for any legal practitioner to say that whipping should not be allowed in a case like this.

Qazi Muhammad Ahmad Kazmi: Were you appearing for the prosecution or for the defence?

Sir Muhammad Yamin Khan: This need not worry my Honourable friend. I am giving him examples which will require something more than human nature for anybody to get up and plead that this punishment should not be given. There is a case which is known throughout the world. My Honourable friend cannot deny that Hazrat Omar—Radaullah-o-Taalahunho gave punishment to his own son for having committed adultery and the boy died, but the risk of death did not prevent the boy from being given that punishment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Was it not in those barbarous days?

Sir Muhammad Yamin Khan: My Honourable friend may be more barbarian than people were in those days. The whole House knows when we listen to the Honourable gentleman here, whether he is a barbarian or those days were barbarous.

Qazi Muhammad Ahmad Kazmi: Is the Honourable Member in favour of section 4, or all the sections 3, 4 and 5?

Sir Muhammad Yamin Khan: I am simply saying that I am opposed to the total abolition of whipping. I am not going into detail, that this section should be retained and that should not be retained. I do not want that anybody should be given the whipping punishment simply to degrade him or lower him in the eyes of the world. I would not like this punishment to be awarded in political offences, or in cases where it is not required and other

punishments will suffice. But I would like that this punishment should remain where no other punishment will meet the situation, where only corporal punishment will meet the case and will be effective. In the villages where you require small girls to be protected, their honour to be protected, their bodies to be protected, where you do not like that their whole life should be in danger like this, this punishment is necessary. When you know that to a young man no other punishment appeals so much as this,—you can send him to jail for 3 or 4 years, he will never care, but if he knows that there is the punishment of whipping, he is terrorised. I am glad that, when I opposed in 1923, instructions were given to all courts through the High Courts that in cases of rape where it is mixed with cruelty whipping punishment should be awarded. I have no sympathy with the man who commits rape on a small child. My Honourable friend may think that he is degraded, but I would like him to be degraded. Even though he may be high placed in society and may command the respect of the society still if he commits an offence of this kind on a small child, I would want him to be degraded, because, after all, every punishment is meant for the purpose of degrading the man in the eyes of the society, and if a man violates and disturbs society like this, he deserves to be degraded in the eyes of the society.

Let me give another example. A lady was sitting with a lot of gold bangles on her hand reclining in the train. At the wayside station, when the train had moved a man came up with a chopper in his hand and cut off the whole hand. The result is that the woman has lost not only her jewellery but she has lost her hand. What punishment would you give in such a case? Do you think that the man should not be degraded in the eyes of the society, because he may have been a good man, he may have been an honourable man? I think that this man deserves to be degraded in the eyes of the society. The man has no right to be treated with respect or thought high by the society. You cannot say that the society must be there and also this man can violate all the laws made by the society, and also that this man should be considered to be an honest and respectable man! Take a thief. He commits theft, he is sent to jail for one month or 2 months. He comes back and again commits theft, this time he is sent to jail for 6 months. A third time he commits theft and he is sent to jail for 2 years. The man is a habitual thief. He likes the jail, the jail has become his home. He is not afraid of going to jail. He is in a society in jail which appeals to him. If this man is to be cured of thieving habits, the only punishment that will appeal to him is corporal punishment. There is no use of sending him to the Andamans so that the society may be protected. Some other method should be resorted to to terrorise the man into not committing such offences, to save innocent people who believe that this man will not encroach upon their rights. I am against not giving whipping punishment in such cases. If my Honourable friend had brought in an elaborate Bill saying, in the case of such and such offence the punishment may be retained, in the case of such and such other offences it should not be retained, I would have supported his motion to go to a Select Committee. But total abolition of whipping means that you cannot give the punishment of whipping in any case. My Honourable friend may say that the society has advanced a lot at this time, but I do not think that people will say that society was less civilised in those times when they retained this punishment. There is no comparison between the circumstances existing in India and those in other places, for instance, Switzerland and other places. I do not think that Indian conditions are the same as in those places. Therefore, I am opposed to this. I am opposed to the acceptance of the principle underlying this Bill, that is, the total abolition. Lest I should be misunderstood, I wish to make it clear that I am opposed to the total abolition of the punishment of whipping.

Qazi Muhammad Ahmad Karmi: Not to the partial abolition?

Sir Muhammad Yamin Khan: No.

Mr. Lalchand Navalrai: This Bill aims at abolishing the punishment of whipping. It was sent for circulation and this is the time to consider whether

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it should be committed to the Select Committee or not. If the Bill was so objectionable or it was such that there was no need for calling of opinions, it could have been killed at the very first stage. We have now got the opinions. Read between the lines, they show that unofficial or public opinion is that this whipping punishment, which is considered a brutal punishment should be abolished. So far as the official opinion is concerned, it is restricted in that they accept that certain offences should be punished with whipping. The main question now before the House is whether by sending the Bill to the Select Committee the House will be committed to the principle of the Bill or not. On that point, there is a difference of opinion between some Members and myself. The Bill as it is asks for the abolition of the punishment of whipping. As the Bill is titled, it does not say in what offences punishment of whipping should be given and in what offences it should not be given. The last speaker said that he would agree to the punishment of whipping in the case of certain heinous offences and he mentioned some examples of cases. My submission is that clause 3 which requires that the Whipping Act of 1909 is hereby repealed is one of the provisions of the Bill and I submit that we are not committing ourselves to the principle embodied there, namely, that the Whipping Act should be wholly abolished. In the Select Committee we may not accept that provision altogether and we may consider the opinions received and the opinions expressed in this House and come to some conclusion as to whether the brutality of this punishment should be lessened and can be lessened. Therefore I submit that nothing will be infringed if we send this Bill to the Select Committee. So far as sending it to the Select Committee is concerned, my opinion is a definite one, that it should go to the Select Committee.

Now, Sir, it would be admitted that this punishment of whipping is a hard and cruel punishment. It is only those who have seen this punishment inflicted that can realise what it is. My Honourable friend Sir Yamin Khan has not personally seen how that punishment is given.

Sir Muhammad Yamin Khan: I am glad you have seen it.

Mr. Lalchand Navalrai: It is given to juvenile offenders and some other offenders. I have seen the punishment being given in the court itself. I have seen the cruel way in which it is given. The whip is in the hand of a strong man and he uses all the force he can. People have fainted and fallen down and then when they had revived, that punishment is again given. Can this punishment be tolerated in any civilised country?

Sir Muhammad Yamin Khan: Should the offence be tolerated?

Mr. Lalchand Navalrai: I will come to that. I have heard you sufficiently. I heard the examples you gave. Let us consider how this punishment came to exist originally. This came into force in ancient days, the barbarous and unregulated days. (Interruption.) I will consider the matter in a sober way and not fly into a rage. Now, Sir, in the olden days, there were no jails where the people could be kept. I have read the history of the Mirs in Sind and also of the Moghuls and my ancestors also used to tell me of those days. For offences like theft, the hands were cut off. Can any Honourable Member brook that punishment and say that that kind of punishment should be given in modern days. We should consider how far this punishment should be given in these civilised times. I do not think even the so-called Baluchis that we were talking about yesterday would like this punishment to be given to them. (An Honourable Member: "Why so-called".) Because the people of Pakistan have gone to Baluchistan. The Honourable Member from Meerut comes to support the Government and he says 'kill this Bill at this moment'.

Sir Muhammad Yamin Khan: I have not come to help the Government. I have come to help the society. I said that there are several offences where this punishment is not suitable.

Mr. Lalchand Navalrai: He has mentioned rape cases, which are hard cases. But may I put a question to him? Did the persons who were punished

with whipping in those cases stop committing such offences afterwards? Can he give me one example in which the punishment of whipping was inflicted and then the person left that offence altogether? This punishment is inflicted in the jails. My Honourable friend may have gone to a jail and inspected it—of course, he has never been to jail. There is always a very severe punishment in jails and why should this cruel way be still regularised and given sanction by this House?

I submit, Sir, that there are three kinds of offences which are involved, and these offences should be excluded from whipping altogether. Firstly, there are the offences by juvenile offenders. Secondly, there are petty offences. I have quite a large practice and I can say that the punishment of whipping in such cases does not act as a deterrent, as my Honourable friend, Sir Muhammad Yamin Khan, seems to think. Thirdly, there are the political offences which are committed by respectable persons, such as, the M.L.A's. Members of Provincial Councils, respectable zamindars and respectable *Sahukars*. They follow their own conscience and they hold certain political views, for which the Government not only locks them up but gives them the punishment of whipping. In these three categories of offences whipping should not be allowed.

I do not want to take any more time of the House. What I submit is that Government should not stand on technicalities. The official view which is given in the opinions is also there. If the view given in the opinions is that in certain offences whipping should not be given, then I hope the Government would not stand by these small technicalities. Let us take this measure to the Select Committee where the Law Member will sit with us. We have already seen how conscientiously he threshes out the matter and comes to some understanding. In the like manner, this Bill will also be considered in the Select Committee and then brought back to the House.

Sardar Sant Singh (West Punjab: Sikh): Sir, I do not want to take much time of the House. I want to make just a few observations on the Bill as it is. No doubt, the Bill stands for the total abolition of whipping as a punishment in India. Sir Muhammad Yamin Khan has given us the benefit of his views of some cases of heinous crimes which were committed by people and he thinks that in such cases the whipping is a most suitable kind of punishment that should be inflicted. In the opinions, too, that have been received on the circulation motion, certain persons have agreed with the view expressed by him in the House. It may be possible that whipping as a punishment should not be abolished entirely, but at the same time nobody can doubt that it is a relic of a barbaric age. Even in 1860, when the Indian Penal Code was passed, the framers of that Code—and they were very capable men indeed—devoted a whole Chapter to the various kinds of punishments which ought to be inflicted for the commission of a crime. These jurists did not care to include whipping as one of the punishments. I do not think I am wrong when I say that it was later on when political crime began to be committed in India that the Whipping Act was passed, not to punish the crime which was morally condemnable but on account of political cases which the Government of the day could not tolerate. Even today the tendency of the Government of India is to include whipping as one of the compulsory punishments in the Ordinances that have been promulgated during the last four years.

The Honourable Sir Sultan Ahmed (Leader of the House): Who has informed my Honourable friend that whipping was introduced in order to prevent political crime? It came into force in 1865.

Sardar Sant Singh: What about the 1919 Act. That is the Act which is in my mind.

The Honourable Sir Sultan Ahmed: Even that Act has nothing to do with it.

Sardar Sant Singh: In 1915 when the terrorist movement was in great force, whipping was mercilessly applied then. I do not want to go into the details. My Honourable friend can consult the Act of 1919 and the history

[Sardar Sant Singh]

of that period will enlighten him on the subject. I would like to be corrected if I am mistaken.

The Honourable Sir Sultan Ahmed: You are mistaken.

Sardar Sant Singh: I may be. I do not claim infallibility as the Government does. However, the position is this. Does he deny the fact that in the Ordinance-making power that he too has been using when he was in charge of the portfolio of Law, whipping is one of the punishments that has been prescribed in several Ordinances? I think he will not. The issue before the House is whether we like this punishment to be retained or we are against it on principle? The issue is not of the necessity of whipping. The issue is whether whipping as a punishment should be allowed to be continued in the country? Does it lead to the reform of the individual who commits the crime? My Honourable friend was saying that a habitual offender who may be sent to jail once, twice or thrice to undergo a punishment for theft, still keeps to that bad habit of committing crime when he comes out. I think the society has gone ahead and the function of the Jail is not merely to punish but to reform the criminal. That is the function of the jail today. If the function of the punishment is to reform the individual who commits the crime, then the question will be reduced to this: Whether by indicting the punishment of whipping or flogging the criminal is reformed or there is a likelihood that he would be reformed, or the result is just the reverse of the intention of the punishment? If the effect is just the reverse of what we propose to do with the criminal, then in that case, whipping is not a suitable punishment. The world has turned round to this opinion and several countries have abolished the punishment of whipping. I will, therefore, suggest that so far as the House is concerned, they should make it clear that they are not in favour of whipping as a punishment for crime.

