

THE
LÉGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VI, 1936

(31st August to 14th September, 1936)

FOURTH SESSION

OF THE

**FIFTH LEGISLATIVE ASSEMBLY,
1936**



**NEW DELHI
GOVERNMENT OF INDIA PRESS
1937**

Legislative Assembly.

President :

HONOURABLE SIR ABDUR RAHIM, K.C.S.I., Kt.

Deputy President :

MR. AKHIL CHANDRA DUTTA, M.L.A.

Panel of Chairmen :

MR. S. SATYAMURTI, M. L. A.

SIR LESLIE HUDSON, Kt., M.L.A.

MR. ABDUL MATIN CHAUDHURY, M.L.A.

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

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

Marshal :

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

Committee on Petitions :

MR. AKHIL CHANDRA DUTTA, M.L.A., *Chairman.*

SIR LESLIE HUDSON, Kt., M.L.A.

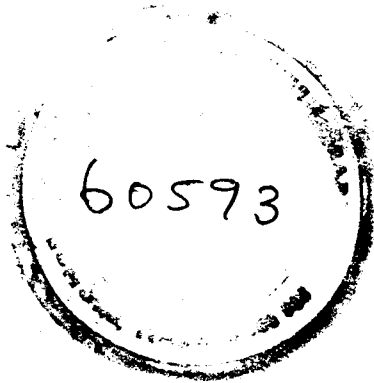
PANDIT NILAKANTHA DAS, M.L.A.

MAULVI SYED MURTUZA SAHIB BAHADUR, M.L.A.

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

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LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT OF THE FOURTH SESSION OF THE
FIFTH LEGISLATIVE ASSEMBLY.)

VOLUME VI—1936.

LEGISLATIVE ASSEMBLY.

Monday, 31st August, 1936.

The Assembly met in the Assembly Chamber in Simla, at Eleven of the Clock, being the First Day of the Fourth Session of the Fifth Legislative Assembly, pursuant to Section 63-D (2) of the Government of India Act. Mr. President (The Honourable Sir Abdur Rahim, K.C.S.I., Kt.), was in the Chair.

MEMBERS SWORN.

- Mr. Thomas Chapman-Mortimer, M.L.A. (Bengal-European) ;
Khan Bahadur Nawab Makhdum Murid Hossain Qureshi, M.L.A.
(South-West Punjab : Muhammadan) ;
Mr. George Ernest James Robertson, M.L.A. (Burma : European) ;
Mr. Satyendra Nath Roy, C.I.E., M.L.A. (Government of India :
Nominated Official) ;
Mr. John Anderson Thorne, C.I.E., M.L.A. (Government of India :
Nominated Official) ;
Mr. Robert Francis Mudie, C.I.E., O.B.E., M.L.A. (Government of
India : Nominated Official) ;
Mr. Susil Chandra Sen, M.L.A. (Government of India : Nominated
Official) ;
Diwan Bahadur Bandi Venkata Sri Hari Rao Naydu, M.L.A.
(Madras : Nominated Official) ;
Mr. Madhusudan Damodar Bhat, M.L.A. (Bombay : Nominated
Official) ;
Mr. Percival Joseph Griffiths, M.L.A. (Bengal : Nominated Official) ;
Mr. Srimanta Kumar Das-Gupta, M.B.E., M.L.A. (Bengal : Nominated
Official) ;
Mr. Rati Nath Dey, M.L.A. (United Provinces : Nominated Official) ;

Mr. Pandyala Satyanarayana Rau, M.L.A. (Central Provinces : Nominated Official) ;

Mr. Durgeswar Sharma, M.L.A. (Assam : Nominated Official) ; and

Mr. Charles Frederick Grant, M.L.A. (Burma : Nominated Official).

QUESTIONS AND ANSWERS

INTRODUCTION OF THE BIHAR CESS (AMENDMENT) BILL IN THE BIHAR LEGISLATIVE COUNCIL.

1. *Pandit Lakshmi Kanta Maitra : (a) Will Government please state if it is a fact that the Government of Bihar have introduced a Bill in the Provincial Legislative Council to amend the Local Cess Act ?

(b) Is it a fact that the Bill proposes to impose a cess on production and despatches of coal from coal mines in Bihar, in addition to the existing cess on profits of collieries ?

(c) Is it a fact that the maximum of the combined cess is proposed to be as much as three annas per ton of coal raised and despatched from coal mines ?

(d) Is it a fact that the Governor General in Council, while sanctioning the introduction of the proposed legislation, made a reservation to the effect that the Government of India would not acquiesce in the subjection of collieries in Bihar belonging to Railway administrations to the proposed enhanced cess, unless they were satisfied that the amounts of cess realised would be spent for the benefit of such collieries alone ?

(e) If the answers to the foregoing parts be in the affirmative, why was the reservation made in respect of Railway collieries only ?

(f) Have Government been convinced that the increased cess realised from collieries belonging to private owners and companies will be spent for the benefit of those collieries only ?

The Honourable Sir Nripendra Sircar : (a) to (c). Yes.

(d) and (e). The sanction required and granted was that of the Governor General, not of the Governor General in Council. In communicating the sanction of the Governor General, the Government of India conveyed an intimation to the effect indicated in the question. The basis of the intimation was the statutory power in respect of the subjection of railway administrations to local taxation which is vested in the Governor General in Council by section 135 of the Indian Railways Act. No corresponding powers exist in respect of collieries other than railway collieries and the Government of India therefore had no status to make a corresponding reservation in respect of such collieries.

(f) The Government of India must leave this question to the Local Government and the Local Legislature.

Mr. K. Ahmed : Has any other company or any private owner raised any objection to the Government of India's sanctioning the introduction of the proposed legislation or introducing a Bill in the Bihar Legislative

Mr. Sri Prakasa : Have you heard the question ? (Laughter.)

Mr. K. Ahmed : Is it not a fact that there was a great commotion in the country, and yet Government gave a special favour to the railway companies' collieries and not to outside owners ?

The Honourable Sir Nripendra Sircar : I have been unable to hear the question.

Mr. K. Ahmed : Is it not a fact that in the newspapers, the public platform and the press there was great commotion in the country that the Government was doing a great injustice in not allowing outsiders the same latitude of privileges as they allowed with regard to their own collieries ? Is it sauce for the gander and not sauce for the goose ?

The Honourable Sir Nripendra Sircar : Government have not heard of any commotion about the distinction between gander and goose. If my Honourable friend will draw my attention to any specific complaint in any specific paper, I can answer it. At the present moment, if I am compelled to answer, the answer is " No ".

Mr. K. Ahmed : In view of the fact that the Honourable the Law Member has caught hold of the gander and the goose and has missed the real point in issue, I want to put a definite and specific question whether there was a great commotion in the press and the public platform. The question was sent a long time ago, and why have not Government heard anything about it ?

The Honourable Sir Nripendra Sircar : The answer is " No ".

Mr. Ram Narayan Singh : May I take it that the Government accept the principle that the taxes realised from a particular person or company ought to be utilised for the benefit of that particular person or company ?

The Honourable Sir Nripendra Sircar : I do not know of any such principle.

Mr. Ram Narayan Singh : Then, what about the reservation referred to in part (d) of the question ?

The Honourable Sir Nripendra Sircar : That reservation does not indicate that principle.

Mr. Lalchand Navalrai : As it seems that there is one provincial cess and the other is an Indian cess that is going to be levied, what will be the difference between the two ? Why are two cesses levied simultaneously ?

The Honourable Sir Nripendra Sircar : What is the Indian cess and the provincial cess ?

Mr. Lalchand Navalrai : I am asking a question and the Honourable Member is putting me a question. The point is this. It is said in the question that the Provincial Government is going to amend the Local Cess Act. Why should it be in addition to the existing cess on the collieries ? I want to know whether two cesses are going to be levied or only one.

The Honourable Sir Nripendra Sircar : The power of amending is given by the Government of India Act, and if the Bill is not *ultra vires*, which I have no reason to think it is, then such power exists in the Local Legislature.

[31st AUG. 1936.]

(b) and (c). So far as the exports of Indian coal to overseas markets are concerned, there has been improvement in the position since the year 1924. The prices of Indian coal have no doubt been steadily declining since that year but the decline may be attributed generally to the economic depression, overproduction and the competition of foreign coal, such as Natal and Japanese coal, which is displacing Indian coal in its principal markets.

(d) Government have no information on the point.

(e) The matter is primarily one for the Local Government and the Local Legislature.

Pandit Lakshmi Kanta Maitra : Have the Government of India no control in this matter of mining? Has not the Railway Member any power to investigate whether any fresh taxation can be borne by a trade which is suffering the deepest depth of depression?

The Honourable Sir Muhammad Zafrullah Khan : The Railway Member has no authority.

Pandit Lakshmi Kanta Maitra : Not even in regard to collieries?

The Honourable Sir Muhammad Zafrullah Khan : If any question arises in regard to railway collieries, the matter can be investigated.

ROAD CESS ON DESPATCHES OF COAL FROM RAILWAY COLLIERIES IN THE HAZARIBAGH DISTRICT.

4. ***Pandit Lakshmi Kanta Maitra :** (a) Will Government please state :

- (i) if it is a fact that the Government of Bihar intend to impose Road Cess on despatches of coal from collieries owned by Railways in the district of Hazaribagh ;
- (ii) if it is a fact that the maximum cess contemplated is as much as three annas per ton of coal produced and despatched by such collieries ;
- (iii) if it is a fact that the Railway Board has agreed to submit to this cess on production, altering thereby the basis of the existing cess from profits to production of such collieries ; and
- (iv) if it is a fact that besides the existing cess on profits these collieries have to pay cess on rent of surface lands they acquire for purpose of the collieries ?

(b) If the answer to the foregoing parts be in the affirmative, will Government please state :

- (i) the amount or approximate amount of the cess which the Railway collieries will have to pay annually ;
- (ii) the purposes for which the amount of the cess to be paid will be spent ;
- (iii) whether the entire amount is to be made over to the District Board of Hazaribagh ;
- (iv) what the functions of this District Board are with reference to collieries ; and

(v) whether medical aid, health and sanitation, water supply and primary education which are supposed to be legitimate functions of Local Self-Government, are all provided at the Railway collieries at the cost of the collieries themselves ?

(c) If the answer to part (b) (v) be in the affirmative, will Government be pleased to state whether the amounts to be collected from Railway collieries are intended to be spent on the upkeep of road communication alone ?

(d) Will Government please state :

(i) the total mileage of metalled and unmetalled roads serving the Railway collieries in the district of Hazaribagh ; and

(ii) whether the entire amount to be raised as cess will be necessary for the upkeep of roads serving the collieries ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) The Government of Bihar have introduced a Bill of the nature mentioned, providing for the imposition of a local cess.

(ii) Yes.

(iii) Yes. The Government of India have agreed to the imposition of the cess on railway collieries provided that the proceeds are used for improvement of conditions in colliery areas.

(iv) Government understand that no cess on rent of surface lands is payable.

(b) (i) The amount of the cess will depend on the rate of tax finally decided on and the output from the various collieries. I am unable, therefore, to give a reliable estimate at present.

(ii), (iii) and (iv). The Honourable Member is referred to the Hazaribagh Mines Board Bill, 1936.

(v) The Railway collieries provide some of these services for the benefit of the employees.

(c) Upkeep of road communication within the mining areas is one of the purposes for which the amount collected is proposed to be spent.

(d) (i) About 62 miles.

(ii) Government have no information.

Pandit Lakshmi Kanta Maitra : I could not follow the answer to part (c) of the question.

The Honourable Sir Muhammad Zafrullah Khan : " Upkeep of road communication within the mining areas is one of the purposes for which the amount collected is proposed to be spent ".

Pandit Lakshmi Kanta Maitra : Also in the case of approaches to the feeder roads of collieries ?

The Honourable Sir Muhammad Zafrullah Khan : I have said " road communication within the mining areas ".

SUBJECTION OF RAILWAY COLLIERIES TO COAL CESS.