The second question is as to the expediency: whether it is expedient at this time to completely abolish it or to abolish it partially. As a matter of fact, I do not see eye to eye with the opinion that because the Bill proposes the complete abolition of whipping, therefore, the Select Committee cannot make any alteration wherein they can retain some of the sections and others may be repealed. The House by accepting the principle of referring the Bill to the Select Committee does not stand committed to the principle of complete abolition, but will stand committed only to the principle of abolishing whipping for certain offences. We can make it clear. I think the Honourable the Mover of the Bill will agree with me that if the Select Committee makes an amendment that it should be retained for some offences, but should be abolished for certain ordinary offences, he will welcome this change in the Select Committee. I, therefore, request the Government not to take a narrow view of the measure. I request them not to oppose it simply because these are war times and efforts cannot be directed towards the present reform. Our position is that if there is any time when the agitation for the abolition of whipping should be pursued for better end then it is the present time. These are times when the executive through over-zeal resort to short cut methods for the administration of the country and to the detriment of the interest of the people of this country. I, therefore, urge that this is the most suitable time when the Bill should be referred to the Select Committee and changes should be introduced wherever it is thought necessary and wherever the abolition of the punishment of whipping is considered expedient and necessary in these days, so that the society may be guarded against the over-zeal of some of the members of the executive authorities in the country. Sir, I support the measure.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): Sir, the abolition of the corporal punishment of whipping is referred to in two places. It appears in the preamble which says: "Whereas the punishment of Whipping has come to be regarded as a relic of less civilised times, it is expedient to abolish it altogether". It is also referred to in clause 3. This is the scope of

the Bill. Can this scope not be restricted in the Select Committee? Would it be outside its competency to shorten the scope? I can very well understand the case of a Bill which has got a limited scope; it may be that in the Select Committee it would not be feasible to widen or enlarge the scope of the Bill, but where a Bill is brought with a larger scope, will there be any constitutional or legal difficulty in shortening the scope. Without wasting much of the time of the House, I would suggest that this Bill, according to me, can very well be referred to the Select Committee. I do not find any difference of opinion, whether it is the opinion of the Mover of the Bill or of the other Members of the House as regards whipping to be used in cases of rape and not to use it in political cases. As a matter of fact, it will be found that in his Statement of Objects and Reasons he does not say until the very end when he sorely complains that this sort of punishment is meted out in petty cases of theft, etc.—he does not say that in heinous cases also this punishment should not be retained. I think it is rather misrepresenting the Honourable the Mover of this Bill, misrepresenting his intentions, to say that he is in favour of abolition of this punishment altogether which is administered in rare cases. I, therefore, submit it would be quite reasonable to modify in the Select Committee the scope of the Bill and abolish this punishment, for there is no difference of opinion that such punishment should not be given in political cases or in petty cases; the opinion is strongly in favour of awarding such a punishment in such heinous cases as rape. I, therefore, submit that the Government will be well advised in accepting this motion.

The Honourable Sir Asoka Roy (Law Member): Sir, the issue before the House is a very simple one. Honourable Members will have noticed that the Bill seeks to effect a total repeal of the Whipping Act and the complete abolition of the punishment of whipping. My Honourable friend, Mr. Deshmukh, the last speaker, failed to notice clause 2 of the Bill. May I remind Honourable Members that the Bill is called "A Bill to abolish the punishment of Whipping". The preamble says that the punishment of whipping has come to be regarded as a relic of less civilised times and that it is expedient to abolish it altogether. Clause 2, which is very important, says:

"Notwithstanding anything contained in any Act or Rules or other provision having the force of law, whipping is not a legal punishment in British India."

I cannot understand how in reading this short Bill my Honourable friend, Mr. Deshmukh, could have failed to notice clause 2. I do not suggest that he deliberately did not see it, but I do think that it is difficult to understand or appreciate how he should have missed that clause. I have the same complaint against my Honourable friends, Sardar Sant Singh and Mr. Lalchand Navalrai. I do not think the Honourable the Mover, Mr. Kazmi, ever intended when he drafted this short Bill that he would ask for a mere amendment of the Whipping Act. He was asking for the complete abolition of Whipping.

Mr. Lalchand Navalrai: How does the Honourable Member know it?

The Honourable Sir Asoka Roy: If language has any meaning, and if the learned draftsman's intention is to be found in his language, I think it is pretty plain that he was asking for the complete abolition of whipping and I should be very much surprised if he could be induced by Honourable Members to say now, "I did not mean that at all". The Government must strenuously oppose these wholesale proposals. I might inform the House that in this attitude, the Government have the support of a preponderating volume of opinion, including judicial opinion. Honourable Members must have noticed that all Governments are against the total abolition of whipping and I believe all High Courts too. Excepting for a few individual judges judicial opinion is against the complete abolition of whipping. I admit that circulation has revealed some support for the view that there may be a case for examining the Whipping Act with a view to consider amendments on points of detail, such as, the elimination of certain of the offences for which the punishment of whipping could now be awarded. Government are not opposed in principle to this view but they do not regard this matter as urgent and they do not

[Sir Asoka Roy]

consider it appropriate to support the reference to Select Committee of a Bill for the total abolition of the punishment of whipping on the footing that in the Select Committee the Bill could be converted into a Bill to effect minor amendments to the Whipping Act.

Mr. Lalchand Navalrai: Will Government examine it themselves?

The Honourable Sir Asoka Roy: Government are always examining Bills.

Now, Sir, the question before the House is whether the House should accept the principle of the Bill, namely, the total abolition of whipping. My Honourable friend, Sir Yamin Khan, has given a complete answer to the motion and I have very little to add to the arguments advanced by him. I must, however, refer very briefly to some observations made by my Honourable friend, Mr. Lalchand Navalrai, who seems to have a complaint always against Government. Today his complaint is that Government had agreed to the circulation motion. Sir, I should like to remind the House that when my Honourable friend, my predecessor in office, Sir Sultan Ahmed, agreed to the circulation motion, he made this observation:

"I have listened to the speeches of my Honourable friends and I feel that out of deference to their views I should not stand in the way of circulation. I have got respect for the House and whenever I find there is a section of the House which is anxious to have a matter considered, I am prepared to accede to that request and, therefore, I will not oppose this motion."

Honourable Members are aware that quite recently we have been hearing a lot about this Government being irresponsible and unresponsive; and yet when Government try to be responsive and act out of deference to the wishes of Members of the House, my Honourable friend, Mr. Lalchand Navalrai, gets up and complains. You will remember, Sir, that the Bill was one for the total abolition of whipping. Honourable Members wanted the Bill to be circulated. The Government spokesman, my Honourable friend Sir Sultan Ahmed, made it quite clear that Government would never agree to the total abolition of whipping. Still Honourable Members wanted circulation of the Bill. The Bill was circulated and we now know quite clearly that opinion against the total abolition of whipping is overwhelming. Sir, I cannot help feeling that Honourable Members who have spoken today were merely repeating what they said at the time of the circulation motion. They have not advanced any argument beyond what was said on the last occasion. I cannot say that it would be right or reasonable for Government to allow this Bill to go to the Select Committee when the avowed object of the Bill is to do away with the punishment of whipping altogether. If my Honourable friend, Mr. Kazmi, had introduced a Bill which was intended to abolish the punishment of whipping in regard to a certain class of offences only, Government would have considered the matter very carefully and perhaps would have allowed the Bill to go to a Select Committee so that the question might be fully considered. Sir, I have very little more to add. My Honourable friend, Mr. Kazmi, quoted from Halsbury's Laws of England. Unfortunately he took an older edition of Halsbury.

Qazi Muhammad Ahmad Kazmi: That is the only edition available in the library.

The Honourable Sir Asoka Roy: That is not my fault. If my Honourable friend had only taken the trouble to take a more recent edition, I mean the Hailsham edition of Halsbury's Laws of England, he would have learnt a little more of the law on the subject. As it is, my Honourable friend has admitted that whipping as a form of punishment is still awardable in the United Kingdom; and I hope it would not be said that that country is uncivilised any more than this country is uncivilised. Sir, I oppose the motion.

Mr. Govind V. Deshmukh: I have not got an answer to my question, namely, whether the scope cannot be restricted; it may not be amplified.

The Honourable Sir Asoka Roy: I thought I did answer that. I said that the avowed object of the Bill being the total abolition of whipping as a form of punishment and making whipping illegal, it would not be appropriate to take

the Bill to the Select Committee for being converted into a Bill to effect amendments in the Whipping Act. Sir, I think it cannot be disputed that in this case the Honourable the Mover had in mind the principle that whipping as a form of punishment should be abolished in this country altogether; that is a principle which Government are not prepared to accept and I am sure it is not acceptable to the House.

Qazi Muhammad Ahmad Kazmi: Sir, I have been carefully listening to the criticism that has been offered on the Bill by my Honourable friends, Sir Yamin Khan and the Law Member. I conceded at the outset that I want to be guided by the opinions that have been received. These opinions are in favour of the abolition of certain sections, although not in favour of the abolition of the whole Whipping Act. It is alleged that there is an overwhelming body of opinion against the Bill. The Honourable the Law Member did not say whose opinion it was. I made that differentiation and pointed out that so far as official opinion is concerned it is overwhelmingly against the Bill but only against the abolition of the whole of the Whipping Act. And even according to the official section the repeal of sections 3 and 5 of the Act may be allowed. No doubt there is difference of opinion on that point also but still a good many officials say that so far as whipping of juvenile offenders is concerned and also whipping for smaller offences is concerned, the Act may be repealed, but they want its retention with great force in respect of offences of a heinous nature. Unfortunately Sir Yamin Khan was perhaps not present here when I conceded that principle, and he spent the whole of his time in giving instances of heinous offences. I conceded that at the very start; and I do not see as to why instead of meeting my arguments straight and saying that they concede that so far as the Bill for the abolition of certain provisions which are agreed to are concerned

Sir Muhammad Yamin Khan: Where? Not in the Bill.

Qazi Muhammad Ahmad Kazmi: But the Bill can be amended.

Sir Muhammad Yamin Khan: The preamble and sections 2 and 3 would have to be all altered.

Qazi Muhammad Ahmad Kazmi: If that is so it is only a technical difficulty. And if that cannot be done by the Select Committee, I for myself do not really object, and I am prepared to put in another Bill on those lines if the

I P. M. Government on their part do not ask for circulating that again for eliciting opinion. Therefore, if that is the only excuse of my Honourable friend, Sir Muhammad Yamin Khan and the Honourable the Law Member that it is not in a proper form, and if they are agreed on the principle which I have enunciated in my first speech—namely, that in view of the opinions that have been received, sections 3 and 5 should be repealed and section 4 be retained—I have not the least hesitation in saying that I will introduce another Bill, and I hope that the Government will accept it in the form in which it is introduced or they will indicate the lines on which they would like the Bill to be considered by the House. I take it, Sir, that it is in that spirit that speeches have been made in this House, otherwise there was no use in wasting all that time. The Bill passed through its first stage and then it was circulated for eliciting opinions. I am thankful to Government that they proved themselves responsive, and now once having become responsive I think they should continue to be so. The opinions have been received and I have now become responsive to the opinions and I only want you to become responsive to me. I do not think that it would be difficult for the Select Committee to curtail the scope of the Bill. The Select Committee has got to do things in accordance with the directions of this House. If this House is competent to reduce the scope of the Bill, I think it can give its directions to the Select Committee, which is only a part of this House. It will carry out the instructions that are given by this House. And then whatever recommendations are made by the Select Committee have got to come before this House and then we can see whether those instructions have been carried out in the manner in which they were desired to be carried out. I do not think, Sir, it is beyond the competence of this House itself. Finally, just as I have said, if the Government accept the principles enunciated by me

[Qazi Muhammad Ahmad Kazmi.]

and would be prepared to accept the abolition of sections 3 and 5 and if they would not insist on the circulation of another Bill which I shall bring forward on those lines, I will not press the motion to division.

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

Qazi Muhammad Ahmad Kazmi: Sir, may I know the views of Government?

Some Honourable Members on the Treasury Benches: No, no.

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

"That the Bill to abolish the punishment of Whipping be referred to a Select Committee consisting of the Honourable the Law Member, Sir George Spence, Mr. Vishnu Sahay, Mr. Abdul Qaiyum, Mr. K. S. Gupta, Sir Muhammad Yamin Khan, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. Lalchand Navalrai, Pandit Lakshmi Kanta Maitra, Mr. P. J. Griffiths, Sardar Sant Singh, Mr. Abdur Rasheed Choudhury, Kunwar Hajee Ismaiel Ali Khan and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim): Qazi Muhammad Ahmad Kazmi.

Qazi Muhammad Ahmad Kazmi: Sir, I am not moving other items.

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL.

[INSERTION OF NEW SECTION 12B.]

Dir Sir Zia Uddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I beg to move:

"That the Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose (*Insertion of new section 12B*), be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, the Honourable Sir Sultan Ahmed, Mr. J. D. Tyson, Mr. S. C. Chatterji, Sir Vithal N. Chandavarkar, Sir F. E. James, Dr. P. N. Banerjee, Mr. K. C. Neogy, Nawabzada Muhammad Liaquat Ali Khan, Sir Muhammad Yamin Khan, Syed Ghulam Bhik Nairang and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, this is a very old question and I may say that great injustice has been done to the Aligarh University in this and allied matters. We were definitely promised by the Education Member, Sir Harcourt Butler, in 1911 that the Aligarh University will be both teaching and affiliating University, and on this supposition the money was collected. A year later the Secretary of State intervened and he said that Aligarh University should not be an affiliating University. It was under the influence of the Haldane Committee which had just reported on the London University, but I may just mention that this opinion was held by Haldane in 1910-11, but later on he himself changed his mind when he delivered his address before the Cardiff University seven years later and he advocated the University of affiliating type for Wales. The opinion of the Calcutta University was influenced by the report of Haldane Committee. Prof. Gregory and myself appended a note of dissent and we pressed that in India for many years to come an affiliating University will be indispensable. This opinion was shared by Mr. Richey who was the then Educational Commissioner and who supported the very same view. The result was that the Muslim community refused to accept the University in 1912 and really we were left without any University for about eight years and then we changed our mind. But greater injustice was done in the case of recognition of schools. Though it was admitted by the Secretary of State that we should have no power of affiliation of colleges, but he supported the power of recognition. Mr. Montague himself definitely promised at Aligarh in 1914 that although he was not in favour of affiliating colleges, he would give power of recognition of schools. In the year 1918 we changed our mind and the question was reconsidered, a resolution was passed by the University Foundation Committee agreeing to rescind the previous resolution as far as it concerned the affiliation of colleges; they did not rescind that part of the resolution which concerned recognition of schools. A deputation consisting of leading Mussalmans waited on the Government of India to discuss this question and we had discussions with the Government on the 23rd and 24th of March, 1920. In para.