5. ***Pandit Lakshmi Kanta Maitra :** (a) Is it a fact that the Indian Taxation Enquiry Committee (1925), condemned the imposition

of local cess on production of coal in some of the collieries in the Central Provinces as "differential taxation"?

(b) If the answer to part (a) be in the affirmative, are Government prepared to subject Railway collieries to the proposed cess? If so, on what grounds?

The Honourable Sir Muhammad Zafrullah Khan : (a) In paragraph 474 of their report the Indian Taxation Enquiry Committee referred to the danger in the Central Provinces of differential taxation under cover of a provision in the law which gives powers of an unduly wide nature.

(b) The proposed legislation in Bihar does not give such wide powers to local bodies as the Central Provinces Local Self-Government Act gives.

Pandit Lakshmi Kanta Maitra : I wanted to know whether railway collieries are also intended to be subjected to this cess.

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that in my answer to question No. 4.

Pandit Lakshmi Kanta Maitra : I could not follow that.

The Honourable Sir Muhammad Zafrullah Khan : That I am unable to help.

Pandit Lakshmi Kanta Maitra : Help in respect of what?

The Honourable Sir Muhammad Zafrullah Khan : I am bound to read out the answer; I cannot help the Honourable Member in following it. I said, in answer to question No. 4 (a) (iii), "Yes. The Government of India have agreed to the imposition of the cess on railway collieries provided that the proceeds are used for improvement of conditions in colliery areas".

POPULATION OF THE HAZARIBAGH AND RANCHI DISTRICTS.

6. ***Pandit Lakshmi Kanta Maitra :** Will Government please state the total population of the Hazaribagh District and the Ranchi District separately?

The Honourable Sir Henry Craik : The population of the Hazaribagh District is 1,517,357 and of the Ranchi District is 1,567,149.

COMMUNIQUE ISSUED BY THE ROYAL CONSUL-GENERAL FOR ITALY, CALCUTTA.

7. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a communiqué issued by the Royal Consul-General for Italy, Calcutta, especially the latest one;

(b) whether their attention has been drawn to the abuse of the Press in India and the Governmental Agencies in this country, contained in this communiqué; and

(c) whether they propose to take any action in the matter; if not, why not?

Sir Aubrey Metcalfe : (a) and (b). Yes.

(c) The Government of India have protested through His Majesty's Government against the propagandist activities of the Italian Consul-General at Calcutta.

Mr. S. Satyamurti : Are Government aware that this Consul-General has been transmitting communiqués by post to me certainly and I believe to certain other Honourable Members also, in which they abuse Great Britain, the League of Nations and everybody except Italy, and may I know what action, apart from protesting, the Government of India propose to take against the abuse of the postal facilities in this country, for carrying on this agitation?

Sir Aubrey Metcalfe : The Honourable Member has put down another question on that subject which I shall answer shortly.

Mr. S. Satyamurti : When was this protest to His Majesty's Government made, Sir?

Sir Aubrey Metcalfe : I cannot give you the exact date, but I think it was certainly some months ago.

Mr. S. Satyamurti : Have Government heard anything in reply from His Majesty's Government?

Sir Aubrey Metcalfe : Certainly.

Mr. S. Satyamurti : What is the reply?

Sir Aubrey Metcalfe : That I am not at liberty to state, but, as the Honourable Member will have noticed, the propaganda against which we protested has entirely ceased.

Mr. S. Satyamurti : Will the Honourable Member take it from me that even this week I got communiqués from this Royal Consul-General which show that the propaganda has not ceased, but is increasing in venom and which ought not to be allowed to any civilized nation?

Sir Aubrey Metcalfe : I was not aware of that fact, but if the Honourable Member will let me have the pamphlet concerned, I shall be pleased to take any further action that may be necessary.

Mr. K. Ahmed : Is it not a matter of opinion that the statement of the so-called abuse of the Press in India, and that the Government agencies in this country in reference to the communiqué issued by the Royal Consul-General of Italy, Calcutta, have nothing to do with it?

Mr. S. Satyamurti : On a point of order, Sir. You have been good enough to rule on other occasions that with reference to the question concerned the Member has answered it. I submit, Sir, that this interruption is irrelevant.

Mr. K. Ahmed : I was not putting any question to Mr. Satyamurti or any other Honourable Member.

Mr. S. Satyamurti : I am submitting now to Mr. President.

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

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

8. ***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether it is a fact that the Japanese Consul-General had an interview with the officials of the Commerce Department of the Government of India ;
- (b) whether he expressed the Japanese Government's desire to go ahead with the negotiations, so that there may be a new treaty in place of the existing one in operation, when the Indo-Japanese Trade Agreement of 1935 expires in March next ;
- (c) whether they are considering the matter ;
- (d) when the negotiations are expected to begin ;
- (e) whether they propose to consult this House before finally completing the negotiations ;
- (f) whether they propose to consult commercial opinion, especially Indian commercial opinion, in the country at all stages of the negotiations ; and
- (g) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b), (c), (d) and (f). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

(e) No, Sir.

(g) Does not arise.

Mr. S. Satyamurti : May I know if the scope of the negotiations now covers the entire field of external trade between India and Japan or whether it is confined only to the renewal with or without modification of the protocol ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot add anything to the communiqués that have been already published.

Mr. S. Satyamurti : The communiqués are ambiguous on that matter and give no information. I am asking my Honourable friend whether he can throw any fresh light on this question, on which they are silent, as to whether the scope covers the entire trade or is confined only to the protocol.

The Honourable Sir Muhammad Zafrullah Khan : The communiqués contain as much information as is in the public interest to publish.

Mr. S. Satyamurti : May I know whether there is any hitch in the negotiations now ?

The Honourable Sir Muhammad Zafrullah Khan : I have nothing to add to what I have said already.

Mr. S. Satyamurti : May I know who is conducting the negotiations—the Honourable Member or his Secretary ?

The Honourable Sir Muhammad Zafrullah Khan : The actual officer carrying on negotiations with the Japanese representatives is the Secretary in the Commerce Department.

Mr. S. Satyamurti : May I know why the Honourable Member does not himself conduct these very important negotiations, he being an Indian eminently capable of representing the interests of this country ?

The Honourable Sir Muhammad Zafrullah Khan : I am much obliged to the Honourable Member for the compliment he has paid to me, but I understand there are diplomatic reasons in favour of the actual arrangement made.

Mr. S. Satyamurti : Is the reason this that Japan will only deal with a European and not with an Indian ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. Lalchand Navalrai : May I know from the Honourable Member if the communiqués also answer clauses (e) and (f) of this question ?

The Honourable Sir Muhammad Zafrullah Khan : Will the Honourable Member read the communiqués and find out whether they are or are not answered, and, if they are not, it is open to him to put down a fresh question.

Mr. Lalchand Navalrai : May I ask whether Government propose to consult the House before finally concluding the negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : That I have answered already.

Mr. S. Satyamurti : May I know the reasons why the Government do not propose to consult this House before completing the negotiations in view of the very strong opinion of this House on this matter, and its competence to pronounce upon them ?

The Honourable Sir Muhammad Zafrullah Khan : It would be impossible to complete negotiations of this character if the House has to be consulted before they are concluded.

Mr. S. Satyamurti : Are these negotiations to be concluded in India or in England ?

The Honourable Sir Muhammad Zafrullah Khan : In India.

Mr. T. S. Avinashilingam Chettiar : May I take it that these negotiations will not be ratified finally until after consulting this House ?

Mr. N. M. Joshi : Will the representatives of labour which is affected by these treaties be consulted in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : Government do not understand that any representatives of labour are affected by any of these negotiations.

Mr. N. M. Joshi : May I ask whether it is not a fact that the interests of the workers are affected by the textile industry as much as the interests of any other people ?

The Honourable Sir Muhammad Zafrullah Khan : The representatives of the textile industry were consulted on the matter.

Mr. N. M. Joshi : May I ask whether the interests of labour are not the interests of the industries ?

The Honourable Sir Muhammad Zafrullah Khan : That I am unable to say. I suppose the interests of labour are vitally bound up with the interests of the industry.

Mr. N. M. Joshi : May I, therefore, ask whether the representatives of labour were consulted ?

The Honourable Sir Muhammad Zafrullah Khan : The representatives of the industry were.

Prof. N. G. Ranga : May I know if the representatives of the cotton growers have been consulted ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. M. Ananthasayanam Ayyangar : May I know if any representative of the handloom industry was consulted ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Pandit Krishna Kant Malaviya : Am I to understand that representatives of every section of the people have been or will be consulted except the Members of this House ?

Mr. N. M. Joshi : And of labour also ?

INTERNMENT OF MR. SUBHASH CHANDRA BOSE.

9. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) where Mr. Subhash Chandra Bose is confined ;
- (b) what his present state of health is ;
- (c) whether their attention has been drawn to a statement in the Press about his health by a European doctor who treated him ;
- (d) whether they have provided for him proper treatment ;
- (e) whether they are aware of the answer to a question put in the House of Commons over the internment of Mr. S. C. Bose ;
- (f) whether they propose to refer his case to any judge or judges for enquiry ;
- (g) whether they have any idea of putting him on trial for specific charges ;
- (h) what are the charges on which he is now interned ;
- (i) how long they propose to keep him in internment ;
- (j) whether they have considered the effect of the adjournment motion passed by this House, protesting against the action of the Government in threatening internment for Mr. S. C. Bose ;
- (k) what their conclusions were ; and
- (l) the reasons for turning down the recommendation of the Assembly ?

The Honourable Sir Henry Craik : (a) At the residence of his brother at Giddapahar near Kurseong.

(b) and (d). The reports received show that Mr. Bose had an attack of influenza after his arrival in Kurseong and a slight evening temperature since. Examination does not however reveal any signs of trouble beyond tonsillitis. He is receiving proper medical treatment as necessary, from the Civil Medical Officer, Kurseong, and the Civil Surgeon, Darjeeling.

(c) I have seen the statement.

(e) I do not know to what particular question the Honourable Member refers.

(f) No.

(g), (h) and (j) to (l). It is not proposed to place Mr. Bose on trial. I would refer the Honourable Member to the speeches made in this House by Mr. Hallett and myself in connection with the adjournment motion relating to Mr. Bose's return to India which explain the reasons which have led Government to intern him under the provisions of Regulation III of 1818.

(i) As long as this is necessary in the public interest.

Mr. S. Satyamurti : May I know if the report of the Honourable the Home Member is the latest on this matter ? I am asking this, because I have seen—and I am sure the Honourable Member himself has also seen—some letters in the press recently saying that Mr. Bose is suffering from intestinal trouble. I should like to know if the Honourable Member has got any later report than what he read from, about Mr. Bose's health.

The Honourable Sir Henry Craik : The information that I have given to the House is the latest available.

Mr. S. Satyamurti : What is the date of that report from which my Honourable friend has read ?

The Honourable Sir Henry Craik : 15th August.

Mr. S. Satyamurti : May I know the reasons why Government do not propose to refer his case, as they do in the case of other detenus, to any Judge or Judges for inquiry ?

The Honourable Sir Henry Craik : That I explained, as far as I remember, in the speech on the adjournment motion.

Mr. S. Satyamurti : May I know if Government have found, after the release of his brother, Mr. Sarat Chandra Bose, that there has been any recrudescence of violent activity in Bengal, and, in view of the calmness that prevails in the province, will they consider the release of Mr. Subhash Chandra Bose also ?

The Honourable Sir Henry Craik : I do not see the connection between the two.

Mr. S. Satyamurti : They are brothers.

Pandit Lakshmi Kanta Maitra : Is it not a fact that Mr. Bose has been running slow temperature since his detention in Kurseong, that he has been considerably reduced in weight and has been suffering from insomnia and loss of appetite ? All these things have appeared in the press.

The Honourable Sir Henry Craik : If certain statements have appeared in the press, that does not necessarily prove that they are correct. Some statements that have appeared in the press about his health are totally incorrect. It has been said that he lost 20 lbs. in weight, which is quite incorrect. He only lost 3 lbs.

Pandit Lakshmi Kanta Maitra : Has any specific inquiry been made as to whether he has actually suffered from loss of weight, whether he was running slow temperature and whether he was developing intestinal tuberculosis ?

The Honourable Sir Henry Craik : Yes, I have got a full report from the doctor who says that he is not suffering from any such thing.

Mr. S. Satyamurti : Do Government review this case from time to time ?

The Honourable Sir Henry Craik : Yes.

Mr. S. Satyamurti : When did they review it last ?

The Honourable Sir Henry Craik : I must have notice of that question.

Pandit Lakshmi Kanta Maitra : Do Government propose to appoint a Medical Board to have a thorough examination of Mr. Bose and publish their report for the information of the public ?

The Honourable Sir Henry Craik : No, Sir.

Pandit Lakshmi Kanta Maitra : Why not ?

The Honourable Sir Henry Craik : Because he is receiving satisfactory treatment and there is nothing serious about his health which would justify the appointment of a Medical Board.

Pandit Lakshmi Kanta Maitra : He is being examined now by the Civil Surgeon of the place. Does my Honourable friend mean to suggest that he is the highest medical authority on the land, and does he think that his opinion is final and conclusive in the matter ?

The Honourable Sir Henry Craik : We have got the opinions of two medical officers—the Civil Medical Officer, Kurseong, and the Civil Surgeon, Darjeeling. They are both satisfied that there is nothing wrong with him except slight tonsillitis which can be corrected by an operation.

Pandit Lakshmi Kanta Maitra : Is there anything which prevents his being examined by expert doctors of Calcutta ?

The Honourable Sir Henry Craik : I see no necessity for it. There is nothing in the state of his health which would justify it.

Mr. Sri Prakasa : Do not Government think that the Home Member's "paradise" will suit Mr. Bose better than Kurseong ?

Pandit Lakshmi Kanta Maitra : What was the actual weight of Mr. Bose at the time of his detention and on the 15th of August ? That would give us a sure indication of his health.

The Honourable Sir Henry Craik : I cannot say what his actual weight was at the time of his detention, but I can say this that there is a difference of three pounds in his weight. His weight is still considerably in excess of what it ought to be for a man of his height.

Pandit Lakshmi Kanta Maitra : I want to know whether there has been any marked difference in his weight from the date of his actual detention and the 15th of August ?

The Honourable Sir Henry Craik : I have already said three pounds.

Pandit Lakshmi Kanta Maitra : How does the Honourable Member account for it unless he admits that he is suffering from ill health ?

The Honourable Sir Henry Craik : He is probably fitter now than he was then.

Mr. Akhil Chandra Datta : May I ask, Sir, if it is the case of the Government that they are unable to prove any case against him in a Court of law ?

The Honourable Sir Henry Craik : That question does not arise.

Mr. S. Satyamurti : I submit it does. Clause (g) relates to that.

Mr. President (The Honourable Sir Abdur Rahim) : That has been answered.

Mr. Akhil Chandra Datta : My question is this. He has not been put on trial. Is it because Government are unable to prove their case in Court ? Is that the reason why he is not being put on trial ?

The Honourable Sir Henry Craik : That is a hypothetical question. The Honourable Member asked me, if he was put on trial, would he be convicted ?

Pandit Lakshmi Kanta Maitra : Since his first detention, what new facts have come to light in the space of five months so as to justify his further detention in Kurseong ?

The Honourable Sir Henry Craik : No new facts that I am aware of.

Pandit Lakshmi Kanta Maitra : Then, how does the Honourable Member justify his further detention ?

The Honourable Sir Henry Craik : I said he would be detained as long as it is necessary in the public interest, and, in the opinion of the Government, the public interest does not yet justify his release.

Mr. S. Satyamurti : I want to ask a question with regard to clause (g). May I know why Government do not propose to put him before a Court of law on trial, for specific charges ?

The Honourable Sir Henry Craik : I explained those reasons in the debate on the adjournment motion. That was not the question which the Honourable the Deputy President put. What he said was : Would he be convicted if he was put on trial ?

Mr. S. Satyamurti : Government have no direct evidence on which to go before a Court of law ?

The Honourable Sir Henry Craik : That is not the reason.

Mr. S. Satyamurti : Then, what is the reason ?

The Honourable Sir Henry Craik : Because it is not desirable in the public interest to make the evidence public.

Mr. S. Satyamurti : Have Government considered this matter of the release of Mr. Bose, after the passing of the adjournment motion by

this House against his proposed internment? And, if they did consider the matter, have they come to the conclusion that they ought not to follow the opinion of this House, and, if so, why?

The Honourable Sir Henry Craik : Yes.

Mr. S. Satyamurti : What are the reasons?

The Honourable Sir Henry Craik : I cannot state the reasons in public.

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

SUBSIDY FOR DISTRIBUTION AMONG THE SUGAR-CANE CENTRES IN THE MADRAS PRESIDENCY.

10. ***Mr. M. Ananthasayanam Ayyangar :** (a) Is it a fact that Government have sanctioned Rs. 60,000 as subsidy to be distributed among the sugar-cane centres in the Madras Presidency?

(b) What is the purpose for which this subsidy is granted?

(c) What is the criterion for granting the subsidy to any society or organisation?

(d) Is it a fact that the Madras Government have insisted on the subsidy being allotted to only such of the organisations as have supplied sugar-cane to the factory?

(e) Is it a fact that the Sugar-cane Growers Co-operative Society, Hespel, and the Agricultural Societies, Hespel (Bellary District, Madras Presidency) have applied for the subsidy grant?

(f) Is it a fact that the Sugar-cane Growers Co-operative Society, Hespel, is organised by the India Sugars and Refineries, Ltd., Hespel, and controlled by it? Is it further a fact that two of the directors of the above Co-operative Society are paid employees of the Sugar Factory (India Sugars and Refineries, Ltd.), the third director is financially indebted to the Factory, and the fourth, its president, is the director in the Sugar Factory?

(g) Is it a fact that according to the by-laws of the Society members of the said Co-operative Society, who apply for the loan, should enter into an agreement that he would supply sugar-cane to the Factory at a price fixed by the Factory months prior to the date of the actual delivery without reference to market rate?

(h) Is it open to any society or organisation, which cannot fight for a fair price for sugar-cane, to apply for the subsidy grant?

Sir Girja Shankar Bajpai : (a) to (c). A sum of Rs. 60,000 was allotted provisionally to the Government of Madras out of the Sugar Excise Fund for assisting the cultivators of sugar-cane in securing fair prices for their cane. It was decided that grants from the fund will only be made for schemes formulated by Local Governments and approved by the Government of India. Out of the provisional allotment of Rs. 60,000 made to the Government of Madras, a sum of Rs. 2,500 has since been allotted to the Government of Orissa as a portion of the area under cane in Madras has been included in the Orissa province.

(d) The Government of Madras have provisionally decided that, as the allotment from the Sugar Excise Fund was intended to help the growers of sugar-cane to secure fair prices from sugar manufacturing concerns, help from the fund should be given only to growers who agree to sell their cane or their jaggery to a factory producing white sugar.

(e) Yes.

(f) Government have no information as to the first part of the question. The answer to the second part is in the affirmative.

(g) Under its by-laws the Society selects the purchaser to whom the cane has to be sold by members from time to time and also fixes a minimum price below which the cane should not be sold. It is not correct that the price is fixed by the Factory months prior to the date of actual delivery without reference to the market rate.

(h) It is open to any society or organisation to apply to the Local Government for assistance.

Mr. M. Ananthasayanam Ayyangar : If there is a difference of opinion regarding the fair selling price between the purchaser and the grower, is there any other authority to decide as to what the fair selling price is?

Sir Girja Shankar Bajpai : It is open to the party which considers itself aggrieved to approach the Local Government in the matter.

Pandit Lakshmi Kanta Maitra : There is no agency to arbitrate between the grower and the purchaser?

Sir Girja Shankar Bajpai : As far as I know under the rules of the co-operative society, there is no provision made for arbitration.

Mr. N. M. Joshi : May I ask whether Government, while making the allotment of subsidy, impose a condition that those who work as wage earners on sugar-cane fields get a fair wage?

Sir Girja Shankar Bajpai : As far as I know Government have made no attempt yet in any Province to determine the fair wage for agricultural workers.

Mr. N. M. Joshi : May I ask if Government have attempted to fix the price for the sugar-cane, and, if so, whether they will also try to fix a fair wage for those people who work on sugar-cane fields when they make allotments of subsidy?

Sir Girja Shankar Bajpai : It really is a matter for Local Governments who have to fix prices for the grower. If my Honourable friend so desires, I will pass on the suggestion to the different Local Governments concerned.

Prof. N. G. Ranga : Are Government aware that no minimum price is fixed for sugar-cane in Madras Presidency under the Sugar-cane Protection Act, and that, even in spite of protest made by various sugar-cane growers in the Madras Presidency, the Government of Madras have refused to fix the minimum price?

Sir Girja Shankar Bajpai : I am aware of that fact. I made enquiries from the Madras Government and they have reported that they do not find it necessary to fix a minimum price, because the prices actually

fetched have been higher than what the minimum price would have been according to the criteria fixed either by the Tariff Board or by the Sugar Technologist?

Prof. N. G. Ranga : Have the Government received any representation from Hospet and other places in the Madras Presidency protesting against the attitude of the Madras Government?

Sir Girja Shankar Bajpai : I do not think that either the Government of India or the Local Government are bound to take note of protests which are not justified by actual facts.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that the Imperial Council of Agricultural Research started an investigation into the fair selling price and that it has been going on for the past 1½ years? At what stage is that investigation at present?

Sir Girja Shankar Bajpai : As far as I am aware, the Imperial Council of Agricultural Research started no investigation into the fair selling price of sugar-cane. My Honourable friend is thinking of an entirely different investigation.

Mr. M. Ananthasayanam Ayyangar : I was referring to sugar-cane.

Sir Girja Shankar Bajpai : I am talking of sugar-cane.

Prof. N. G. Ranga : Is this subsidy being offered to the growers of sugar-cane in Madras Presidency in order to enable them to get a fair selling price in view of the failure of the Madras Government to fix a minimum price?

Sir Girja Shankar Bajpai : My Honourable friend ought to draw a distinction between fixation of minimum price and the securing of a fair price. My contention is that these cane growers in Madras are securing a fair price.

Prof. N. G. Ranga : If the cane growers are securing a fair price, where is the necessity for offering them this particular subsidy in addition?

Sir Girja Shankar Bajpai : The cane growers are not being offered a subsidy. Certain societies are being offered subsidies in order to enable them to make good terms with the buyers.

ASPERSIONS FLUNG ON THE MUSLIM COMMUNITY IN THE *Postal Observer*.

11. ***Khan Sahib Nawab Siddique Ali Khan :** (a) Are Government aware of the fact that in the *Postal Observer*, for March, 1936, aspersions have been flung on the Muslim community in calling them tigers, etc.?

(b) Are Government also aware of the fact that a certain Muslim official was tackled for casting aspersions as 'wolves' for the Hindu community?

(c) Is it a fact the *Postal Observer* is the official organ of the unrecognised Punjab and North-Western Frontier Posts and Telegraphs Hindu Union, which is run by the serving and retired postal staff?

(d) If the replies to parts (a) and (c) be in the affirmative, are Government prepared to deal with all the members, including the Executive,

of this unrecognized Union for creating ill-will between the two communities and disturbing the peace, as was done in the case of the Muslim official mentioned in part (b) above? If not, why not?

The Honourable Sir Frank Noyce : (a) and (c). Government have no information.

(b) Yes.

(d) Does not arise.

MALTREATMENT OF THE MUSLIM STAFF BY THE POSTMASTER, RAWALPINDI.

12. ***Khan Sahib Nawab Siddique Ali Khan :** Are Government aware of the fact that there has been a lot of hue and cry about the maltreatment of the Muslim staff by the present Postmaster, Rawalpindi?