17 of the proceedings of that meeting it was clearly mentioned that the Aligarh University will enjoy the right of recognition of schools in the same manner as it was given to the Benares University. The Education Member, Sir Muhammad Shafi, on behalf of the Government of India gave us to understand that we would enjoy the power of recognition of schools and it was on that understanding that we proceeded further.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Is Benares enjoying it?

Dr. Sir Zia Uddin Ahmad: Yes.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Did I understand my Honourable friend to say that Benares is enjoying it?

Dr. Sir Zia Uddin Ahmad: It was the understanding given to us and I request the Secretary to read clause 17 of the proceedings.

Mr. J. D. Tyson: That question is neither mine nor my Honourable friend's I asked if Benares is enjoying it.

Dr. Sir Zia Uddin Ahmad: I will just come to it. The Government of India take their stand on clause 12 (2) of the Act and refuse us the recognition of the schools. When this clause 12 (2) was being discussed in Simla in the then Legislative Council I scented that this clause might be interpreted in the way that the Government of India did interpret. The Government of India did not then think it convenient to co-opt me as a Member of the Council for purpose of this Bill. Probably because I knew a great deal about Universities at that time. At that time I asked Seth Haroon Java, who was then a member of the Council, to move an amendment, that clause 12 (2) be deleted lest it be interpreted to mean that the power of recognition be taken away from us. This amendment was moved and Sir Muhammad Shafi, who was piloting the Bill, said that this power would not mean that the power of recognition would be taken away. He then spoke as Education Member but he was as distinguished a lawyer as any Law Member. Consequently Seth Haroon Java withdrew his amendment about deletion of clause 12 (2). Unfortunately, as soon as the Bill was passed we were in the middle of the non-co-operation troubles, in which I am sorry to say the Government never helped the Aligarh University and we had no time to think out whether we had the power of recognition or affiliation as the question of the existence of the University was under consideration, and therefore, the question was not raised at all.

In the case of Benares my friend has asked me what is the position. There, as far as the Act is concerned, wordings are identical. But perhaps ours is more liberal. In our case they mention the Aligarh district. But they did exercise this power. They did recognise schools in different places and they did conduct examinations in the schools situated in the different parts of the country. But when we came into the picture they wanted to punish us by taking away this power and they had to inflict the same punishment on the Benares University. But this is a very peculiar position and I appeal to the Law Member. They said that this is *ultra vires*. Then how can this continuation of the recognition of the schools in Benares be continued. Though it was declared to be *ultra vires* so far as we were concerned, and we were not allowed to have a single school affiliated to the University, still the Benares University got several schools recognised. They are still continuing the examinations. The only thing that the Government has done is that they are not allowing the Benares University to recognise further the schools outside Benares. But they have never declared that those schools which are already recognised by Benares are *ultra vires* and it cannot possibly be done. This differential treatment was awarded to us simply because we are the poor cows; we do not say anything; we are meek; we do not agitate; we do not throw bombs.

Nawabzada Muhammad Liaquat Ali Khan (Rohilkund and Kumaon Divisions: Muhammadan Rural): He is non-violently violent:

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): At least do not, disgrace this uniform!

Nawabzada Muhammad Liaquat Ali Khan: This is the effect of the uniform!

Dr. Sir Zia Uddin Ahmad: I suggested a kind of emergency ordinance and sent it to the Honourable Member for Education saying that if he could accept an emergency ordinance of this kind, then probably I would withdraw my Bill altogether and I would not move it because that would meet my purpose, *viz.*, that a Muslim High School with the consent of the Governor of the Province or the Chief Commissioner, as the case may be, and with the permission of the Ruler in the case of Indian States, may send candidates for the High School examinations, under conditions to be prescribed by regulations.

Now this thing was said to be *ultra vires* and repugnant to the Act. With due deference to the legal authority who gave this ruling, I regret that I do not see eye to eye with him, and I do not think it is repugnant to the present Act if the present ordinance is accepted by the Government of India. They cannot reject it on ground other than the ground that it is repugnant to the Act. This I am going to show.

In the first place, a great mistake has been made even by some educationists and certainly by the Government of India in confusing the words "recognition of the schools", and the "permission to appear in the examination" of any other examining authority. These are two distinct ideas. Recognition is a very wide word. It means we have to see that the school is well staffed, well equipped, that the teachers are persons who have a sufficient standard of education, the buildings are good and the funds are adequate. These are the things which we consider in the case of recognition and this particular power could only be exercised by the Department of Public Instruction through the Inspector of Schools. An outside body cannot undertake this responsibility. Education Department can allocate funds and give them money to make it more efficient. Periodic inspection is necessary.

Then we come to the permission to appear in the examination. That is entirely a different matter and this conception is not included in recognition. The Government recognised high schools in the old University days. They used all the powers which are now put down everywhere as the condition of the recognition of schools, and afterwards the Universities only say that we permit all those schools which are recognised by the Education Department to send in their boys to high school examination. In the case of the Calcutta University they went one step further, on account of which great difficulties and confusion arose and that difficulty was this. The Syndicate of the Calcutta University listened to the appeal by school authorities against Education Department. The result was that the schools which were refused recognition by the Department were being allowed to appear in the examination. In the case of other Universities, like the Allahabad, the Punjab, etc., they did not bother about recognition. Recognition was the jurisdiction of the Education Department. The Universities had no machinery to consider all the things pertaining to these schools and they accepted the verdict of the Department and they permitted their boys to appear in the High School examination. Let us clearly understand the position. When we say that the school is recognised by the University, we mean that the school is recognised by the Department and University permits its students to appear in the University examination. For instance, we have got a number of schools which are recognised by the Department of Public Instruction, and their students are permitted to appear for the Cambridge Senior examination. The Senior Cambridge authorities do not even consider where the school is; they simply take the verdict of the Department that they recognise institution. They do not even care whether it is a private school or public school, because I know at Aligarh itself when Col. Hasan came from England he started a school with 30 boys, and that school sent up boys for Senior Cambridge examination. The Senior Cambridge people did not care to enquire whether the school was recognised by the Department or not. May I ask the Honourable Member what is the position in England? There are eight examining authorities there for conducting the high school examinations, and any school can send any boy for the examinations of any of these authorities,

and the authorities do not bother about recognition. Before I develop my arguments further, I just wish to mention one thing. There is a proverb, that whoever pays the piper calls the tune. But in this case we are not paid but still we are asked to play the tune, not only that, but are coerced to play the tune. You remember that in 1931 we passed an Act by means of which intermediate classes were abolished, and the intermediate colleges were transferred to the University. I wanted to speak on that subject, but owing to the pressure of the Education Department, my colleagues asked me not to speak a word about the abolition of intermediate classes in 1931, under the influence of the then Education Member. But they did not realise the effect of the same. What did it mean? It meant a loss of one lakh of rupees per annum to the Aligarh University. Intermediate classes were maintained before that Act by the Provincial Government. Since that Act was passed the Provincial Government withdrew. You remember that intermediate classes is the care of the Provincial Governments; the University is the care of the Central Government. By entrusting the intermediate classes to the University we had to pay their expenses out of the grant of Rs. 3 lakhs. The tune was called but the piper was not paid. Later on we established an engineering college, a college having about 350 students. It has already supplied 60 engineers to the Indian Army and we are supplying large number every year. But in spite of that, as far as the Education Department is concerned, they have no knowledge that there is such a thing as engineering college in the University, they have not paid a penny for equipment, etc., either recurrent or non-recurrent. We are spending a large sum of money there for the war, and the Education Department has no knowledge whether war is going on, and when we approach them, they say there is the War Department and it will look after them and it is not their concern. The work that we do is not really war work, we are not training soldiers, but we are giving a particular type of training which is exceedingly useful and it is an integral part of education. All these institutions that we now have will, according to the plan of Mr. Sargeant, approved by the Central Advisory Board of Education, be permanent institutions in the post war reconstruction scheme. Still the Education Department say they have no concern whatever with these things, though they intervene at every stage in our war effort. We have not received a single penny from the Education Department since 1931. I made an appeal in 1937, but they said, you had better wait for the result of the appeal by His Highness the Aga Khan. Rs. 7½ lakhs were collected as a result of that appeal. We want to have a medical college, and the Education Department themselves have admitted from the charts that they have sent us that as far as health is concerned, India stands the lowest. They want a large number of doctors not only during the war but after the war. But if the Aligarh University will come forward to establish a medical college and we are prepared to put in 10 lakhs of rupees, I do not know whether the Education Department will come forward and help us. That is in regard to medical education. I have strayed from the subject. They stopped us at every stage, they do not pay the piper, though they call for the tune. If you are not prepared to help us, then send us back to the Provincial Government where we shall be better off, or send us to some other department of the Government of India. There is one point which is very often omitted when we demand that Muslim schools should be permitted to send students for examinations of the Aligarh University. The report that has been prepared by Mr. Sargeant and accepted by the Committee—I am also a signatory—there is one very great weakness in that report, which was pointed out by Mr. Jha in an article, namely, that it takes no cognisance of moral and religious instruction. In India this is a very important matter and a large number of people consider that education devoid of religious education is not education at all. They have handed over the consideration of this question to a small Committee, a very good committee no doubt, but I am afraid whether anything will be presented to us. Here after the war there will be a demand from Mussalmans for religious instruction. This demand was made in Bengal and my Honourable friend will remember that in the time of Sir Henry Sharp when he was the Director of Public Instruction in that province, the way

[Dr. Sir Zia Uddin Ahmad.]

in which the Government met that demand was unfair to Mussalmans. They established *madrassahs*, and intermediate college *madrassahs* and so on, instead of providing religious instruction regularly in their colleges. If Government accepts my proposal, then the solution becomes very simple. From the point of view of providing a safety valve, all those high schools that desire that religious instruction should be given and boys should be examined in religion ought to be allowed to take the Aligarh University examinations, and this can be done without intervening in any way with the system of recognition. This is the second important point which ought to be considered.

Mr. President (The Honourable Sir Abdur Rahim): It is now half past one. The Honourable Member can continue his speech after lunch.

The Assembly then adjourned for Lunch till Three of the Clock.

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

Dr. Sir Zia Uddin Ahmad: I said that no useful purpose would be served by circulating the Bill, because I know what the opinions would be. On one side there will be strong demand and on the other side there will be strong opposition. We saw it on the floor of the House, when the Honourable the Food Member clearly said that he wanted money to pay a certain individual and he created a post for him. Something like that will happen here too. There will be strong demand on one side and strong opposition on the other. The result of the circulation will be as I have told you. There is no doubt a very strong demand on the part of the Mussalmans that the Government should agree to this Bill and when they allow some kind of self-determination in politics, why should they not take up the same attitude in the matter of education? What is the real difficulty I cannot understand. The educational standard will not be lowered and the Heavens will not fall if a certain boy is permitted to appear at a certain examination. In view of all the circumstances of the case, I shall agree to the circulation motion which will be moved by Mr. Tyson.

Mr. Deputy President (Mr. Akhil Chandra Datta): Motion moved:

"That the Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose (*Insertion of new section 12B*), be referred to a Select Committee consisting of the Honourable Sir Asoka Roy, the Honourable Sir Sultan Ahmed, Mr. J. D. Tyson, Mr. S. C. Chatterji, Sir Vithal N. Chandavarkar, Sir F. E. James, Dr. P. N. Banerjee, Mr. K. C. Neogy, Nawabzada Muhammad Liaquat Ali Khan, Sir Muhammad Yamin Khan, Syed Ghulam Bhik Nairang and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. J. D. Tyson: I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1944."

In view of the concluding words of my Honourable friend's speech, I shall not take up the time of the House at any great length. In particular, I do not propose to follow my Honourable friend into the past history of this matter or to discuss whether there was a breach of faith or not. My predecessor in this place said enough on a similar measure to show that there are two sides to that question. Nor shall I discuss the question whether the Aligarh University should be a unitary or an affiliating university because I concede at once that this Bill does not, strictly speaking, affect the unitary character of the university as a teaching university. I admit also that it gives the provinces a measure of control which was not provided for in a somewhat similar Bill that was circulated in 1940. It is possible that some of the objections which the provinces had to that Bill may be met by the terms of the present Bill. Clearly, however, the Bill will affect the university itself, in that it will convert a residential teaching university into an examining university in respect of schools outside the Aligarh district: and I think that, if it comes about, it will inevitably entail the University of Aligarh becoming ultimately an inspecting university and, in respect of schools, a controlling university. I know that the promoter of the

Bill thinks that it is possible for boys to be admitted to sit for an examination arranged by the Aligarh University without the Aligarh University controlling those schools or inspecting them: but, as he himself has pointed out, the examination would have to be according to the Aligarh syllabus: religious teaching would be compulsory in the schools taking the Aligarh examination: and I think it is very probable that schools in his own province of the United Provinces and in other provinces, which sought to follow the syllabus prescribed by the Aligarh University, would tend to be left by the education authorities of their own provinces to be looked after by Aligarh. If the Bill did lead to that position and they were not looked after by Aligarh, they would be looked after by nobody, as far as I can see, and that would be both administratively and educationally unsound. I do not oppose the Bill at this stage but we must recognise that there will be to that extent a change in the functions of the Aligarh University and that it is a change which we should not accept at this stage or without careful consideration, as we would accept it in principle if we now straightaway referred the Bill to a Select Committee.