The Honourable Sir Frank Noyce : Government have no reason to believe that the facts are as stated by the Honourable Member.

MALTREATMENT OF THE MUSLIM STAFF BY THE POSTMASTER, RAWALPINDI.

13. ***Khan Sahib Nawab Siddique Ali Khan :** (a) Are Government aware of the fact that on receipt of a complaint that the present Postmaster, Rawalpindi, was unnecessarily harassing Muslim staff, the Postmaster General, Punjab, deputed his senior Deputy to make enquiries in the matter, although the subject-matter of the complaint did not fall under the headings dealt with by that officer?

(b) If the reply to part (a) above be in the affirmative, is it a fact that the officer's report being perfunctory, the case was entrusted for thorough investigation to the Deputy Postmaster General directly concerned with the subject-matter of the case?

(c) Is it also a fact that the Postmaster General also looked into the complaints, while at Rawalpindi, and satisfied himself that the Muslim staff were actually harassed by the Postmaster?

(d) If the replies to parts (a), (b) and (c) above be in the affirmative, are Government prepared to take action against the Postmaster, as also steps to redress the grievances of the Muslim staff? If not, why not?

The Honourable Sir Frank Noyce : (a), (b), (c) and (d). Government have no information and do not propose to call for it as the Postmaster General is fully competent to deal with the matter.

CLERICAL VACANCIES IN THE DACCA HEAD POST OFFICE FILLED IN CONTRAVENTION OF THE REVISED COMMUNAL ORDERS.

14. ***Khan Sahib Nawab Siddique Ali Khan :** (a) Is it a fact that three clerical vacancies in the Dacca Head Office were filled in September, 1935, in contravention of the revised communal orders providing 71 per cent. of all appointments for Muslims?

(b) Is it a fact that the appointments have not yet been regularised, and that the irregularity has been pointed out by the Postmaster General who has decided that modification must be made?

The Honourable Sir Frank Noyce : (a) No. Owing to his not having received the revised orders of Government, the Postmaster made one appointment which was not in accordance with these orders, and the clerk so appointed was subsequently discharged.

(b) No. The error has been rectified.

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REPRESENTATION OF MUSLIMS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

15. *Khan Sahib Nawab Siddique Ali Khan : (a) Will Government please state the result of their investigations in respect of the submissions made by the Muslim Members of the Central Legislature in the memorandum, dated 27th March, 1935, to His Excellency the Viceroy and Governor General of India, regarding the representation of Muslims in the Indian Posts and Telegraphs Department ?

(b) Will Government please state the action taken on each of the points (a) to (k) in paragraph 9 of the said memorandum ?

(c) Is it a fact that while retrenching or discharging the surplus staff in any cadre, junior officials at the bottom of the list are removed from service, and that this nullifies the effect of the orders of reservation of vacancies for Muslims ?

(d) Will Government please state whether, like the Railway Department, there is any proposal of fresh retrenchment in the Posts and Telegraphs Department ?

The Honourable Sir Frank Noyce : (a) and (b). A copy of the reply to the memorandum referred to by the Honourable Member is laid on the table.

(c) The fact is not as stated by the Honourable Member in the first part of his question. The discharge or retirement of officials whose appointments may be abolished is governed by the rules in the Civil Service Regulations. The latter part of the question does not arise.

(d) There is, at present, no proposal for compulsory retrenchment on a large scale in the Posts and Telegraphs Department. But I would inform the Honourable Member that increases or decreases in the number of staff employed in the department due to administrative changes or fluctuations of traffic are a normal feature of administration and these will continue to be made under the ordinary rules.

No. Es.B.26-11/35.

GOVERNMENT OF INDIA.
DEPARTMENT OF INDUSTRIES AND LABOUR.

POSTS AND TELEGRAPHS BRANCH.

Simla, the 24th July, 1935.

FROM

A. G. CLOW, ESQUIRE, C.S.I., C.I.E., I.C.S.,

Offg. Secretary to the Government of India,

TO

A. K. FAZLUL HUQ, ESQUIRE, M.L.A.,

U/o Legislative Assembly Department, Simla.

Subject :—MEMORANDUM REGARDING REPRESENTATION OF MUSLIMS IN THE INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

SIR,

In reply to your letter, dated the 28th March, 1935, forwarding on behalf of yourself and certain other members of the Central Legislature a memorandum regarding representation of Muslims in the Indian Posts and Telegraphs Department, I am

directed to communicate the following observations. The references are to the paragraphs of the memorandum.

Paragraph 2.—The fixing of the ratios of recruitment of different communities in order to give effect to the Government Resolution of July 4th, 1934, is an intricate matter involving references to numerous local authorities. The work is being expedited as much as possible but its completion must take some time. As regards the last sentence of this paragraph, Government have no reason to suppose that the facts are as stated. The entry of a large number of candidates of one community in the waiting lists cannot benefit that community in the matter of recruitment as this is being conducted in strict accordance with the orders of Government for the protection of minority communities.

Paragraph 3.—The percentage of 25 has been fixed on a population basis. It is actually slightly in excess of the percentage strictly applicable on that basis, since in British India the percentage of Muslims in the 1931 census was 24.68.

Paragraph 4.—The policy of Government has been to ensure that the minority communities get a specified minimum proportion of the vacancies filled by direct recruitment. The Government of India made it clear in the second sub-paragraph of paragraph 9 of the Home Department letter No. F-14/8/35-Est. (S.), dated the 26th June, 1935, that they were not prepared to increase the percentage of vacancies for Muslims or to suspend the recruitment of other communities until the Muslims hold 25 per cent. of all posts in each service. A reference to the Annual Reports of the Posts and Telegraphs Department for the years 1932-33 and 1933-34 will show that the strength of the Muslims in the entire Department (excluding the non-gazetted staff of the Directorate), has risen from 21.66 per cent. in 1932 to 21.99 per cent. in 1933 and that 27.85 per cent. of the vacancies in the Department have gone to Muslims during the year 1933 as compared with 24.03 per cent. during 1932. Thus the interests of the Muslim community have not been neglected.

Paragraph 5.—The orders of Government relate only to recruitment and not to promotions. Strict instructions have been issued to all recruiting authorities and their compliance with the orders is being watched by a system of elaborate communal statements received annually from them. It is the duty of the Heads of Circles and of the Director General to see that the orders are being properly carried out. The figures given in the preceding paragraph show that the results of the control exercised by the Department in the matter of recruitment are satisfactory. In addition, as stated in paragraph 9 of the Home Department letter of the 26th June, 1935, referred to above, the Government of India have appointed an Additional Deputy Secretary in the Home Department, an important part of whose duties is to see that the orders are strictly observed. In these circumstances Government do not consider that there is any necessity for a separate special officer to be employed in the Posts and Telegraphs Department for the purpose.

The office staff dealing with questions relating to communal representation in the Home Department can be strengthened if and when this proves necessary. The Government of India consider that there is no ground for any apprehension in respect of compilation or examination of figures and statements. This work is carefully done and the detailed figures which will be furnished by the various Departments are always available for checking purposes if necessary.

Paragraph 6.—(i) As has been repeatedly stated in the Legislative Assembly and elsewhere, postings of staff in the various branches of the Department must be made with regard to the exigencies of the service and cannot be made on communal grounds.

(ii) The difficulty of securing duly qualified Muslim candidates has not arisen in the past except in the Bombay Postal Circle and orders have already been issued to the Postmaster-General, Bombay Circle, in November, 1932, to relax this restriction where necessary. Under the Resolution of the 4th July, 1934, the percentage of Muslims to be recruited will be fixed for each local recruiting area with due regard, *inter alia*, to the proportion of the Muslim population in that area. Consequently, a dearth of Muslim candidates is not likely to occur in future, especially in view of the provisions made in paragraph 8 of the Memorandum of Supplementary Instructions a copy of which was forwarded to you with the Home Department letter of the 26th June, 1935.

(iii) The preferential treatment accorded to sons and relatives of the employees is subject to communal considerations and does not operate to diminish the rights of any community in respect of recruitment.

(iv) Orders have already been issued to the effect that the plea that no suitable candidate of a minority community is available for filling a vacancy reserved for that community will not be accepted unless the vacancy has been advertised in such newspapers as are likely to be read by the public of the minority communities or unless a reference has been made to a suitable organization. Attention is invited in this connection to the provision made in paragraphs 8 and 10 of the Memorandum of Supplementary Instructions. No further action appears to be necessary.

(v) *Vide* paragraph 4 above.

Paragraph 7.—Attention is invited to the observations made by the Government of India in paragraph 4 of the Home Department letter of 26th June, 1935. Government cannot, with fairness to other communities, reserve for Muslims any proportion of vacancies to be filled by promotion. The claim of individuals to promotion must rest on their own merits and seniority combined and promotion could not be granted on communal grounds, without the risk of a grave depreciation in the efficiency of the service and of reasonable and serious discontent on the part of those whose promotion was thereby retarded.

Paragraph 8.—All compulsory retrenchment in this Department ceased with effect from the 1st April, 1935, but as stated in paragraph 6 of the Home Department letter of 26th June, 1935, the orders referred in this paragraph were issued to protect the interests of the minority communities themselves.

The numerical calculations in the second sub-paragraph are evidently based on a misconception of the position. The orders of Government are that 25 per cent. of the vacancies to be filled by direct recruitment should be reserved for Muslims. It is immaterial whether certain cadres are filled by promotion, because when any post in a higher cadre is filled by promotion it causes a vacancy in a lower cadre which is then filled by direct recruitment. Muslims thus secure posts equal in number of 25 per cent. of the vacancies in the whole service, whatever the cadres in which the vacancies originally arose.

Paragraph 9.—(a) and (b). Attention is invited to paragraph 7 of the Home Department letter of 26th June, 1935.

(c) Government orders prior to the Resolution of 4th July, 1934, did not reserve a fixed percentage for Muslims who had to compete for a share of 33 1/3 per cent. of the vacancies in posts filled by direct recruitment along with other minority communities. Those minority communities which were educationally advanced were then able to secure a proportionately higher number of posts. The present orders of Government ensure to Muslims a definite share amounting to 25 per cent. of all vacancies filled by direct recruitment.

(d) Government are not prepared to accept this wholesale condemnation of officers belonging to the majority community.

(e) The Government of India consider that their orders of 4th July, 1934, are clear; they will be brought into operation as soon as possible. Attention is also invited to the Memorandum of Supplementary Instructions referred to above.

(f), (g) and (h). These have been dealt with in paragraph 8 above.

(i) While it is true that in the gazetted ranks the percentage of Muslims is low, Government cannot accept the conclusion drawn in the concluding portion of the paragraph that the interests of an Indian official are safe only when entrusted to an officer of the particular community to which he may belong.

(j) It is admitted that there should not be an undue preponderance of any community.

(k) This has been dealt with in paragraph 5 above.

I have the honour to be,

SIR,

Your most obedient servant,

A. G. CLOW,

Offg. Secretary to the Government of India.

No. Es.-B-26-11/35.

* A copy is forwarded to the Home Department for information.

SIMLA,

J. R. T. BOOTH,

The 24th July, 1935.

Senior Deputy Director-General.

REPRESENTATION OF MUSLIMS IN THE GOVERNMENT OF INDIA OFFICES.

16. *Khan Sahib Nawab Siddique Ali Khan : (a) Will Government please state the action taken on paragraph 9 of the memorandum, dated the 27th March, 1935, submitted by Muslim Members of the Legislative Assembly, to His Excellency the Viceroy and Governor General of India regarding representation of Muslims in the Secretariat, Attached and Subordinate Offices of the Government of India ?

(b) Will Government please state how their new orders dated the 4th July, 1934, of recruitment in those offices have worked in actual practice ?

(c) Is it a fact that the number of Muslims in the Superintendents' and Assistants' and First Division clerks has been reduced instead of being increased ?

(d) Will Government please state whether the employees superseded, on the strength of departmental office memorandum embodying certain restrictions have a right of appeal against such supersessions, and, if so, whether they are entitled to copies of the " office memoranda " which are not published in the Gazette of the Government of India, but which are used for recruitment and promotion purposes ?

(e) Will Government please place on the table copies of the Home Department memorandum, dated the 8th December, 1928, and 8th October, 1934, circulated to all departments of the Government of India ?

(f) Are Government prepared to order that all such office memoranda circulated to departments of the Government of India or Local Heads of Government departments are circulated to the employees of the Government department concerned and published in the Government of India Gazette, and if not, why not ?

(g) Are Government prepared to order that no order and memorandum, copies of which were not and could not be supplied to the Government employees or circulated, should not be used for or against the employees ? If not, why not ?

The Honourable Sir Henry Craik : (a) I lay on the table a copy of the Home Department letter No. F. 14/8/35-Ests.(S), dated the 26th June, 1935, addressed to Mr. A. K. Fuzlul Huq, which was in reply to the memorandum.

(b) All vacancies are reported to the Home Department who first determine whether the vacancy should, according to the recruitment rules, be filled by direct recruitment or otherwise. Communal rosters on the lines indicated in paragraph 7 of the Memorandum of Supplementary Instructions connected with the Home Department Resolution No. F. 14/17-B/33-Ests., dated the 4th July, 1934 (copies of both of which are in the Library of the House), are maintained in respect of each Division separately. If the vacancy is to be filled by direct recruitment a candidate is nominated according to the roster, and this ensures

that candidates belonging to the minority communities get their due share of the vacancies.

(c) Information in regard to the number of Muslim Superintendents and Assistants in 1934 and 1935 will be included in the annual returns in respect of these years in the form referred to in paragraph 9 of the Memorandum of Supplementary Instructions. It is unlikely that these statements will show a reduction in the number of Muslim Superintendents and Assistants, and in any case any such reduction would be the result of promotions and retirements and not of any deficiency in the number of Muslims recruited.

(d) I presume the Honourable Member refers to the Home Department Office Memorandum No. F. 452/27-Ests., dated the 8th December, 1928 and No. F. 180/34-Ests., dated the 8th October, 1934, which lay down that promotion from a lower to a higher Division should be made strictly by selection from the most meritorious candidates. Any person who feels aggrieved by the orders passed in the matter of promotion is at liberty to represent his case to the Department concerned. Copies of Office Memoranda concerning the staff are generally communicated to their Association and are also available to the members of the establishment and in fact are obtained by them and quoted in representations. There is, therefore, no need for any formal communication.

(e) A copy of the Home Department Office Memorandum No. F. 452/27-Ests., dated 8th December, 1928, will be found in the Library of the House. I lay on the table a copy of the Office Memorandum, dated the 8th October, 1934.

(f) and (g). It is open to members of the staff to familiarise themselves with the orders regulating their conditions of service, but Government cannot undertake to supply copies of all orders to every Government servant nor would the expense of publishing all such orders in the Gazette be justified.

Copy of the Home Department letter No. F-14/8/35-Ests. (S.), dated the 26th June, 1935, to Mr. A. K. Fazlul Huq, M.L.A.

In continuation of my letter No. F-14/8/35-Ests., dated the 4th April, 1935, I am directed to forward, for your information, a copy of a Memorandum of Supplementary Instructions issued by the Government of India in connection with the orders contained in the Home Department Resolution No. F-14/17-B/33, dated the 4th July 1934, and to make the following observations on the remarks and suggestions made in the Memorandum addressed by you and some other Muslim Members of the Central Legislature to His Excellency the Viceroy and Governor General, in respect of the position of Muslims in the Secretariat, Attached and Subordinate Offices of the Government of India. Replies to the Memoranda relating to the Audit and Accounts Service, the Railways, the Posts and Telegraphs Department and the Central Public Works Department will be sent separately by the administrative Departments concerned.

2. In paragraph 2 of the Memorandum it is stated that although the instructions embodied in the Resolution referred to have been issued to ameliorate the position of Muslims in the services, in actual practice their position will become worse, and this illustrated by a concrete example. I am to point out that the calculations made in the Memorandum are based on certain assumptions which are not likely to materialize. In the first place, it is assumed that 10 vacancies out of 40 arise on account of casualties among Muslims in the Assistant

grade. This is not likely to be the case for a number of years, because of the present low percentage of Muslims, especially in the higher grades. Secondly, it is assumed that none of the vacancies in the First Division to be filled by promotion from the Second Division will go to Muslims. This too seems to be based on a misapprehension. The claims of Muslim members of the Second Division are considered for promotion equally with those of other members of that Division, and I am to add for your information, that out of the 8 vacancies so filled in the Home Department since 1925, 2 have gone to Muslims.

3. The interpretation, referred to in paragraph 3 of the Memorandum, that in the event of Muslims securing 25 per cent. of vacancies by open competition, the 25 per cent. reserved for them will lapse, is correct. This does not, however, mean that Muslims are worse off now than under the old orders. Muslims are now assured of 25 per cent. of vacancies, whereas under the old orders when all minority communities shared in a reservation of 33 1/3 per cent., the Muslim share of vacancies was liable to fall below 25 per cent. and did in fact sometimes fall below this figure.

4. With reference to the suggestion made in the first sub-paragraph of paragraph 4 of the Memorandum, I am to refer you to paragraph 5 of the Memorandum of Supplementary Instructions from which it will be observed that the percentages prescribed for minority communities are to be applied to vacancies in each grade or division of a service to be filled by direct recruitment. As to vacancies to be filled by promotion, it is the established policy of the Government of India that no proportion of such vacancies should be filled in accordance with communal considerations. All the members of a service, office or Department must rely on their own individual merits to gain promotion, and there is nothing to prevent Muslims, or members of other communities from securing their proper share of such vacancies in this manner.

5. As to the complaint made in the second sub-paragraph of paragraph 4 of the Memorandum, I am to say that the orders stopping direct recruitment of Assistants and Second Division clerks in Attached offices apply to all communities alike. The number of Assistants and Second Division clerks had to be reduced as an essential condition of the introduction of the Secretariat scales of pay which are higher than those previously obtaining in Attached Offices, but the result has been a corresponding increase of vacancies in the Third Division. As soon as the ultimate revised strength of the various Divisions in Attached Offices is attained, direct recruitment in the normal manner will be resumed.

6. The principle quoted in paragraph 5 of the Memorandum is still being followed. The orders regarding the preservation of the pre-retrenchment ratios of the various communities were issued for the express purpose of safeguarding the interests of Muslims, as it was apprehended that retrenchment in accordance with the principles laid down for selection of individuals for discharge might result in reducing the percentage of Muslims in service.

7. As to the remarks made in paragraphs 6 and 8 of the Memorandum, it is true that Muslims have not yet attained positions of responsibility and importance in proportion to their population, but this is due firstly to the paucity of sufficiently qualified men among them in the past, as they were much behind other communities in the matter of higher education, and, secondly, to the fact that the orders regarding communal representation have not yet been in operation long enough for their full effect to be felt, especially in those grades to which appointments are made by promotion. Ample opportunities exist for the redress of grievances through statutory appeals, petitions, memorials, etc., and the Government of India do not consider that any further action, other than that already taken in the form of Supplementary Instructions, is necessary to obviate the occurrence of cases of the kind mentioned in paragraph 8 of the Memorandum.

8. The proposal, referred to in paragraph 7 of the Memorandum, that Stenographers should in future be recruited without being required to pass an examination is still under the consideration of the Government of India. The observations made in the Memorandum will be duly considered before a decision is arrived at, but, in the meantime, I am to assure you that the proposal has not been initiated with the object of depriving Muslims of their due share of these appointments.

9. To come now to the appeal made in paragraph 9 of the Memorandum, I am to say that the first suggestion has already been dealt with in paragraph 4 above. As to the second suggestion, the Government of India have appointed an Additional Deputy Secretary in the Home Department, an important part of whose duties is to see that the orders are strictly observed. The statements prescribed in paragraph 9 of the Supplementary Instructions will be useful to him for this purpose.

The third suggestion is that steps should be taken to secure for Muslims their due share within a specified period. The Government of India recognise that at present the percentage of Muslims in some grades or divisions is below 25 and that the filling of future vacancies to the extent of 25 per cent. will not secure to them this percentage of posts for a number of years. Nevertheless, the position cannot, with fairness to other communities, be remedied immediately, and Government are not prepared to increase the percentage of vacancies for Muslims or to suspend the recruitment of other communities until the Muslims hold 25 per cent. of all posts in each service.

With regard to the fourth suggestion, I am to say that Government will take steps to see that appointing authorities carry out these instructions.

Copy of the Home Department Office Memorandum, No. F-180/34-Ests., dated the 8th October, 1934, to all Departments of the Government of India.

SUBJECT :—*Question of the stoppage of external recruitment and the filling of vacancies by promotion in order to accelerate the process of readjustment of the clerical staff consequent on retrenchment and the introduction of new rates of pay in Attached offices.*

The attention of the Foreign and Political Department[etc., is invited to the Home Department Office Memorandum No. F-250/2/32-Ests. (S.), dated the 9th May, 1934. As a condition of applying the revised Secretariat scales of pay to new entrants in the Attached Offices the number of posts in the First and Second Divisions in the Attached Offices will be materially reduced and a corresponding number of posts will be created in the new Third Division. If this scheme is to have its full effect in the shortest period of time, every vacancy in the higher divisions should be utilised to effect the necessary reduction and replacement; but as this would involve hardship on the clerks in the existing Second Division since they are normally entitled, if qualified, to promotion in every second vacancy in the higher division, vide Home Department Office Memorandum No. F-452/27-Ests., dated the 8th December 1928, the Government of India have decided that the first and every alternate vacancy thereafter in the First Division that may occur in an Attached Office should, with effect from the 1st October, 1934, or in cases where vacancies occurring in September, 1934, have not already been filled before the receipt of these orders, from 1st September, 1934, be filled by promotion from amongst qualified members of the old second division. The second, fourth and sixth vacancies, etc., will thus remain unfilled till the requisite sanctioned strength for the First Division is reached. This concession will apply only to those candidates who are already serving in the same office on the old second division scale of pay and are fully qualified for promotion.

2. As regards the Government of India Secretariat in which owing to the retrenchment campaign of 1931-32 certain posts were abolished and Departments undertook to replace a number of Second Division posts by Third Division ones as vacancies occurred, it has been decided that the first and every fifth vacancy thereafter that may occur in the Second Division after the 1st October, 1934, or in cases where vacancies occurring in September, 1934, have not already been filled before the receipt of these orders, from 1st September, 1934, should be filled by promotion from the Third Division, provided qualified and exceptionally meritorious men are available.

3. The Foreign and Political Department[etc., is requested to communicate a copy of this office Memorandum to such of its Attached and Subordinate Offices as recruit through the Public Service Commission.

REPRESENTATION OF MUSLIMS IN THE AUDIT AND ACCOUNTS SERVICE.

17. *Khan Sahib Nawab Siddique Ali Khan : (a) Will Government please state the action taken on the memorandum, dated the 6th March, 1935, submitted to His Excellency the Viceroy and Governor General of India regarding the representation of Muslims in the Audit and Accounts Services by Muslim Members of the Legislative Assembly?

(b) Will Government please state whether, in view of the fact that reservation for initial recruitment at the bottom and again retrenchment at the bottom could not, in actual practice, improve the position of Muslims, the proposal contained in paragraph 3 of the said memorandum for reservation in "Grade and Grade Promotion" has been considered, and, if so, with what result?

The Honourable Sir James Grigg : I would refer the Honourable Member to the reply given in Finance Department letter No. F. 10 (10)-Ex. I/35, dated the 23rd December, 1935, addressed to the signatories of the Memorandum including the Honourable Member himself, a copy of which is laid on the table.

No. F. 10 (10)-Ex.I/35.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT.

New Delhi, the 23rd December, 1935.

FROM

J. C. NIXON, ESQUIRE, C.I.E., I.C.S.,
Secretary to the Government of India,

TO

MAULVI SIR MUHAMMAD YAKUB, M.L.A.,
etc.