Now, Sir, I listened very carefully but I am not really very clear as to what my Honourable friend said the objects of the Bill really were or what the necessity is for it. The Aligarh University accepts students who have passed the matriculation examination or the equivalent examination of the other universities in India, so that there is no bar to recruitment, to the ranks of the undergraduates of Aligarh, of students from other parts of India, provided they pass an examination of some other university or some other Board which is recognised by Aligarh as equivalent to its own admission examination. Entrance is also permitted to private students—not perhaps an entirely satisfactory arrangement as a private student has to leave his school a year before he offers himself for the Aligarh examination. Still, there it is: there is that avenue of entrance. If the case of the Honourable Member is that, under the present arrangement, the Muslim students in the provinces do not find it possible to get into Universities, then I think we should let the provinces comment on that allegation or on that case, because we in the Department here have no material whereby to judge the matter. But the principal reason for moving for circulation to obtain the opinion of the provinces is that the Bill definitely involves an invasion of the provincial sphere. After all, education at all stages is now a provincial subject. There is already the machinery in all provinces for inspecting, controlling and recognising schools and if we are to countenance the setting up of some form of recognition or affiliation by Aligarh—I know my Honourable friend does not admit that his proposal involves affiliation or recognition, but I think that to hold an examination in a school according to the Aligarh syllabus, perhaps with the Urdu medium, and with the Aligarh text books and with compulsory religion—surely it does involve a recognition and probably inspection—if we are to pass a Bill which permits that to take place in the provinces, we ought, I feel perfectly confident, first of all to give the provinces and through them the Universities the opportunity to express their views about it.

There is one other point to which I shall refer very briefly. I do not know whether my Honourable friend will admit it but we have, as a matter of fact, hitherto given parity of treatment in the matter of recognition of schools to the two sister Universities which have an All-India status, the University of Aligarh and the University of Benares. I do not say that this is a conclusive argument. It may well be that both these Universities should be permitted to conduct examinations and admit students from all over India, but I would only point out that if this Bill were to be referred to a Select Committee at this stage, we should have accepted the principle of according to my Honourable friend's University something which is not accorded at present, in practice at all events, to the Benares University. I think this House must recognise that if we accord it to the one University, we shall not in reason be justified in refusing it to the other. I do not say that both of them should not enjoy it. I only say that we have to recognise that if we give it to the one, the House will not be reasonable in withholding the same privilege from the other if it was sought.

[Mr. J. D. Tyson.]

My motion, as I think my Honourable friend has realised, is not a dilatory motion. It is a motion for circulation with a very short date, the 31st July of this year, to elicit the opinion of the provinces who are very vitally concerned in a Bill of this kind. As I said, I have moved it because I do not think it will be right for the House to accept the principle of the Bill without consulting the provinces who are so vitally concerned.

Mr. Deputy President (Mr. Akhil Chandra Datta): Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st July, 1944."

Mr. Lalchand Navalrai: Sir, the question arose as to the position of the Benares University and I put a direct question to the Honourable the Mover of this Bill whether the Benares University enjoys all those privileges which my Honourable friend wants for the Aligarh University. He said, 'Yes'. Now, I would like to know from the Honourable the Education Secretary whether the Benares University has been accepting students for examination from outside and whether they have the other privileges according to their Act. I am told that they have to pass certain regulations and then, according to those regulations, they may or may not allow certain applications for examination and so forth. I would like the Honourable the Education Secretary to give a clear idea—if this Bill is passed—with reference to any difference between the rights and privileges of the Benares University *vis-a-vis* the Aligarh University and then I will be in a position to say whether this Bill should be circulated or not.

Mr. J. D. Tyson: With your permission, Sir, I will reply to this question.

Mr. Deputy President (Mr. Akhil Chandra Datta): I will like to tell one thing to Mr. Lalchand Navalrai that he has made his speech and he will not be allowed to make a second speech. If he wants to continue his speech now, he can.

Mr. Lalchand Navalrai: We always feel that the Government Member should speak first so that we may know at an early stage the position.

Mr. Deputy President (Mr. Akhil Chandra Datta): That is not the question. The question is that you have made your speech and I give you this warning for your own benefit.

Nawabzada Muhammad Liaquat Ali Khan: He is quite satisfied.

Mr. J. D. Tyson: Sir, the Benares University Act was passed in 1915 and it has a clause . . .

Nawabzada Muhammad Liaquat Ali Khan: On a point of order, Sir. Is the Honourable Member making the final speech on behalf of the Government?

Mr. Deputy President (Mr. Akhil Chandra Datta): I think he is answering only a question.

Nawabzada Muhammad Liaquat Ali Khan: At the end of the debate the Honourable Member might do that. As you have already ruled that Mr. Lalchand Navalrai has exercised his right of making a speech, there is no question of answering a question. If the Honourable Member is allowed to speak now, it will be in reply to a speech. Therefore, it will amount to this that it will be the last speech on behalf of the Government which the Honourable Member is entitled to make.

Mr. Deputy President (Mr. Akhil Chandra Datta): It is for Mr. Tyson to make his choice.

Mr. J. D. Tyson: I will wait, Sir.

Dr. Sir Zia Uddin Ahmad: Sir, I will say only few words. The first thing that I wish to point out is that the question of the recognition of these schools does not occur in the Benares University Act and it also does not occur in the Aligarh University Act. But unfortunately in the marginal notes the word 'recognition' has been inserted. It might perhaps have been justified by the Legislature but that is very unusual. Besides, it should be clearly understood that we are not demanding the question of recognition because recognition means the taking up of the responsibility of efficiency and so on. We leave that to the Department of Public Instruction of the province where the schools are situated. What we want is that they should permit the students to appear in

the examinations of the Aligarh University in the same manner as some of their recognised schools appear for the Senior Cambridge examination. We do not want to interfere with their administration. We do not want to send out our Inspectors; we want that permission be given to schools to send their boys to our examinations. The boys can appear if they withdraw their names. All I want is that they may be permitted even if they don't withdraw from schools. (Interruption by Mr. Lalchand Navalrai). My friend wants to know whether the Benares University has got certain schools now recognised. The Act is there and they have already exercised their power. But the Government of India, on account of their special power under the Act, are now refusing the recognition of fresh schools. The powers are already there. As I said, I accept the amendment of Mr. Tyson and, therefore, it is not necessary to speak at length.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by 31st July, 1944."

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta): The next motion to be taken up is Item No. 15. I understand items Nos. 9 to 14 are not moved. Maulvi Muhammad Abdul Ghani.

THE DELHI MUSLIM WAKFS (AMENDMENT) BILL

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I move:

"That the Bill to amend the Delhi Muslim Wakfs Act, 1943, be taken into consideration."

Sir, I shall be very brief, because there are other motions to be considered. When the original Delhi Muslim Wakfs Bill was referred to the Select Committee, some ambiguity remained. Three bodies were superseded under subsection (2) of section 25 of the Act. The last body was *Anjuman Moiyyed-ul-Islam*. In connection with that body there were some omission of words. In the draft I submitted, the words 'orphanage and other institutions under that body' were there. Only the first and last of the words anyhow found a place there and hence the ambiguity. The other day when the Act came into force and the authority wanted to take charge of that body. *Anjuman Moiyyed-ul-Islam*, which is practically a defunct body for the last twelve years, only the Secretary exists, and he defied the order of the authority on the ground that this power should not be taken so far as the orphanage is concerned. The intention of the Legislature was that all the powers and functions of that body which is regarded as a defunct body should be taken over by a body constituted under the Act. Hence in order to clear that ambiguity, I thought it proper to give notice of this Bill in this House. I do not think there is any necessity to prove that the *Anjuman Moiyyed-ul-Islam*, maintains an orphanage which is run on income of several wakfs in Delhi. I find from the report submitted by the special officer appointed by the Provincial Government to prepare a list of wakfs in Delhi before the passing of the Delhi Muslim Wakfs Act that the *Anjuman Moiyyed-ul-Islam* is a defunct body, and that this body runs an orphanage as well as it looks after a number of wakfs, such as Sarai, &c. Among the wakfs there is an orphanage and that is situate in Daryaganj and it is run by wakf money realised from several wakfs created in the Delhi Province and this is clear from the appendix prepared by the special officer, I do not think it is necessary for me to place before the House the particular items referred to for the maintenance of this orphanage. I think it is proper that the House should consider this motion and the House should not allow a defunct body to take shelter under an omission. In order to remove that defect, this Bill has been introduced. I think some verbal amendments are necessary to this Bill and that will improve the Bill. I do not like to waste any more time of the House. I commend the motion for the acceptance of the House.

Mr. Deputy President (Mr. Akhil Chandra Datta): Motion moved:

"That the Bill to amend the Delhi Muslim Wakfs Act, 1943, be taken into consideration."

Sir George Spence (Secretary, Legislative Department): I am not moving my amendment, Sir, and I have only to say that Government have decided not to resist the motion for the consideration of this Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill to amend the Delhi Muslim Wakfs Act, 1943, be taken into consideration."
The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta): I understand there has been an understanding as regards the amendments as a result of which only the agreed amendments will be moved by Syed Ghulam Bhik Nairang. Clause 2:

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I move:

"That clause 2 of the Bill be omitted and clause 3 be renumbered as clause 2."

No speech is needed to support this amendment. We want to forego the change contemplated by the Mover of the Bill and so I propose that clause 2 be deleted. Sir, I move:

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That clause 2 of the Bill be omitted and clause 3 be renumbered as clause 2."

The motion was adopted.

Syed Ghulam Bhik Nairang: Sir, I am thankful to Sir George Spence for having suggested and agreed to this consolidating amendment, which I now move:

"That for clause 3 (re-numbered clause 2) the following clause be substituted, namely:

2. AMENDMENT OF SECTION 25, Act XIII of 1943:—In sub-section (2) of section 25 of the Delhi Muslim Wakfs Act, 1943 (XIII of 1943)—

(1) After the word "Committee", where it occurs for the first time, the following shall be inserted, namely:

"(being now a Society registered under Act XXI of 1860)",

(2) after the word "Committee", where it occurs for the second time, the following shall be inserted, namely:

"(being now a Society registered as aforesaid)",

(3) for the words "in respect of the *masjids* and *idgahs* under its supervision" the words "in respect of Wakfs in the Province" shall be substituted."

The object of this amendment has been explained by my Honourable friend, Maulvi Abdul Ghani, and I do not think I need take up the time of the House with a speech. I move.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That for clause 3 (re-numbered clause 2) the following clause be substituted, namely:

2. AMENDMENT OF SECTION 25, Act XIII of 1943:—In sub-section (2) of section 25 of the Delhi Muslim Wakfs Act, 1943, (XIII of 1943)—

(1) After the word "Committee", where it occurs for the first time, the following shall be inserted, namely:

"(being now a Society registered under Act XXI of 1860)",

(2) after the word "Committee", where it occurs for the second time, the following shall be inserted, namely:

"(being now a Society registered as aforesaid)",

(3) for the words "in respect of the *masjids* and *idgahs* under its supervision" the words "in respect of Wakfs in the Province" shall be substituted."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Maulvi Muhammad Abdul Ghani: Sir, I move:

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

I am thankful to the House for passing this Bill and having removed some of the ambiguities. A very big estate has been saved from being misappropriated.

Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

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

The motion was adopted.

THE KAZIS BILL

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural):

Sir, I beg to move for leave to introduce a Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is: "That leave be granted to introduce a Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages amongst Muslims."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I introduce the Bill.

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL.

[AMENDMENT OF SECTIONS 16, ETC.]

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I beg to move for leave to introduce a Bill further to amend the Aligarh Muslim University Act, 1920 (*Amendment of sections 16, etc.*).

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is: "That leave be granted to introduce a Bill further to amend the Aligarh Muslim University Act, 1920 (*Amendment of sections 16, etc.*)."

The motion was adopted.

Syed Ghulam Bhik Nairang: Sir, I introduce the Bill.

THE INDIAN BAR COUNCILS AND LEGAL PRACTITIONERS (AMENDMENT) BILL.

Mr. T. T. Krishnamachari (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Bar Councils Act, 1926, and the Legal Practitioners Act, 1879.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is: "That leave be granted to introduce a Bill further to amend the Indian Bar Councils Act, 1926, and the Legal Practitioners Act, 1879."

The motion was adopted.

Mr. T. T. Krishnamachari: Sir, I introduce the Bill.

THE INDIAN COMPANIES (AMENDMENT) BILL

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Companies Act, 1913.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is: "That leave be granted to introduce a Bill further to amend the Indian Companies Act, 1913."

The motion was adopted.

Mr. Govind V. Deshmukh: Sir, I introduce the Bill.

The Assembly then adjourned till Four of the Clock.

The Assembly re-assembled at Four of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

MOTION FOR ADJOURNMENT

INJUSTICE TO MUSLIMS IN BIHAR IN THE MATTER OF GRANT OF SUGAR LICENCES.

Mr. Deputy President (Mr. Akhil Chandra Datta): Mr. Abdul Ghani.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I beg to move:

"That the Assembly do now adjourn."

The purpose of this motion is to counter-act the activity of the Government of India in getting us divided. It was a move on the part of the Food Member—and we suspect that they have arrived at a decision as is understood from the answer given by him which is quite inconsistent with the policy accepted by Government—this is to get us divided. The alliance of League and Congress has sometimes been called 'an unholy alliance' by the Honourable Members on my left and they are grudging it.

Sir, in the first part of the Honourable the Food Member's reply to my Question No. 710 of yesterday, he stated that information is being collected and will be laid on the table in due course. If he had stopped at that, it would have finished the matter. But he did not. There was no necessity on his

[Maulvi Muhammad Abdul Ghani.]

part to give the other reply which he did. Sir, in reply to part (b) of that question he stated that 'out of 178 sugar dealers, 3 were Muslims'. When he was asked whether he was prepared to refer the matter to the Bihar Government, he said that they have done the right thing, and he said so without knowing the real position because he admitted in reply to the first part of my question that information was being collected and he was not sure whether the figures he gave were correct or not.

The Honourable Sir Jwala Prasad Srivastava (Food Member): Will the Honourable Member read out my reply?

Maulvi Muhammad Abdul Ghani: I have got your reply here and I have read it.

The Honourable Sir Jwala Prasad Srivastava: Read out the supplementary questions and my replies.

Maulvi Muhammad Abdul Ghani: All right. I will read out what the Honourable Member said:

"(a) The Bihar Government are collecting the information asked for and it will be placed on the table of the House in due course."

And then he went on with part (b)—I will leave that alone. When a supplementary question was put, he replied:

"I am sure the Bihar Government have done the right thing."

When another supplementary question was put pointing out that injustice had been done, he said:

"There is no injustice."

The Honourable Sir Jwala Prasad Srivastava: And may I point out that the first part of the question relates not to sugar but to salt . . .

Mr. Deputy President (Mr. Akhil Chandra Datta): I think the Honourable Member may be allowed to proceed in his own way.

Maulvi Muhammad Abdul Ghani: The Honourable Member may give his arguments in his own speech. As I have already said, the whole question related to the Bihar Government and when the Honourable Member said 'that information is being collected', the matter would have ended there. Whatever he said later on formed part of his inconsistent reply, and nothing else. When his attention was drawn for the third time to injustice and disparity, he said, "the Bihar Government have done their best". Sir, I have nothing to discuss here about disparity. What I want to discuss is the attitude of the Honourable the Food Member. He is the custodian of our rights so far as food is concerned, and his attitude is that without any rhyme or reason he is out to support a Government which is run under Section 93 of the Government of India Act 1935, which is practically no Government, and he is always out to curse the Governments which are run under the Act of 1935. If it were not so, he would not have said 'that the Government of Bihar have done the right thing' when, as a matter of fact, he is collecting information. He definitely went out of his way to say that; he gave them a certificate. But he does not give such certificates to those Governments which are run under the Act. This kind of attitude is resented very much in this House.

Then, Sir, he being a responsible Member of Government, he should not have a special regard for any particular religion. Persons belonging to all religions look to him for justice and fairplay. I do not know why he is behaving like this. If anybody asks him for justice, if anybody asks him that a certain matter should be referred to a particular Government for amending their acts, he, instead of doing what he is asked to do, supports them. I think, Sir, it would be better if these food questions were entirely left to the provinces. Let them do justice or injustice—they will be responsible for their deeds. But when the Government of India has taken up this question in their own hands, it is their bounden duty to look into the injustices committed in any part of the country. In this respect, we find that the Government is utter failure. You know about the control and distribution of food? It is mere jobbery and nothing else. If you will look at the long list of officers, you will find that they are getting very princely salaries, and they are people who would have never

pected even one-tenth of their salaries, and they are not eligible for one-tenth of the salaries which they have been given: Three thousand five hundred, three thousand, two thousand five hundred, and so on—princely salaries—as if some loot is going on. Our people are suffering and they are passing their days living from hand to mouth and here such princely salaries are allowed. A list of officers was supplied by the Honourable Member in reply to a question put by me. That shows the generosity of the department to imported persons. That is the generosity. Now, our complaint is just and I have thought it proper to bring it before the House so that the Government and the House may consider it and have a check upon such mentality and such waste of money.

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

This is public money. Our people are taxed in innumerable ways. Money is realized and in this way it is being spent and upon that the attitude of the Government is that of carelessness and utter disregard to the House and to the Members of this Assembly.

I commend this motion.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved: "That the Assembly do now adjourn."

Seth Yusuf Abdoola Haroon (Sind: Muhammadan Rural): Mr. President, I rise to support the motion moved by my Honourable friend, Mr. Ghani. It is the right of this House to censor the Government because of their misdeeds in appointing the sugar dealers in all the provinces. Sir, it may be said that these dealers are appointed by the Provincial Government. But I must remind the House that there is a Sugar Department existing in the Food Department. No sugar dealer can get a license without having himself registered with the Sugar Controller of the Food Department. It is the Provincial Governments who send in a recommendatory form the names of those dealers to the Food Department and then the Sugar Controller registers them and gives them the license. Sir, this system is so condemnable that it has been condemned already by the Sugar Controller himself. For the information of the House I will reveal a speech made by the Sugar Controller in reply to the Sugar merchants in the Sind Secretariat at Karachi some time ago. He quoted the instance of the Bihar Government in which he said that in Bihar only those Sugar dealers are appointed who give or donate vast sums of money to war fund. Sir, when this statement was made by him he perfectly knew that he was the Sugar Controller in the Food Department and he is perfectly aware that no sugar dealer is registered without his permission. Then was it not his duty to check that province? He said that he was in Bihar and that he was having a cup of tea with one of the officials and he found very dirty sugar there. He brought this matter to the notice of the official and the official said: 'I cannot help it. It is your own Department'. And he said: 'I promised to look into the matter, but when I found that recommendations were made in such strong terms by the Bihar Government I could do nothing'. Then, Sir, it means that the Sugar Controller himself admitted that he was incapable of the office if he could not bring this thing to a stop.

Mr. President, I may point out to the Honourable Member that if he says that it is not within his power to check or to stop or to remove such dealers from his list, there are instances in which the Sugar Controller has sent telegrams to the States asking them not to appoint such and such a firm or such and such an agent. But not many months ago, in Bombay Presidency, a few of the States had appointed some agents. Naturally after considering the merits of the merchants, they appointed a particular firm, but the Sugar Controller was clever enough to send a telegram to the effect that that firm should not be appointed and that such and such a firm should be appointed. When he could do that in respect of one firm, why could he not do it in Bihar. I am not trying to make a communal question here. I am trying to point out to the House that if injustice is done to a section of the community, which unfortunately may be Muslim, it is our duty to protect them. Sir, I have lived in Bihar and I may point out to this

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House that there are five Muslim sugar factories and they have their agents throughout Bihar. Why could not one of these have been given a chance?

Sir, it is this Government that raises communal troubles. When they do an injustice to one section, that section gets up and says injustice has been done to us. Then the Government point out to the other community: Look at this. They are Muslims: they are communal. They want to protect their own interests and make differences between us. They do not want to see friendship and harmony existing between different communities. I may point out to the Honourable the Food Member that he may hold a conference with the Sugar Controller and look into the whole affair. The Sugar Controller does not seem to be in Delhi. His headquarters are far away from Delhi and I do not know whether the Honourable Member has a chance of seeing the Secretary responsible

The Honourable Sir Jwala Prasad Srivastava: I meet him very often. He comes down to see me.

Seth Yusuf Abdoola Haroon: That is still worse then. Sir, I hope that the Honourable Member will not justify the attitude of the Bihar Government as he did the other day, when he said that they are perfectly right. His answer was: 'I am sure the Bihar Government have done the right thing'. He himself is a neighbour of that province. He knows there are Muslim sugar merchants and factories there and yet he says that it is right that only three merchants have been appointed. I am not trying to justify the Muslim's case but I am trying to point out that even among the Hindus there the right type of people have not got the license. I have already said before that those people who have subscribed to the War funds have been given these licenses, and I am sure the Food Member will look into these questions and see that justice is done to every one, and especially to merchants who are dealing in sugar.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): I wish to say a few words in support of the motion before the House. I do not want to take up much time of the House, because probably the scope of this motion is not very wide, but what I want to impress on the House is the fact that in the province of Bihar, the matter of licenses, in sugar particularly, and in all the commodities, for procurement, or for sale, has been a matter of favouritism absolute and nothing else. I am not going to say that only the Mussalmans have not got a share, even deserving Hindus could not get a share because it was a question as to who could get the favour of the official who was in charge of it. What is more tragic is that the Government of India sits here to support that individual officer or that paraphernalia of staff which is doing all the mischief in that province and which is responsible for the deterioration of the entire food position there. In spite of the fact that the production in that province of every variety was on a satisfactory basis, the method of procurement and the method of distribution have been so inefficient that it has placed the province in a more hopeless position that it would otherwise be. I would just like to tell the Honourable the Food Member particularly that I know instances, and if he wants I can give him the individual names to whom licenses have been given. People who never had any experience of any sugar business were given and those licenses were sold to somebody else for doing that business. Does the Food Member know that? Has he any idea that those licenses are being auctioned and purchased and re-purchased by other people after some money has passed into the middlemen's hands? Has he any idea of that? Particularly he ought to be more careful in the case of such provinces as are under section 93, and as have practically no constitutional control of the people. Unfortunately, as the Honourable Mover has pointed out, the Food Member has always been anxious to see more carefully things in those provinces which are working with responsible Ministers, than those which have nothing of the sort and are governed under section 98.

The Honourable Sir Jwala Prasad Srivastava: That is entirely wrong.

Mr. Muhammad Nauman: If the Honourable Member wants I can give him a list of names of such people who had no experience of any kind in sugar and

these were given licenses, the business was done by others at a certain cost and under certain arrangements with the other man as to getting a certain amount of profit. The Honourable Member may refuse to accept that position, but I am sure he knows this not only in the Bihar province but in other provinces. From the answer to the question which has been placed before the House, it appears that there are big sugar factories and they have got their own important dealers, but unfortunately some of them or at least a few of them were thought not fit enough to receive licenses from the Government. This is a matter which should be seriously looked into. I do not want to give names, but if the Honourable Member is prepared to receive those names, I am prepared to show him the entire list and also tell him what is happening in Bihar, which it would not be correct for me to say here in the House. With these few words I support the motion.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): I intervene in this debate only because of one or two points that I want to stress from the replies given by the Honourable Member. What is happening in Bihar is not personally known to me, but from the reply that the Honourable Member gave to my Honourable friend, Mr. Abdul Ghani, yesterday, it came out—these are his words, "Out of 178 licensed wholesale dealers in sugar in Bihar there are only 3 Mussalmans". My Honourable friend, Syed Ghulam Bhik Nairang, intervened and asked, whether this was not a regular scandal that out of 178 licensed wholesale dealers there should be only 3 Muslims. Then the Honourable the Food Member went out of his way to give a certificate to the Bihar Government for what they have done in this matter. He says, and this is the only answer that he has given, "I am sure the Bihar Government have done the right thing." The Bihar Government have done the right thing in having three Muslims out of 178.

The Honourable Sir Jwala Prasad Srivastava: Those words are not mine—the words that you are adding.

Mr. H. A. Sathar H. Essak Sait: Yes, he only said that.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Let me point out that I put a supplementary question and said that an obvious injustice has been done.

Mr. H. A. Sathar H. Essak Sait: I want to stress this point, that my Honourable friend, the Food Member, was very anxious to give this certificate to the Bihar Government. Not only that he personally thought that the Bihar Government had done the right thing. The right thing in what? The right thing in granting licenses to only 3 Muslims out of 178 total licensed. I do not think he denies that. He obviously meant that he was not only satisfied, but that he was happy, he considered it the right thing that Muslims should not be licensed and that a few licenses should be given to them as possible. Then Maulana Zafar Ali Khan intervened. He said that the Provincial Government have done this injustice, and "is it not the duty of the Government of India to see that justice is done"? This was a perfectly legitimate question. The Honourable the Food Member says, "there is no injustice". He says that not only the Bihar Government have done the right thing in allowing only three Muslims to deal in sugar in the whole province,—not only they have done the right thing, but they have done the just thing. Then a request was made—that was a little earlier—whether he would call the attention of the Bihar Government to this state of affairs. He says, no, there is no need, and then he justifies that by saying that no communal proportion is fixed in such matters. I know and the House must know that there can be no communal proportion in such matters, I agree. Therefore, the whole of his argument comes to this. There is no communal proportion set for these things, therefore the Bihar Government is right, not only that, but they have done the right thing in refusing licenses to Muslims and there is no injustice in this. This is the thing which has moved Maulvi Abdul Ghani to table this adjournment motion before this House. I hope the Honourable the Food Member will not mislead the House by bringing in the question of Hindu and Mussalman and the rights of

[Mr. H. A. Sathar H. Essak Sait.]