SUBJECT :—*Representation of Muslims in Audit and Accounts Services.*

SIR,

I am directed to refer to the memorandum, dated the 6th March, 1935, addressed to His Excellency the Viceroy regarding the representation of Muslims in Audit and Accounts Services, and to enclose a copy of a note in which the various statements made in it are examined.

2. The orders regarding the redress of communal inequalities in recruitment to Government service, contained in the Resolution No. F-14/17-B/33, dated the 4th July, 1934, apply only to direct recruitment and it is expressly stated in the Resolution that recruitment by promotion will continue to be made solely on merit. From this policy the Government of India are not prepared to depart.

3. It is moreover clear that the application of the percentages prescribed in the Resolution of the 4th July, 1934, must take some years to produce its full effect. The Government of India are satisfied that the principles laid down in the Resolution are being applied in the case of these Services. Since 1926, 12 Muslims have been recruited to the Indian Audit and Accounts Service out of a total of 45, a figure slightly in excess of the prescribed Muslim percentage.

[31st Aug. 1936.]

4. After a careful consideration of your memorandum, the Government of India do not consider that it is necessary to issue in the case of the Audit and Accounts Services further orders on the lines indicated in paragraph 11 of your Memorandum regarding representation of Muslims in the Railway Services.

I have the honour to be,

SIR,

Your most obedient servant,

J. C. NIXON,

Secretary to the Government of India.

No. F. 10 (10)-Ex.I|35.

Copy, with a copy of the memorandum under reply, forwarded to the Home Department, for information.

Before answering the specific complaints in the memorandum submitted by the members of the Legislative Assembly it may be pointed out that when instructions were first issued prescribing a certain percentage of minority recruitment the Government of India were aware of the fact that the percentages then prescribed could not at once be achieved in the total composition of any Service or Department. The fact that the percentage adopted for recruitment has not yet been attained in the total composition of a department does not justify the inference that the Department has deviated in any way from the orders of the Government of India. To this extent the deficiency should not be a reason for complaint. For instance, the recruitment to the Indian Audit and Accounts Service since 1926 has been as follows:—

Hindus	29
Muslims	12
Sikhs	2
Burmans	2
	45

The prescribed percentages have therefore been correctly observed and Muslims have obtained a share slightly in excess of that laid down by the recent July, 1934, orders.

2. The following remarks are offered on the specific complaints in the memorandum:—

Paragraph 2 (a).—The correct figures are—

	Muslims.	Total.	
Indian Audit and Accounts Service	17	166	Up to date.
Assistant Accounts Officers	2	77	
Subordinate Accounts Service	32	656	
Clerical grades	741	6,740	as on 31st December, 1933.

In paragraph 2 (a) (iv) of the memorandum, figures for the following offices have been omitted:

- Comptroller, Assam.
- Comptroller, North-West Frontier Province.
- Audit Officer, Indian Stores Department.
- Audit Officer, Lloyd Barrage and Canals Construction.
- Director of Army Audit.
- Director of Railway Audit and offices subordinate to him.

If these offices be included in the composition of the clerical grades will be 741 Muslims in a total of 6,740 instead of 564 Muslims in a total 5,650 as shown in paragraph 2 (a) (iv) of the memorandum. [Figures for items (iii) and (iv) are as they stood on 31st December, 1933. Later figures are not available.]

3. The orders of the Government of India provide for a gradual increase in the representation of minority communities by reservation of a prescribed percentage of vacancies for them. The orders do not apply to departmental promotions which are mainly regulated by merit and seniority. If the minority communities receive their prescribed share in the grades to which direct recruitment is made there is no reason why they should not obtain promotion to higher grades after about the same period of service as in the case of the majority community. If reasonable efficiency on the part of minority community personnel be assumed (and every effort is being made to maintain the standard), the proportions in the grades filled by departmental promotion should readjust themselves in due course.

4. Paragraph 3 (a).—Paragraph 8 of the Resolution, dated the 4th July, 1934, does not permit the fixing of a higher percentage for recruitment of Muslims than that prescribed in the paragraph. Government have never agreed to the application of recruitment orders to departmental promotions from grade to grade and the question whether there should be any modification of this policy is a general one concerning all Departments. The introduction of the element of communal representation into promotion to grades filled by selection on considerations of merit and approved service would obviously be detrimental to efficiency. Where however it has been the recognised policy to have a measure of direct recruitment to a grade in the Audit Department ordinarily filled by departmental promotion as in the case of the Subordinate Accounts Service the opportunity has been taken to redress communal inequalities by this means and recent recruitment has been almost invariably from minority communities and generally has been Muslim. Confirmation in this grade however depends upon passing an examination and although every reasonable consideration has been shown to Muslim candidates few of them have succeeded in passing the examination. The number of appointments of this kind made since 1930 is 13, including 11 Muslims and 2 from other minority communities.

5. Paragraph 3 (b).—The suggestions made here are without foundation. Concessions in the matter of passing examinations are in particular expressly discountenanced by the Auditor-General.

6. Paragraph 4 (a).—Postings of officers are made after taking into account the usual administrative considerations and in conformity with a general policy of placing officers as far as possible in their own provinces. This policy has facilitated economy and contributes to the contentment of the officers themselves. It is not open to the objections which might be urged if it were applied to executive offices. It follows that a larger proportion of Muslim officers will be found in offices in Northern India but it is not true that Muslim Officers have been concentrated in any single office exclusively. The complaints made in this sub-paragraph are based on insufficient information: the suggestions are not acceptable administratively and the adoption of them would not be conducive to the contentment of the officers themselves.

7. Paragraph 4 (b).—The memorandum ignores the fact that of the 2 Assistants of the Indian Audit and Accounts Service usually attached to the Auditor-General's office one was a Muslim during the year 1932-33. He was the first Muslim Officer so to be employed, he dealt with personnel questions and left on promotion. It is perhaps relevant to point out that the Auditor-General and his Deputy are Europeans. As regards the Subordinate Accounts Service a direct Mohammedan recruit was taken in the year 1930. In spite of extra opportunities given for passing the examination, he failed to pass it; he resigned his post in 1934 and another Muslim probationer has been recruited in his place.

8. Paragraph 4 (c).—The allegations here are unfounded and the remedy suggested would not be effectual. The safeguarding of minority community recruitment is the Auditor-General's personal concern and observance of the rules is checked by him regularly both through returns and by his personal inspections.

REPRESENTATION OF MUSLIMS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

18. *Khan Sahib Nawab Siddique Ali Khan: (a) Will Government please state the action taken on the various issues raised in the memorandum dated the 29th March, 1936, submitted to His Excellency the

Viceroy and Governor General of India, by the Muslim Members of the Legislative Assembly, regarding representation of Muslims in the Central Public Works Department ?

(b) Will Government please state the orders passed on the suggestions (a) to (f) contained in paragraph 7 of the said memorandum, and, if not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). A full reply to the memorandum referred to in the question was sent to Mr. A. K. Fazlul Huq in the Government of India, Department of Industries and Labour, letter No. E-65, dated the 16th August, 1935, a copy of which is placed on the table.

COPY OF LETTER FROM THE OFFICIATING JOINT SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF INDUSTRIES AND LABOUR, PUBLIC WORKS BRANCH, TO A. K. FAZLUL HUQ, ESQUIRE, M.L.A., 215, JHAWTOLA ROAD, CALCUTTA, NO. E-65, DATED THE 16TH AUGUST, 1935.

SUBJECT :—Representation of Muslims in the Central Public Works Department.

1 am directed to refer to the memorandum, dated the 29th March, 1935, on the subject noted above, which was addressed to His Excellency the Viceroy by you and other members of the Legislative Assembly.

2. The Government of India do not accept as complete or entirely accurate the figures given in paragraph 4 of the memorandum. But in view of the circumstances in which the Central Public Works Department became a permanent Department in 1933, and of the conditions under which work is now being carried on, no very useful result can be obtained by an examination of figures at short intervals. I am to explain that the permanent Department was formed by the amalgamation of (a) a large temporary staff employed in the Delhi Province and at Dehra Dun, with (b) three permanent divisions at Simla, Ajmer and Indore. Many of the temporary staff had been employed continuously for years, and it would have been unjust to discharge men with long service merely to make room for new recruits belonging to minority communities. Of the permanent divisions, the division at Simla was a central organisation; the divisions at Ajmer and Indore were staffed by the United Provinces and the Central Provinces respectively. All three divisions were absorbed in the new Department, and there was no question of discharging any of the permanent men then employed in them. The Department was thus formed from several organisations recruited in different ways, and it cannot be expected to reflect the results of a uniform system of recruitment. Apart from this, construction work is still in progress, and there are, in addition to the permanent establishment, two temporary Circles of two and five Divisions respectively. These Circles deal with the New Capital and with Civil Aviation works; there is no intention of making them permanent, and while they are in existence many temporary men pass through the Department. A comparison based on permanent and temporary figures is therefore likely to be misleading.

3. As regards the suggestions summarised in paragraph 7 of the Memorandum, I am to refer you to the Home Department letter No. F. 14/8/35-Est(s.), dated the 26th June, 1935, and to make the following observations :

(a) Appointments of Superintending Engineer and Executive Engineer (or Divisional Officer) are not filled by direct recruitment. Most of the gazetted posts in the Department have in the past been filled by the transfer from the provinces of officers of the Indian Service of Engineers, or the Provincial Engineering Services. With the creation of new posts of Assistant Executive Engineer, which are open to direct recruitment, the posts of Executive Engineer will probably be filled by promotion to a greater extent than has been possible in the past; but the Government of India are not prepared to reserve vacancies in the posts of Executive Engineer or in the posts of Superintending Engineer, for Muslims.

(b) Superintendents and Head Clerks are not recruited directly, and no reservation for Muslims can be made. Any vacancies in the grade of Assistant to be filled by direct recruitment will be subject to the provisions of the Home Department Resolution No. F. 14/17-B.33-Est., dated the 4th July, 1934.

(c) The Government of India cannot agree that the principle of communal reservations should be applied to grade to grade promotions. Promotions must, as in the past, depend on merit and seniority alone.

(d) The reservation sanctioned is 25 per cent. of all vacancies to be filled by direct recruitment; the Government of India are unable to agree that for the purposes of selection or competition the unreserved should be separated from the reserved vacancies. If Muslims secure on their merits 25 or 30 per cent. of a given set of vacancies they are clearly in no need of special protection.

(e) It would be impossible, without grave injustice to other communities, to fix a period within which the strength of Muslims in the Central Public Works Department must be increased to a specified figure. The Government of India regret that they cannot accept this suggestion.

(f) The Government of India cannot agree to the establishment of mixed boards to deal with service cases. The statutory rules already give ample scope for appeals.

CHANGE IN THE CYPHER CODE.

19. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state for how long attempts are being made to change the cypher code in India ?

(b) In what stage is the proposed change ?

(c) When is this change expected to be completed ?

Sir Aubrey Metcalfe : (a) to (c). The new Codes are already in use.

Mr. M. Ananthasayanam Ayyangar : Are Indians using that Code ? Have Indians been confided with these Codes ?

Sir Aubrey Metcalfe : If the Honourable Member will wait for the next question, he will hear the answer.

NON-APPOINTMENT OF INDIANS IN THE CYPHER BUREAU.

20. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state what the reasons are for not appointing Indians in the Cypher Bureau ?

(b) Has there been an order or understanding with the British Government, express or implied, that Indians should not be appointed to the Cypher Bureau, so long as the present cypher continues ?

(c) If so, what action have Government taken in this matter ?

Sir Aubrey Metcalfe : (a) There is no bar to the appointment of Indians to the Central Cypher Bureau, and an Indian has already been posted there.

(b) and (c). Do not arise.

Mr. M. Ananthasayanam Ayyangar : What is the total number of officers at present employed in the Cypher Bureau of all nationalities ?

Sir Aubrey Metcalfe : I cannot give the Honourable Member the exact number, but I think about 14 altogether.