Hindus and Muslims in this. The attitude of the Government as revealed by the answer given by the Honourable Member is encouraging the Bihar Government to persist in this, what I call, most unjust manner by going out of his way to give the Bihar Government a certificate by saying that they have done the right thing in refusing Muslims the number of licenses that they may ask for or that they may deserve—these are things that we want to protest against, and it is in that spirit and with that meaning only that this motion has been placed before the House. I therefore support the motion.

The Honourable Sir Jwala Prasad Srivastava: That is not the term of the motion itself.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): It was a very unfortunate and wrong statement that the Honourable Member made yesterday and I think the statements made on the floor of the House by responsible persons who are in the Executive Council should be guarded and liberal.

The Honourable Sir Jwala Prasad Srivastava: and evasive?

Nawabzada Muhammad Liaquat Ali Khan (Bohilkund and Kumaon Divisions: Muhammadan Rural): He says they should be evasive.

Sir Muhammad Yamin Khan: If they are evasive, then all that has been said on this side of the House during the Finance Bill and the Budget will be justified and it will be said that it is really a hopeless Government which is in existence.

The Honourable Sir Jwala Prasad Srivastava: That is not correct.

Sir Muhammad Yamin Khan: If the Government wants to justify that they are ruling in the interest of India and they are anxious to satisfy all sections of the country, then their answers must be such that they will not create any resentment in any quarter of the House. Here the resentment had been caused and probably what has been thought is this. Some people in this House think that all kinds of machinations could be brought in to try to create some kind of gulf in the unity which is being created and which has been achieved to that extent on this side of the House. Therefore something must be said which must excite somebody else to say something in this House which may disturb the unity which is going to be achieved. If that is the motive, I can assure my Honourable friends that it will have no effect whatsoever. We have become proof to that absolutely. We are not going to be disturbed by that factor at all. If something wrong is done, then no Honourable Member should get up and say that wrong is right and that he will stick to the wrong. At least he must have the courage to say that he is wrong. If any wrong has been done and it is shown that it is wrong, then the member must have the courage to say 'I shall inquire. I shall investigate and I shall find out what the circumstances are'. That is quite different from an Honourable Member getting up and saying: "Oh! they have done the right thing. There is no injustice done. Nothing of the kind". That is only inciting people to say: "You have done the wrong thing" and to waste two hours of this House on a motion of this kind. I know as a fact who is running these shops. I know as a fact that licenses have been given to the most undesirable people. I have known that licences to sell a commodity, which is controlled, is not given on the ground that the man is a business man or he can satisfy the *mohalla* or the neighbourhood where he is living. They have been given on some political grounds, because District Magistrates and certain local officials are authorised to give the licenses. In their desire to distribute the work, they allot this work to the Sub-Divisional Officers or the Tahsildars or somebody else. Some man who is working for them on the political side is called and is told: "Come along, I will get so much money. Get this contract". This man comes and says: "All right. I will sell my conscience for this purpose only." I will give the Honourable Member one instance. I can give him the names of the persons too. Some people in order to obtain a good license and to get into the good books of the officials went and borrowed money from some bank.

He paid one year's interest and he borrowed about Rs. 50,000 and said: "Look here. Here is one year's interest. You purchase war bonds in my name and keep these bonds as mortgage". One year's interest is paid in advance to the bank. He says to the bank: "If after one year I do not pay you the interest, you are at full liberty to sell these bonds to whomever you like". Now, these bonds have been purchased from the bank by a man who does not have even Rs. 5,000 with him in his account. He becomes possessed of a war bond for Rs. 50,000 and he tries to cheat the Government officials by saying: "Look here. I have bought war bonds to the extent of Rs. 50,000. (*An Honourable Member*: "Where is the cheating?") This man has not purchased at all. Simply in order to get some kind of benefit from the Government official, he buys these bonds with borrowed money and in return he gets the monopoly for the sale of one commodity in the whole of the district. Either he gets the monopoly for the sale of sugar or salt or some other commodity. Because he is the only man who can sell it, he makes Rs. 2,000 or Rs. 3,000 a month and he is allowed to do it because he had shown that he had purchased war bonds to the value of Rs. 50,000, with not a penny of his own.

The Honourable Sir Jwala Prasad Srivastava: Where is this done. Will my Honourable friend give a concrete example?

Sir Muhammad Yamin Khan: I will give a concrete example and I will prove these things by bank accounts of these people. These fictitious things are done and these people are given the monopoly. I say that there should be no restriction whatsoever in granting licence to every body who asks for it. They should be asked to make a deposit of money as a guarantee that they will sell the pure article, at the price fixed by Government or the controlling department.

Sir Cowasjee Jehangir (Bombay City: Non-Muhammadan Urban): In this case, who gave the license?

Sir Muhammad Yamin Khan: The local officials. 178 licenses could not have been given by one man. They must have been given by different officials in different places by the Local Government.

Sir Cowasjee Jehangir: I am referring to the particular case you have mentioned?

Sir Muhammad Yamin Khan: This has been by a District Magistrate. In Bihar, in 16 districts, they have given 178 licenses. That works out to 10 or 11 per district. Probably they were given in the interest of those people who were just hanging about certain officials. I do not think proper justice has been done even to the Hindus. Those Hindus who were the proper dealers never got them. The result is that we are getting rotten stuff and mixed things. The Honourable Member himself got tea with sugar and dust mixed with it. That is the natural result when you want to give a monopoly to a man who is not in the business and who does not care for the public opinion because he is permitted by your officials. He has got the monopoly from a man who is at least protected. This is certainly bringing *badnami* to Government who are brought into ridicule from all sides. My Honourable friend may be thinking that he is quite safe and he cannot be turned out, but think of the reactions which he is creating in the country. How much antagonism you are creating in the minds of the people of the country by these foolish acts of your officials? I say it in the interests of the Government that if they want to enjoy the confidence of the people, their first and foremost duty is to protect the rights of the people and not to annoy them in their daily purchases of things. The net result of this kind of favouritism is bound to result in this that the people will be complaining, the prices will go high, the shops will be closed at a certain hour and nothing will be done after those hours. If my Honourable friend himself goes to a control shop and purchases a lb. of sugar at the Connaught Place, he will know everything.

The Honourable Sir Jwala Prasad Srivastava: I will do that tonight.

Sir Muhammad Yamin Khan: People have to wait at these control shops for hours just as they do in a Music Hall in London. You will find a row of people waiting for hours and hours in the hot sun before they get a lb. of

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sugar. This is the condition which is prevailing everywhere and this annoyance on the part of the people is reacting against your popularity. Whatever you are doing is not being done properly. The public is not protected and no facilities of any kind are given to the people. If the whole thing was managed properly, I do not see any reason why the people who are living in different *Mohallas* . . .

Sir Cowasjee Jehangir: I rise on a point of order, Sir. What is this censure motion? Is it the one which has been explained very clearly by Seth Haroon or are we censuring the Government on the issues raised by my Honourable friend, Sir Muhammad Yamin Khan?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must speak on the motion before the House.

Sir Muhammad Yamin Khan: Whatever I had been saying, I was quite justified in saying it and the Honourable Member should not have interrupted me and wasted the time which I have at my disposal.

Sir Cowasjee Jehangir: Stick to the issues.

Sir Muhammad Yamin Khan: These are the issues. If you cannot understand them, I cannot help it. If my Honourable friend had taken proper care that these licences go to the proper dealers who satisfy the people of the *Mohallas* I am sure the results would not have been as they are now. If the interests of all the communities were taken into consideration, there would have been no result of this kind and the Honourable Member would not have been forced to give a reply which he gave. The reply which has excited everybody is due to the ignorance and callousness on the part of the Government Member and he should see that proper justice is done. When he shows a disregard to the feelings of the people, we should also show resentment. We cannot put up any longer with this kind of attitude from any person however highly placed he may be. Such a man loses the confidence of the public. Sir, I support this adjournment motion.

The Honourable Sir Jwala Prasad Srivastava: Sir, when I received notice of this motion, I did not myself understand what it was all about. I read my answers and I re-read them and I must say there is not a word wrong there and I do not need to modify them in any respect at all. Sir, the first part of my answer relates to the number of licensed salt dealers of Bihar. The Honourable the Mover of the motion has mixed this up with the sugar dealers about whom he has asked information in the second part of his question. The supplementaries were all on the question of licensed sugar dealers and not on salt dealers. I stated that I had called for information from the Bihar Government in regard to salt dealers. The Bihar Government had given me certain information about sugar dealers.

Sir, as I read the motion, it seeks to censure me because I tried to "justify the action of the Bihar Government to perpetuate the injustices done to Muslims in matters of grant of sugar licences to Muslims". Those are the exact words of it. The other questions which several Honourable speakers have raised do not, to my mind, relate to this motion. The Mover intends clearly to censure the Government because they have not been able to ensure a communal proportion among these dealers. Sir, I wish to make clear here that there are no rules for communal representation amongst sugar dealers.

Mr. Muhammad Nanman: Is there any rule that a particular community should be eliminated?

The Honourable Sir Jwala Prasad Srivastava: I am coming to that. Unless it is shown to me that injustice has been done to any individual or any member of individuals who, on their merits, ought to have been selected, it is not possible for me to accept that injustice has been done.

Seth Yusuf Abdoola Haroon: Why?

The Honourable Sir Jwala Prasad Srivastava: For the simple reason because I am assured by the Bihar Government that they could not find suitable Muslims.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Why did you not say so yesterday?

The Honourable Sir Jwala Prasad Srivastava: I am assured by the Bihar Government that they have done their best. The district officers are the people who select these licensed dealers and no complaints have reached the Bihar Government yet that any injustice has been done to any person or any community.

Seth Yusuf Abdoola Haroon: Your Sugar Controller has already admitted that.

The Honourable Sir Jwala Prasad Srivastava: I am not aware of that. Sir, I was in communication with the Bihar Government again today and they have reported that they had taken the utmost care to select the best men for the job. They have taken the men from trade and unless it is decided to lay down a communal proportion amongst these dealers, it is not possible for them, in the very nature of things, to give up a more suitable man in favour of a Muslim. That is the reply. I do not think it is right to say that District Magistrates have been issuing licenses against subscriptions to war loans. I have not received any definite complaint to that effect. If my Honourable friend will give me concrete cases to work upon I promise that I will go into them and investigate them. It is no use making vague charges like that.

Seth Yusuf Abdoola Haroon: Ask your Sugar Controller.

The Honourable Sir Jwala Prasad Srivastava: The Sugar Controller does not say that. I am quite sure of that. I do not know, Sir, what the Honourable the Mover wants. Does he want that there should be communal proportion in the selection of these dealers or does he wish to say that there were deserving Muslims who were left out by the Bihar Government. For some reasons which they ought not to have used, they have shut out the Muslims. Is that the complaint? I do not know what is the ground. What is the stand? So far as communal representation goes, it is the definite policy of the Food Department not to observe it in the selection of dealers for various commodities. We are anxious that food should reach the people and therefore we have the best men for the job whether he is a Hindu or a Muslim or a Christian. He will get the business irrespective of the community to which he belongs. We do not wish to be lost in communal politics. We have a job to perform. It would not be possible for me, I am afraid, to agree to fix a communal ratio for the dealers. Sir, a great deal has been said that I gave a testimonial to the Bihar Government. Sir, all that I meant was that having regard to the fact that no communal ratio is prescribed and also knowing as I do that the Bihar Government had no communal bias of any kind, they had assured me that they had selected the best men from the trade. I was satisfied in my own mind that if they had failed to select a larger number of Muslims, it was not because they wanted to do any injustice to them. It was simply because they could not get them. I see nothing wrong in that answer of mine. I still hold that they have done no injustice to Muslims. I do not agree with the interpretation put upon my answers by several Honourable Members. I explained in one of my answers that possibly the reason for not selecting more Muslims is that there is a paucity of Muslim sugar dealers.

Seth Yusuf Abdoola Haroon: Question.

The Honourable Sir Jwala Prasad Srivastava: I said, definitely, that may be the reason. But I was not prepared to agree that the Bihar Government had acted on a communal bias, and kept out the Muslims. I still hold that, this cannot be the case. If any of my Honourable friends will bring to my notice any special case, I will investigate it, but the question itself was of a general character. It simply drew attention of the Government and everybody to the paucity of Muslims among the sugar dealers selected by the Bihar Government. It did not indicate that the Honourable Member who tabled the motion had any special case in mind. Sir, I, therefore, do not think I am guilty of the charge which the motion seeks to fasten on me. I would like to explain to the House that the distribution and production of sugar is controlled by the Sugar and

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Sugar Products Control Order of July 1943. Clause 5 of this Order lays down that every producer and dealer shall comply with such directions regarding the sales, stocks or distribution of sugar or sugar products as may from time to time be given to him by the Controller. The powers of the Sugar Controller, under clause 5 of this Order have been delegated to the Chief Controller of Prices and Distribution of the Bihar Government. And the selection of the dealers, both wholesale and retail, rests entirely with the Provincial Government. The procedure adopted by the Bihar Government in selecting these dealers is briefly this. The district officers have been given full powers to select the best men in the trade.

Nawabzada Muhammad Liaquat Ali Khan: What are the qualifications of the best men?

The Honourable Sir Jwala Prasad Srivastava: It is for the district officers to judge as any other business concern would judge. The man is to be relied upon, the man is to have good financial standing, he must be able to do the work.

Sir Muhammad Yamin Khan: And what will prove his financial standing? That he must purchase war bonds with borrowed money?

The Honourable Sir Jwala Prasad Srivastava: I submit that is not relevant to this motion at all, because that question was never raised before. And I say that it is wrong. I have received no definite evidence to that effect so far and no Honourable Member of this House has ever given me a definite and concrete case. It is no use indulging in vague accusations of that kind. Therefore, Sir, I submit that this motion so far as it relates to the paucity of Muslims among the sugar dealers in Bihar should not be accepted by this House. We have done them no injustice and in any case the whole matter has been dealt with by the Bihar Government, by the district officers, who cannot, I submit, be accused of being partial to non-Muslims or Hindus. They have undoubtedly selected the best men that are available. There may be some cases in which Honourable Members may think otherwise but no such case has been brought to my notice. That being so, I will not say anything more at this stage. We have called for further information from the Bihar Government, as I stated in answer to the last supplementary, and when that information comes along I am prepared to place it before the House. I can do no more than that. I promised it in answer to the last supplementary and I have asked the Bihar Government to tell me who are the people they have selected in each district. On receipt of that information we shall be able to judge better if there are any real hard cases.

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

The Honourable Sir Jwala Prasad Srivastava: Sir, I submit again that the House should reject this motion.

Sir Syed Raza Ali: Sir, I rise to say a few words with regard to the meaning of the motion before the House. Having listened carefully to the speech of my Honourable friend the Food Member I must say that he has failed to grasp the meaning and significance of the motion. I do not want to take Honourable Members to the conditions governing the recruitment of Mussalmans to various services about 20 years ago. I think it is common knowledge that at that time when the Government of India had not made any reservation of places for Muslims the stock reply on behalf of Government to criticism offered by Muslim speakers about the non-appointment of Mussalmans was that the question had been duly considered by Government who were very willing to appoint a fairly large number of Mussalmans but that unfortunately there were no qualified Muslim candidates available, no competent Muslim candidates available, no efficient Muslim candidates available, and so on. I do not want to discuss those matters, but my Honourable friend, I daresay, knows full well that this attitude of Government led to a demand being presented by the Muslim community for reservation of seats, so far as the appointment of Muslims to various branches

of public service was concerned. That Resolution was modified in the year 1934 with the result that now 25 per cent. of these vacancies go to Muslims, provided efficient and competent Muslims are available in the sense in which Government want the candidates to be efficient and competent. Let me tell my Honourable friend, since he put the question more than once, that at this stage there is no demand on behalf of the Muslims that so far as these contracts and things of that character are concerned a due proportion should be reserved for Muslims.

The Honourable Sir Jwala Prasad Srivastava: What is the demand? I should like to know that; I am at a loss.

Sir Syed Raza Ali: My Honourable friend is at a loss in so many places: I hope he is not at a loss in his own department.

The Muslim position is this. If you go on treating the Muslims in these respects no better than you did 20 years and more ago in the matter of their appointment to the public service, you will be confronted with the same demand which we had to present to Government in the year 1923. I myself moved the motion in the other House about the reservation of seats for Muslims, so far as the public services are concerned. What I mean is this. If you do not care for the benefit and welfare of the Muslim community at all, if you make appointments and then you put us to proving that those who have been appointed are not worthy and others more worthy have been left out,—if that is your attitude, it only means really that you want to keep power in your own hands and do not want to give a fair and square deal to the Muslim community. That being so, a fair proportion should be reserved for the Muslim community. That will be the demand you will have to face.

The Honourable Sir Jwala Prasad Srivastava: Minus the sugar then, that's all.

Sir Syed Raza Ali: My Honourable friend wants all the sugar for himself and his community perhaps. I hope he does not mean that. The way he is talking suggests one to suspect that that is what he means. Oh! no, not all the sugar to that side and all the bitter things to this side.

Let us see what the present position is in Bihar. After all, let my Honourable friend consider the problem dispassionately. He is a responsible Member of Government—the Government itself may not be responsible but, after all, he is a responsible Member of a Government that has been in this country for 150 years nearly. Let us see what the population of Bihar is. The Muslim population of Bihar is—if I am not mistaken—15 per cent. The proportion in which Muslim merchants have been chosen works out to between 1.6 to 1.7 per cent. nearer 1.7 than 1.6. Now, may I put it to my Honourable friend, is this what he calls justice, is this his sense of justice, namely, there is a community that inhabits a province in the proportion of 15 per cent. and in the matter of selection of contractors only something between 1.6 and 1.7 per cent. should go to that community? Is this his sense of fairness, is that his sense of justice? Let me tell my Honourable friend, rather I will go a step further and warn him—and when I say those words I don't mean any offence to him; I am speaking for my community—if other departments are going to follow what the Food Department is going to do, much sooner than you suspect there will be a unanimous and united demand presented to the Government of India on behalf of the Muslim community to fix a proportion for the Muslim community in the matter of these selections. There will be a demand and you will be responsible for that. I don't mean my Honourable friend personally, but I mean the various heads of departments who are administering the affairs of his department. That is really the position. My Honourable friend did not realize the rather frivolous, casual and light-hearted manner in which he answered the questions and more especially the supplementary questions yesterday. That is what caused annoyance to Members on this side of the House. No Honourable Member, much less an Honourable Member who occupies such an important place in the Government—has got a right to be light-hearted . . .

The Honourable Sir Jwala Prasad Srivastava: I was not light-hearted; I have spoken the truth.

Sir Syed Raza Ali: That is a play on words really. Yes, my Honourable friend can indulge in that. My Honourable friend can say that this is the truth. There are so many things that are true in this world and yet not all true things are just. My Honourable friend is making a mistake. He is occupying a place where he has to show big imagination, where he has to show justice to all classes, all communities, all sections of people. But my Honourable friend thought fit to vindicate the policy of the Bihar Government. That itself shows really that there is an unholy conspiracy between him and the Bihar Government. Otherwise, why should he be anxious to defend an indefensible case? The Bihar Government's case is indefensible, and yet my Honourable friend tries to defend them. How is he concerned? Is it his duty to support all that the Bihar Government does? How long is he going to give shelter to some of these sinners that are to be found in various provinces. As a matter of fact, the honest and straightforward course for my Honourable friend would have been to give the figures and say 'it is not fair; I am going to institute an enquiry; may be, that circumstances justify this; if it is found after an enquiry that the Bihar Government are justified in doing that it will be all right, otherwise I am going to give a goodbye to the Bihar Government; in any case I will satisfy myself'. That would have been the attitude of a straightforward, honest, courageous man, that my Honourable friend is.

The Honourable Sir Jwala Prasad Srivastava: Play on words.

Sir Syed Raza Ali: That really is the position. At the fag end of his speech even today—as if the injustice he had done to the Muslim community yesterday was not sufficient—he said, "We have done them—meaning the Muslim community—no injustice". Shall I thank my Honourable friend on behalf of the Muslim community for this, namely, you have done great justice in giving them 1.6 to 1.7 per cent. of seats? For this, many thanks! Sir, it is very difficult to explain one's feelings. If a man does not realise the difference between the sense of justice and injustice, all I can say is 'God help him'! What can one do really?

Sir, in this matter let my Honourable friend realize that by delegating his own authority to the Provincial Governments, the Government of India cannot, by any means, be absolved from their responsibility to the people. After all the responsibility is my Honourable friend's in all matters relating to the Food Department; the ultimate responsibility is that of the Government of India as represented by my Honourable friend.

The Honourable Sir Jwala Prasad Srivastava: I thought that side of the House thought differently.

Nawabzada Muhammad Liaquat Ali Khan: How differently? In what way?

Sir Syed Raza Ali: I don't think I need take notice of these interjections.

Nawabzada Muhammad Liaquat Ali Khan: Because they are meaningless.

Sir Syed Raza Ali: Really I do not follow them; I, of course, try to meet my Honourable friend half-way.

Sir, I was saying that if any department of the Government of India is under the mistaken belief that by delegating their powers during the war to any Provincial Government or any other authority, they can be absolved from all responsibility in the public eye, they are grievously mistaken. The ultimate responsibility is his; my Honourable friend, like his colleagues, ought to be the watch-dog of the department over which he is presiding. If the Government of Bihar have fallen so low as to be contented with the Muslim share of 1.7 per cent. then surely that in itself shows that there is something rotten in that administration; that itself justifies rigorous and vigorous enquiries being instituted into the whole administration of the Food Department in Bihar. That is a very serious matter. My complaint against my Honourable friend is that he does not realize what enormity is being committed in Bihar and his self-complacency is a trait of his character as a Member of the Executive Council of which, I am afraid, I cannot by any means congratulate him.

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

Sir Syed Raza Ali: It has been suggested by some Honourable Members that this was to divide us. It may be that perhaps he never meant that, but there was some expression which went to suggest as if the object was to sow seeds of discord between Hindus and Muslims. I do not think he meant it.

5 P. M. He is the last person who would do that, but, in any case, my Honourable friend should realize that so long as he is in the Government of India it is his duty to do justice to all communities alike and if he realizes that

The Honourable Sir Jwala Prasad Srivastava: I have done that; I am doing it every day.

Sir Syed Raza Ali: In this case my Honourable friend has not done. In fact, I have not

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

Sir Syed Raza Ali: So far as this goes he has failed to do it. Let him realise it. Let him boldly own up to it and try to meet the situation like a man which I think he is.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): I gathered from the speech of the Honourable the Food Member that this adjournment motion has come to him as a great surprise. He is apparently feeling like a perfectly innocent man all of a sudden accused of something very outrageous and wondering what he had done to deserve the charge. But if the adjournment motion has come to him as a surprise, I must tell him that his attitude yesterday in answering the questions put to him by my Honourable friend, Maulvi Muhammad Abdul Ghani, was a great surprise to me. I could understand the usual evasion so often resorted to by Members of the Treasury Benches in answering questions: "Information has been called for and will be laid on the table in due course": or a still worse evasion: "the information is not readily available and its collection will involve an expenditure of time and labour not justified in war time": or another formula: "the information is not available but the collection of the information would involve labour and time not justifiable by the results": "they would be incommensurate with the results" and all that. Well the question of my Honourable friend, Maulvi Muhammad Abdul Ghani was: "Will the Honourable the Food Member please state (a) the number of licensed salt dealers in Bihar and the number of Muslim licensees". To this part (a) the answer was of the type of evasion No. 1. It was that the Bihar Government are collecting the information asked for and it will be placed on the table of the House in due course. As we are very often treated to that form of answer when we put questions in this House, nobody was surprised by receiving the answer given to part (a).

Then came part (b). That part asked for the number of licensed sugar dealers in Bihar and the number of Muslim licensees. Well, in answer to this he gave a figure which at first was heard to be 700 and later on corrected by him to be 178, out of whom, he told the House, three are Muslims. Even this did not surprise us. We are used to it. We find that sort iniquitous inequality in many other walks of life and if the wholesale sugar dealers in Bihar present such inequality, it does not surprise us. We may, of course, feel aggrieved. That is a different thing. We may think that we are not being fairly dealt with. That is a different thing. But there is no surprise that something unexpected has happened.

What really did surprise us was, Sir, the attitude adopted by the Honourable Member in answering supplementaries. I may, Sir, say that the words which I used in my supplementary questions truly represented my opinion and my feeling when I said: "Does not the Honourable Member realise that it is a regular scandal—I used the word 'scandal' most advisedly—that there should be only three Muslim dealers out of a total of 700 or 178 (as stated by him later on)". But my Honourable friend, the Food Member said: "I am sure the Bihar Government have done the right thing". What I characterised as a scandal and what I say every fairminded man would characterise as *prima facie* a scandal need surprise nobody, because there may

[Syed Ghulam Bhik Nairang.]

So, as my Honourable friend, Sir Raza Ali, has said, some reason for such amazing disparity between the numbers of Muslim and non-Muslim licensees, if the facts are disclosed. Everybody can understand it. But apparently and *prima facie*, it was a scandal and I put it to him in that way, and the concluding portion of his replies showed that really he was not sure of the facts so far. Yet he said they have done the right thing.

Then my friend, Maulana Zafar Ali Khan, put the question calling it injustice. He said when the Provincial Government have done this injustice, it is the duty of the Government to see that justice is done. Here again, the Honourable the Food Member said: "There is no injustice".