Mr. M. Ananthasayanam Ayyangar : Has one Indian alone been found competent to do this work ?

Sir Aubrey Metcalfe : That is not the point. All the present posts are filled up ; they cannot be immediately vacated in order to make room for Indians.

Pandit Lakshmi Kanta Maitra : Is this Indian an Anglo-Indian ?

Sir Aubrey Metcalfe : No, he is an Indian, a full Indian.
(Laughter.)

Mr. Lalchand Navalrai : May I know whether he has been appointed merely as a clerk without any responsibility, or is he in any responsible position ?

Sir Aubrey Metcalfe : He certainly has not been appointed Superintendent.

RECRUITMENT OF INDIANS IN THE GOVERNMENT OF INDIA DEPARTMENTS.

21. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state whether there are any departments of the Government of India to which Indians are not recruited ?

(b) Are there any departments in which recruitment of Indians is not prohibited, but still none have been appointed till now ?

(c) What are the posts in superior services in the Government of India to which recruitment of Indians has not been prohibited ?

The Honourable Sir Henry Craik : (a) and (c). Indians are eligible for all superior posts in all Departments of the Government of India.

(b) No.

Mr. M. Ananthasayanam Ayyangar : Is there any Indian Secretary in the Home Department or in the Finance Department ?

The Honourable Sir Henry Craik : That does not seem to arise, but there are Indians in superior appointments in both these Departments.

Mr. S. Satyamurti : In view of the coming Federation and Provincial Autonomy, is there any move to oust all Indians and provide Europeans in what are called the key positions ?

The Honourable Sir Henry Craik : I have never heard of it ; the Honourable Member may have some such move.

Mr. Akhil Chandra Datta : Is there any Department in which the recruitment of Indians is prohibited ?

The Honourable Sir Henry Craik : No, Sir.

Mr. Akhil Chandra Datta : Practically, to all intents and purposes ?

AMENDMENT OF RULES AND STANDING ORDERS IN RESPECT OF PRIVILEGES OF THE LEGISLATIVE ASSEMBLY.

22. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state whether, in view of the fact pointed out by the Honourable the

President in his ruling on Sardar Sant Singh's raising the question of the privilege of this House, they propose to bring forward any motion to amend the rules and standing orders ?

(b) If so, what action do Government propose to take in the matter ?

The Honourable Sir Nripendra Sircar : (a) and (b). I have given notice of a Resolution on the subject and I propose to move the same during the course of the present Session.

POSITION OF INDIANS IN ZANZIBAR.

23. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) what is the effect of the Zanzibar Anti-Indian decrees on the Indians there ;

(b) whether they have received any replies to their representations to the British Government ;

(c) if so, what ; and

(d) what is the latest position of Indians in Zanzibar ?

Sir Girja Shankar Bajpai : (a) to (d). The Honourable Member presumably refers to certain decrees passed by the Zanzibar Legislative Council in 1934. The clove industry, to which one group of these decrees relates, has been the subject of a special enquiry by Mr. Binder, who was deputed to Zanzibar for the purpose. The Government of India sent Mr. Bozman to Zanzibar to act as observer on their behalf in connection with this inquiry. Mr. Binder's report is now awaited. As regards the Land Alienation Decree correspondence with His Majesty's Government is still in progress. The Government of India hope that decisions on this subject also will shortly be forthcoming.

Mr. M. Ananthasayanam Ayyangar : Are the decrees in operation now or have they been suspended ?

Sir Girja Shankar Bajpai : The decrees have been in operation since they were passed.

Mr. T. S. Avinashilingam Chettiar : When do they expect Mr. Binder's report ?

Sir Girja Shankar Bajpai : I could not give a specific date, but I hope shortly.

Mr. S. Satyamurti : Is Mr. Binder's report to be submitted to the Government of India as well as to His Majesty's Government, or to the Government of India alone ?

Sir Girja Shankar Bajpai : He was appointed by the Secretary of State for the Colonies and his report will be submitted to that authority. But I understand that it is the intention of the Secretary of State for the Colonies to supply copies of the report to the Government of India also.

Mr. S. Satyamurti : May I know whether the Government of India will get an opportunity, or will be given an opportunity, to make their representations on Mr. Binder's report, before the Secretary of State for the Colonies makes up his mind on the conclusions of the report ?

[31st Aug. 1936.]

Sir Girja Shankar Bajpai : That certainly is the intention, as far as I am aware.

Mr. T. S. Avinashilingam Chettiar : May I take it that some one is making an inquiry on behalf of the Government of India ?

Sir Girja Shankar Bajpai : Mr. Bozman was sent to Zanzibar to make an inquiry on our behalf. The inquiry is completed.

Mr. T. S. Avinashilingam Chettiar : Has he submitted any representation to the Government of India ?

Sir Girja Shankar Bajpai : He sent a memorandum to the Government of India.

Mr. S. Satyamurti : In view of the fact that another clove season is on or will soon be on, do the Government of India realise that the continuation of these decrees for another season will cause disaster to the Indian merchants, and what steps do they propose to take to mitigate the loss to them ?

Sir Girja Shankar Bajpai : I can assure my Honourable friend that the Government of India are fully conscious of the inconvenience of the continuance of this legislation. I do not think I need say anything more on the subject.

Mr. S. Satyamurti : Is the Honourable Member going to do anything more ?

Sir Girja Shankar Bajpai : After all, the mere fact that Mr. Binder was appointed to go into the operation of this legislation is some proof of success on the part of the Government of India.

Mr. S. Satyamurti : How long do Government expect to take before they are in a position to come to some conclusions on this Mr. Binder's report ? Will it be at least before another season is on ?

Sir Girja Shankar Bajpai : As far as I know, the intention of the Secretary of State for the Colonies is to take action on Mr. Binder's report expeditiously.

REPORT OF THE SAPRU COMMITTEE ON UNEMPLOYMENT.

24. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :
(a) whether they have finished consideration of the report of the Sapru Committee on unemployment ;

(b) what is the result of their consideration ; and

(c) whether they propose to take any action in the matter, if so, what ?

The Honourable Sir Frank Noyce : (a) No.

(b) and (c). I would ask the Honourable Member to wait until the consideration of this report, which is being actively pursued, is concluded.

Mr. T. S. Avinashilingam Chettiar : How long will Government take to finish the consideration of this report ?

The Honourable Sir Frank Noyce : That I am unable to say. A number of Departments are concerned. All I can say is that we are

endeavouring to get on with the consideration of the report as quickly as possible.

Pandit Lakshmi Kanta Maitra : May we expect a report by the end of this year ?

The Honourable Sir Frank Noyce : Certainly, Sir.

Mr. Lalchand Navalrai : May I know if this Sapru Report recommends that Government servants should be made to retire at the age of 50, in view of unemployment ?

The Honourable Sir Frank Noyce : The Honourable Member is as capable of reading the report as I am.

Mr. M. Ananthasayanam Ayyangar : Will the report be placed for consideration before the Standing Committee of this Assembly for Industries and Labour ?

The Honourable Sir Frank Noyce : I am unable to say until we have come to our conclusions on the subject. If there are any points on which the advice of the Standing Committee for Industries and Labour seems desirable, I shall be very happy to obtain it.

Mr. T. S. Avinashilingam Chettiar : Apart from mere consideration, do they propose to take any active steps to relieve unemployment ?

The Honourable Sir Frank Noyce : That, Sir, opens up a wide question on which we have had lengthy discussions in this House from time to time, and I have nothing to add to the statements which have been made from these Benches on those occasions.

Mr. N. V. Gadgil : Has that resulted in reducing unemployment ?

Mr. M. Ananthasayanam Ayyangar : Have any of those recommendations been given effect to so far by the Government of India ?

The Honourable Sir Frank Noyce : I would remind my Honourable friend that this report was one which was submitted to a Provincial Government, the Government of the United Provinces ; and he will have seen statements in the press that the Government of the United Provinces have taken action upon it.

Mr. Lalchand Navalrai : In view of the report that has been received by Government, do they propose to adopt that rule that Government servants should retire at the age of 50 ?

The Honourable Sir Frank Noyce : No, Sir.

Mr. S. Satyamurti : May I know if Government have considered or propose to consider the financing of large capital works by raising loans at a time when the market is very favourable, with a view to relieve unemployment at least partially ?

The Honourable Sir James Grigg : I think the Honourable Member's question when paraphrased comes to this whether the Government of India would adopt inflationary measures. Quite definitely, no.

Mr. S. Satyamurti : Do Government propose to keep quiet until unemployment bursts them up and all of us ?

Sir Girja Shankar Bajpai : That certainly is the intention, as far as I am aware.

Mr. T. S. Avinashilingam Chettiar : May I take it that some one is making an inquiry on behalf of the Government of India ?

Sir Girja Shankar Bajpai : Mr. Bozman was sent to Zanzibar to make an inquiry on our behalf. The inquiry is completed.

Mr. T. S. Avinashilingam Chettiar : Has he submitted any representation to the Government of India ?

Sir Girja Shankar Bajpai : He sent a memorandum to the Government of India.

Mr. S. Satyamurti : In view of the fact that another clove season is on or will soon be on, do the Government of India realise that the continuation of these decrees for another season will cause disaster to the Indian merchants, and what steps do they propose to take to mitigate the loss to them ?

Sir Girja Shankar Bajpai : I can assure my Honourable friend that the Government of India are fully conscious of the inconvenience of the continuance of this legislation. I do not think I need say anything more on the subject.

Mr. S. Satyamurti : Is the Honourable Member going to do anything more ?

Sir Girja Shankar Bajpai : After all, the mere fact that Mr. Binder was appointed to go into the operation of this legislation is some proof of success on the part of the Government of India.

Mr. S. Satyamurti : How long do Government expect to take before they are in a position to come to some conclusions on this Mr. Binder's report ? Will it be at least before another season is on ?

Sir Girja Shankar Bajpai : As far as I know, the intention of the Secretary of State for the Colonies is to take action on Mr. Binder's report expeditiously.

REPORT OF THE SAPRU COMMITTEE ON UNEMPLOYMENT.

24. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) whether they have finished consideration of the report of the Sapru Committee on unemployment ;

(b) what is the result of their consideration ; and

(c) whether they propose to take any action in the matter, if so, what ?

The Honourable Sir Frank Noyce : (a) No.

(b) and (c). I would ask the Honourable Member to wait until the consideration of this report, which is being actively pursued, is concluded.

Mr. T. S. Avinashilingam Chettiar : How long will Government take to finish the consideration of this report ?

The Honourable Sir Frank Noyce : That I am unable to say. A number of Departments are concerned. All I can say is that we are

endeavouring to get on with the consideration of the report as quickly as possible.

Pandit Lakshmi Kanta Maitra : May we expect a report by the end of this year ?

The Honourable Sir Frank Noyce : Certainly, Sir.

Mr. Lalchand Navalrai : May I know if this Sapru Report recommends that Government servants should be made to retire at the age of 50, in view of unemployment ?

The Honourable Sir Frank Noyce : The Honourable Member is as capable of reading the report as I am.

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Mr. S. Satyamurti : Do Government propose to keep quiet until unemployment bursts them up and all of us ?

The Honourable Sir James Grigg : I am not sure, if the second part of the Honourable Member's diagnosis is right, whether it would not be worth my while to sacrifice myself.

UNSTARRED QUESTIONS AND ANSWERS.

PROMOTIONS OF THE NON-GAZETTED STAFF IN CERTAIN DEPARTMENTS OF THE EAST INDIAN RAILWAY.