Now today, Sir, the attitude adopted by him is that really this adjournment motion is the result of misconstruction placed on his replies and on his attitude, but I think any fairminded man can look at the language of the question and at the language of the answers and see who brought in the communal aspect into the matter. The second supplementary question by Maulvi Muhammad Abdul Ghani was: Will the Honourable Member please draw the attention of the Bihar Government regarding such disparity? After all he did not speak of communal proportions. He said disparity. He only suggested drawing the attention of the Bihar Government to this. But no. Our Honourable friend, the Food Member, said so far as I am aware there is no rule for communal proportions being observed in such matters. Therefore, he feels quite safe and can deal with the situation as suits his own individual tastes. He is not bound to do justice to Muslims or to non-Muslims, to this or that man. Well, as there are no communal proportions, it is not necessary to draw the attention of the Bihar Government. Then later on, when Maulvi Muhammad Abdul Ghani said: "Is the Honourable Member aware that hundreds of representations have been made to the Bihar Government and the Bihar Government is ignoring them", he simply said: "I am not aware of it". Then Maulvi Muhammad Abdul Ghani said: "Does the Honourable Member propose to refer the matter to the Bihar Government?" He says: "I have already said that the information has been called for from the Bihar Government".

This part of the question is most disappointing. He did not say that any information had been called for on the subject of representations having been made. All that he said was "there are 178 licensed wholesale dealers in sugar out of whom three are Muslims. Information regarding retail dealers is not readily available and will be placed on the table of the House when received from the Bihar Government". It is this information relating to retail dealers which he had called for and not regarding any representations and yet he says, I have already said. That was a very ugly kind of trick. (Interruption.) About salt, of course, things did not assume any bitterness, it was sugar which made the whole thing so bitter that an adjournment motion was the result of it. After listening very carefully to the speech of the Honourable Member we feel that he has not succeeded in vindicating his attitude, he has failed to justify the doings of the Bihar Government, he has failed to justify the way in which the Sugar Controller has dealt with the matter. The whole thing looks as if some hanky-panky has certainly been committed in the matter. The allegation made, which has not been contradicted, is that really these licenses are granted to people who pay handsome amounts towards war loan or war subscription, and things of that sort.

The Honourable Sir Jwala Prasad Srivastava: I have contradicted that.

Syed Ghulam Bhik Nairang: He may contradict it, but I would request the Honourable Member to look into the matter further. There is a great deal of truth in the reports which come from all parts of India that these favours are conferred on people who, of course, not technically but in reality, pay bribes to Government. If that is the principle on which wholesale licenses or retail licenses are to be granted, then the position of Muslims is perfectly hopeless. We know that economically Muslims are very weak, they are too poor. If an auction is held, surely the highest bidder will be a non-

Muslim and not a Muslim. From that point of view, matters are hopeless, but if honest people bent on dealing honestly with men who have to deal with them in matters official are put in charge of things of this sort you can do much to avoid complaints cropping up at every stage. I was really surprised, as I said, to find yesterday the turn which was given to this matter by the replies and the attitude of the Food Member himself. I am still more surprised to-day that, instead of saying in a straightforward manner, "Well, on better consideration I find the matter deserves to be looked into more closely, I do undertake to do so, and this motion need not be pressed home", he still sticks to the attitude which he adopted yesterday, and, therefore, we must press this motion as much as we can.

Some Honourable Members: Let the question be now put.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the question be now put."

The Assembly divided:

AYES—36.

Ahmad Nawaz Khan, Major Nawab Sir.
Ambedkar, The Honourable Dr. B. R.
Azizul Huque, The Honourable Sir M.
Benthall, The Honourable Sir Edward.
Bewoor, Sir Gurunath.
Caroe, Sir Olaf.
Chapman-Mortimer, Mr. T.
Chatterji, Mr. S. C.
Daga, Seth Sunder Lall.
Dalal, Dr. Sir Ratanji Dinshaw.
Dalpat Singh, Sardar Bahadur Captain.
Gwilt, Mr. E. L. C.
Haidar, Khan Bahadur Shamsuddin.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Kamaluddin Ahmad, Shamsul-Ulema.
Krishnamoorthy, Mr. E. S. A.
Kushal Pal Singh, Raja Bahadur.
Lawson, Mr. C. P.
Miller, Mr. C. C.

Mudalilar, The Honourable Dewan Bahadur
Sir A. Ramaswami.
Ogilvie, Sir Charles.
Parma Nand. Bhai.
Raisman, The Honourable Sir Jeremy.
Richardson, Sir Henry.
Roy, The Honourable Sir Asoka.
Sant Singh, Sardar.
Shahban, Khan Bahadur Mian Ghulam Kadir
Muhammad.
Sheehy, Sir John.
Spence, Sir George.
Srivastava, The Honourable Sir Jwala Prasad.
Sultan Ahmed, The Honourable Sir.
Sundaresan, Mr. N.
Thakur Singh, Capt.
Trivedi Mr. C. M.
Tyson, Mr. J. D.
Vishnu Sahay. Mr.

NOES—19.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Azhar Ali, Mr. Muhammad.
Datta, Mr. Akhil Chandra.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Hedge, Sri K. B. Jinaraja.
Hosmani, Mr. S. K.
Liaquat Ali Khan, Nawabzada Muhammad.

Misra, Pandit Shambhudayal.
Murtuza Sahib Bahadur, Maulvi Syed.
Nairang, Syed Ghulam Bhik.
Nauman, Mr. Muhammad.
Raza Ali, Sir Syed.
Siddique Ali Khan, Nawab.
Yamin Khan, Sir Muhammad.
Yusuf Abdoola Haroon, Seth.
Zafar Ali Khan, Maulana.
Zia Uddin Ahmad, Dr. Sir.

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Does the Mover wish to reply?

Maulvi Muhammad Abdul Ghani: Yes, Sir. What I wanted to discuss is in clear terms of which I gave notice to the Honourable Member. He is said to possess greater command over the English language than I and even then if he is not able to follow, it is not my fault. He said that there is no rule for communal proportions regarding giving permits or licenses in matters of food commodities. May I ask him whether food is only taken by non-Muslims or Muslims also. If so, there must be some share of the Mussulmans in the management and distribution of food. He evaded my supplementary question and he has not been able to reply to that yet. I asked if the Honourable Member has got any information regarding the number of representations and memorials submitted to the Bihar Government against the injustices done to Muslims in matters of issue of permits or licenses for various commodities,

[Maulvi Muhammad Abdul Ghani.]

particularly sugar. Then he could not answer that question and in his reply also he has failed to answer that question. Now, it is my duty to point out to him that during the last Session I got a lengthy memorial and this memorial was first submitted to the Bihar Government and the dealer's name was Barkat Mian in the district of Muzaffarpur. He is a gentleman used to dealing in wholesale sugar for the last 50 years.

Maulana Zafar Ali Khan: 75 years.

Maulvi Muhammad Abdul Ghani: May be. He was refused permit and three non-Muslims were imported from Ajmer-Merwara and they were given the licences. Look at the injustice.

The Honourable Sir Jwala Prasad Srivastava: What price?

Maulvi Muhammad Abdul Ghani: That may be asked from the Controller.

The Honourable Sir Jwala Prasad Srivastava: What is the insinuation?

Maulvi Muhammad Abdul Ghani: The insinuation is—what is the cause of refusing a man who has been in the trade for 50 years. (*An Honourable Member:* "He is a man of lakhs".) Apparently there is no other cause.

Nawabzada Muhammad Liaquat Ali Khan: What are the facts? Will the Honourable Member read out?

Maulvi Muhammad Abdul Ghani: Perhaps it is due to some consideration surely which Barkat Mian could not fulfil. Then the matter was represented through the Muslim League, Muzaffarpur. No hearing was given. And then the matter was referred by an *ex-Member* of this House, Maulana Shafi Daudi. No heed was paid to it. Then, another representation was made by the Secretary, Muslim League, Muzaffarpur, which was also not heard. Then, another representation was made on behalf of the Muslim Chamber of Commerce, Tirhut Division. That was also not considered. So many representations were made on behalf of Muslim firms *i.e.*, Barkat and Co., by the Muslims of the whole district of Muzaffarpur which has a population of 4 lakhs of Muslims and there were many other petitions from other Muslim dealers, some of whom were dealing with sugar for a considerable period. Barkat Mian was refused and the other representations were also not heard by the highest officers there.

Nawabzada Muhammad Liaquat Ali Khan: What was written in the representation?

Maulvi Muhammad Abdul Ghani: One Mr. Abdul Qadir, Pleader and President of Lalganj Thana League in Muzaffarpur town said. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not read these representations.

The Honourable Sir Jwala Prasad Srivastava: I shall be very glad to receive that representation. If my Honourable friend will give it to me, I will inquire into it.

Maulvi Muhammad Abdul Ghani: I shall be very thankful to the Honourable Member if he will do it. If the Honourable Member had adopted this sort of courteous attitude while replying to the supplementaries, there would have been no trouble.

The Honourable Sir Jwala Prasad Srivastava: I am prepared to inquire into the representation.

Maulvi Muhammad Abdul Ghani: Sir, with your permission, I will read out a very short letter of Maulana Muhammad Shafi Daudi. He says:

"Dear Mr. Sanapati (*He is the officer in charge*), This is to inform you that the firm of Abdul Barkat, is known to me personally as one of the oldest dealing wholesale in sugar and having its headquarters at Lalganj under the jurisdiction of which I have my native land. It has been carrying on its business to the satisfaction of all concerned and has thus gained a reputation. I am told that the agency of the sale of sugar is being curtailed. We are afraid this firm may come under curtailment and then we will be put to the great hardship in the matter of supply of sugar. I, therefore, beseech you to recognise this firm as one of the agents for the sale of controlled sugar."

This was also refused. Everybody here and outside this House knows what sort of reputation Maulana Muhammad Shafi Daudi has. Mr. Senapati is the officer who is controlling food and other commodities in Bihar.

Sir, it is said that particular grievances are not brought to the notice of the Department. A series of questions have been put in this very Session by me regarding the sale of standard cloth, regarding the issue of permits and regarding the renewal of licences and so by my friend, Mr. Kailash Behari Lall, about salt, etc. About some it has been said that information is being collected and about others evasive replies have been given. I gave ample opportunity—more than 15 days—to the Department to collect information from Bihar and yet we have to wait for another Session. In the meantime, we will be put to much disadvantages as we can not put supplementary questions.

The Honourable Sir Jwala Prasad Srivastava: My reply was not evasive.

Maulvi Muhammad Abdul Ghani: Your reply is more than that because you have not only disappointed us but discouraged us also. In one of my questions I said that one person who purchased Rs. 60,000 worth of National Savings Certificates was allowed the monopoly of standard cloth of my own district, Saran.

Mr. President (The Honourable Sir Abdur Rahim): It has nothing to do with this motion.

Maulvi Muhammad Abdul Ghani: I am mentioning this only as an instance. Similarly, about sugar. I can say from my personal knowledge that there are hundreds of cases daily in my place as well as in other places and no one can get any permit of any kind in our province without either purchasing the National Savings Certificates or paying some contribution to somebody or some Association. It is an open secret and to deny all these things is to plead ignorance and nothing else. Similarly, the hardships felt in Patna, Gaya and other places were pointed out. In fact, grievances after grievances are pouring in from every quarter. The Muslim League of Bihar Province waited upon His Excellency in deputation pointing out all these grievances, particularly about the issue of permits and the issue of licences. And my Honourable friend says that the Bihar Government has done the right thing and there is no grievance of any kind. What kind of simplicity this is? '*Ai unt teri konsi kal sidhi.*' That is the condition applicable to this Department. What policy and what action of this Department is to be justified, nobody understands.

A Muslim merchant who was appointed by a State in Kathiawar as a dealer has been deprived of his agency and the agency has been given to a man of another creed. There are lots of such things.

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

Maulvi Muhammad Abdul Ghani: Telegrams after telegrams are being received mentioning the grievances of not only Muslims but also Hindus because the right type of Hindus do not get the licence.

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

"That the Assembly do now adjourn."

The Assembly divided:

AYES—15.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Azhar Ali, Mr. Muhammad.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Liaquat Ali Khan, Nawabzada Muhammad.
Murtuza Sahib Bahadur, Maulvi Syed.
Nairang, Syed Ghulam Bhiik.

Nauman, Mr. Muhammad.
Raza Ali, Sir Syed.
Siddique Ali Khan, Nawab.
Yamin Khan, Sir Muhammad.
Yusuf Abdoolah Haraon, Seth.
Zafar Ali Khan, Maulana.
Zia Uddin Ahmad, Dr. Sir.

NOES—26.

Ahmad Nawaz Khan, Major Nawab Sir.	Ogilvie, Sir Charles.
Benthall, The Honourable Sir Edward.	Parma Nand. Bhai.
Bewoor, Sir Gurunath.	Raisman, The Honourable Sir Jeremy.
Caroe, Sir Olaf.	Sant Singh, Sardar.
Chapman-Mortimer, Mr. T.	Shahban, Khan Bahadur Mian Ghulam Kadir
Chatterji, Mr. S. C.	Muhammad.
Daga, Seth Sunder Lall.	Sheehy, Sir John.
Dalal, Dr. Sir Ratanji Dinshaw.	Spence, Sir George.
Dalpat Singh, Sardar Bahadur Captain.	Srivastava, The Honourable Sir Jwala Prasad.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Sultan Ahmed, The Honourable Sir.
Krishnamoorthy, Mr. E. S. A.	Sundaressan, Mr. N.
Kushal Pal Singh, Raja Bahadur.	Thakur Singh, Capt.
Mudalilar, The Honourable Dewan Bahadur	Tyson, Mr. J. D.
Sir A. Ramaswami.	Vishnu Sahay, Mr.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Monday, the 3rd April, 1944.