1. **Mr. M. Ananthasayanam Ayyangar :** Will Government please state :

- (i) whether the Commercial and Transportation Traffic Departments of the East Indian Railway are considered as one unit for the promotions of the non-gazetted staff ;
- (ii) whether such staff of the Transportation side are eligible for transfers or promotions to the Commercial side ; if so, whether this is in accordance with the rules framed by the Railway Board for the recruitment and training of non-gazetted staff ;
- (iii) whether the Commercial staff seeking promotions or transfers to the Transportation side are informed that they have had no practical experience in Transportation work ;
- (iv) whether Transportation Inspectors who have not passed the Goods Audit Examination (a condition for promotion as an Inspector for the Commercial staff) have been posted as Commercial Inspectors or as Inspectors performing the combined duties of Transportation and Commercial ; and
- (v) whether any gazetted officer with Commercial training and experience has been posted as Chief Operating Superintendent or as Divisional Superintendent since the divisional system was introduced on the East Indian Railway ; if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

- (i) and (ii). The normal channels of promotion of the Commercial and Transportation Branches are given in Section II of the ' Rules for the recruitment and training of subordinate staff on State-managed Railways ' a copy of which is in the Library of the House. I would invite the Honourable Member's attention to the note printed at the head of Section II in the rules referred to above.
- (iii) Not necessarily. It all depends upon the nature of the duties to be performed and the qualifications of the individual.
- (iv) Yes, if found competent and capable. I may add for the Honourable Member's information that the passing of goods audit examination is no longer compulsory for Inspectors on the commercial side.
- (v) Yes.

SIGNATURE OF PASSENGERS ON MONTHLY TICKETS ON THE EAST INDIAN RAILWAY.

2. **Mr. M. Ananthasayanam Ayyangar :** (a) Is it a fact that the Chief Commercial Manager of the East Indian Railway published the following in February, 1936 ?

" Holders of Monthly Tickets are informed that on and from the 1st March, 1936, it will be necessary for them to sign their names on the reverse of the ticket in the presence of the Station Master or Booking Clerk at the time of purchase. In cases where the purchaser of a monthly ticket is illiterate his left thumb impression will be necessary. Ticket holders will be liable to produce their ticket to the checking staff and furnish their specimen signature or thumb impression whenever called upon to do so."

(b) If the answer to part (a) be in the affirmative, will Government please state :

- (i) whether the Chief Commercial Manager has had his staff trained by handwriting and thumb impression experts ;
- (ii) whether the majority of the monthly ticket holders are residents of stations close to Howrah ;
- (iii) whether they have considered that this burden on *bona fide* monthly ticket holders is likely to drive them to the road services ;
- (iv) whether this system prevails on the other two trunk railways leading into Calcutta ?
- (v) whether the present Chief Commercial Manager and his predecessor have no experience in the Commercial work of Railways ; and
- (vi) whether this scheme has emanated from the Research Section of the Commercial Department of the East Indian Railway ?

(c) Do Government propose to issue instructions to stop this system of check and to take disciplinary action against the official responsible for the approval of the system ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). The arrangement was recommended by the Indian Railway Conference Association and was based on a procedure actually in force on the Madras and Southern Mahratta Railway. It was, however, subsequently decided not to introduce this arrangement and notices to this effect were published early in March, 1936.

GRIEVANCES OF THE OLD EAST INDIAN RAILWAY STAFF ON THE DELHI-UMBALA-KALKA SECTION PLACED UNDER THE NORTH WESTERN RAILWAY ADMINISTRATION.

3. **Mr. M. Ananthasayanam Ayyangar :** (a) Is it a fact :

- (i) that when Government took over the management of the East Indian Railway the section—Delhi-Umbala-Kalka—was made over to the North Western Railway ;
- (ii) that the staff on the section referred to in part (i), who were taken over by Government, were utilised by the North

Western Railway pending their return to the East Indian Railway ;

- (iii) that the North Western Railway furnished a list of such staff to the East Indian Railway Administration ;
- (iv) that, although numerous vacancies took place on the East Indian Railway, those members of the staff who were still on loan to the North Western Railway were not considered and the vacancies were filled with their own men ;
- (v) that as a result of this the juniors of those men have superseded them ; and
- (vi) that the deprivations of the legitimate dues of these men have deprived them of senior and better paid posts ?

(b) If the answers to parts (a), (i) to (vi) be in the affirmative, do Government propose to take action to place these men in the positions they would have been, had they not been overlooked for so many years ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

- (a) (i) to (iii). Yes.
- (iv) to (vi). The allegations made are of a very general nature. The question of absorbing the East Indian Railway staff employed on the Delhi-Umballa-Kalka Section after its amalgamation with the North Western Railway received the careful attention of the East Indian Railway Administration and no cases of supersession have come to the notice of Government.

(b) No.

DUTIES OF THE DEPUTY AGENT, PERSONNEL, AND THE WELFARE OFFICER OF THE EASTERN BENGAL RAILWAY.

4. Mr. M. Ananthasayanam Ayyangar : (a) Will Government please lay a statement on the table showing, separately, the duties of the Deputy Agent, Personnel, and the Welfare Office of the Eastern Bengal Railway ?

(b) Is it a fact :

- (i) that Junior or Senior Scale Officer is posted as Welfare Officer ;
- (ii) that the post is not a tenure post ;
- (iii) that the gazetted officers only occupy the post for short periods and are then returned to their respective departments ;
- (iv) that the Welfare Officer is required to deal with the appeals from the non-gazetted staff ; and
- (v) that he is not empowered to reverse the decisions of the officers against whose decisions the appeals have been preferred ?

(c) Do Government propose to abolish this post with a view to effecting economy and transfer the work to the Deputy Agent, Personnel ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) A statement showing the duties of the Deputy Agent, Personnel, and the Welfare Officer of the Eastern Bengal Railway is placed on the table of the House.

(b) Government are informed as follows :

- (i) This post was held by senior scale officers up to 31st March, 1935, but from 1st April, 1935, it is held by an officiating Lower Gazetted Service Officer.
- (ii) Yes.
- (iii) The position was as stated in the question for so long as senior scale officers were posted as Welfare Officers.
- (iv) No. As a general rule appeals are dealt with by the officers concerned in accordance with Appeal Rules. If, in any case, grievances are represented to the Welfare Officer by the staff, he makes his own enquiry into the case, and puts up facts to the Head of the Department concerned for consideration.
- (v) Yes.
- (c) No. The post has proved its value.

Statement showing the duties of the Deputy Agent, Personnel, and the Welfare Officer on the Eastern Bengal Railway.

Deputy Agent, Personnel.

This Officer is the Administrative authority immediately responsible to the Agent for co-ordinating all general questions relating to staff matters of the various Departments and for framing instructions regarding the policy to be followed by Heads of Departments in such matters, thus ensuring co-ordination between the Agent and the Heads of Departments and similarity of treatment in all Departments in connection with the application of rules and orders as in force from time to time. All questions involving general principles are referred to him by Heads of Departments. He also deals with such appeals from the staff as may lie to him and puts up to the Agent appeals from staff against decisions given by Heads of Departments, and disposes of cases requiring the sanction of the Agent except where the Agent's personal sanction is required under the rules. Deals with all references from the Railway Board in connection with staff matters including Assembly questions.

Welfare Officer.

This officer is the liaison Officer between the Railway and its employees. Working under the Deputy Agent, Personnel, he brings that Officer and through him, the Agent, into direct and very real contact with the staff and their needs. His duties consist of dealing with schemes drawn up for the benefit of the staff, such as Institutes, Staff Benefit Fund, Co-operative Credit Society, Sports and Athletics. Cases requiring Agent's sanction are submitted by him, through the Deputy Agent, Personnel. In regard to Appeals by the staff it is open to the appellants to interview the Welfare Officer, who makes his own notes on the case and institutes his own enquiries, after which he places the facts before the Head of the Department concerned for his consideration but he does not deal with appeals as the Agent's Deputy, which is one of the duties of the Deputy Agent, Personnel. The Welfare Officer also serves on the various Selection Committees for the recruitment of subordinate staff. He is also the *ex-officio* Secretary of the Staff Benefit Fund Committee and Honorary Secretary of the Junior Co-operative Credit Society.

His duties entail consideration of general representations from recognised Unions and maintenance of personal contact with their officials in order to ensure their co-operation with the Administration.

He deals with Assembly Questions in reference to staff grievances.

RECOMMENDATION FOR A SECOND CHAMBER IN ASSAM.

5. **Mr. Kuladhar Chaliha** : (a) Will Government please state :—
- (a) whether the Assam Government recommended a second chamber for Assam, if so, when ;
 - (b) whether any representation was made to the Secretary of State for India by anybody ; if so, please lay on the table the names of the signatories ;
 - (c) how many of them are (i) Europeans, (ii) Indians, (iii) Assamese, and (iv) inhabitants of Surma Valley ?

The Honourable Sir Nripendra Sircar : (a) In preparing their memoranda for the Simon Commission in 1928 the Government of Assam gave instances demonstrating the defects of a single chamber. Their final conclusion, however, was as follows :

“ The Government of Assam are agreed that there is at present no suitable material in Assam to constitute a second chamber. The Minister for Education (Sir Muhammad Saadulla) would not in any case have approved the creation of a second chamber, but His Excellency and the other Members of the Government would have welcomed a second chamber as the best check on hasty, predatory or communal legislation.”

It will be seen that the opinion of the Government of Assam (as then constituted) was in favour of a second Chamber though they felt that suitable material was not at the time available.

A unanimous recommendation in favour of a second Chamber was, however, made by them in 1935.

(b) and (c). Government have no information.

FACILITIES GIVEN TO THE STAFF TO SIT FOR THE GOODS ACCOUNTS EXAMINATION ON THE EAST INDIAN RAILWAY.

6. **Mr. M. Ananthasayanam Ayyangar** : (a) With reference to the reply given in this House to unstarred question No. 168 (f) on the 27th February, 1936, that no special leave or other privileges are granted to staff in order to enable them to sit for the Goods Accounts examination, is it a fact that the Divisional Superintendent, Howrah, vide his letter to the Goods Supervisor, Howrah, No. E. Mis.-43, dated the 15th November, 1935 (copy given below) has granted leave and facilities ?

“ With reference to Mr. H. K. Bose's application for three weeks preparatory leave in connection with the above, I have to inform you that his case has been reconsidered and in view of his not getting the opportunity of particular experience at a smaller Goods Shed and Parcel office before sitting for the examination.

Mr. Bose is however to be given an opportunity to get in the practical experience at Sheoraphuli at once and examined by the Traffic Inspector in fourteen days from the 15th instant. He must sit for the examination when the next one is held.

Re-weighment Inspector Mr. N. M. Goswami is required to appear in the above examination to be held in this office on 18th November, 1935, at 10 A.M. Calcutta time. He should be told to bring his pen to write answers. Please inform them accordingly.”

(b) Is it a fact that the Railway Board in their letter No. D.O./E.-36-L.G.-1, dated the 12th December, 1935, to the Agent, East Indian Railway, have stated as follows ?

“ In connection with all forthcoming questions in the Indian Legislature, the Honourable Member for Railways has asked me to supply him with a short note in the form of a brief for his own information and to enable him to deal with supplementaries, in addition to the answers that it is suggested may be given on the floor of the House. To enable me to prepare such notes, I shall be obliged if when sending replies to questions that are referred to you, you will also submit all the materials in your possession upon which your replies have been framed. It is imperative that full and accurate information should be submitted by Agents to the Board and that no facts, even when a mistake has been committed should be withheld.”

If so, who is responsible for the information given in the House, the East Indian Railway or the Railway Board ?

The Honourable Sir Muhammad Zafrullah Khan : (a) As already stated, in reply to part (f) of question No. 168 laid on the table of the House, no special leave or other privileges are granted to staff to enable them to sit for the Goods Accounts Examination. This does not, however, imply that staff who apply for leave for this or any other purpose and can be spared may not be granted leave which is admissible to them.

(b) Reply to the opening part is in the affirmative. The D. O. referred to was issued to the Agents of State-managed Railways with a view to avoiding mistakes being made and incorrect information being furnished. As regards the second part, information given in reply to the question referred to in part (a) above was correct.

CUT IN PAY OR SPECIAL PAY ON THE EAST INDIAN RAILWAY.

7. **Mr. M. Ananthasayanam Ayyangar** : (a) With reference to the reply given in this House to unstarred question No. 158 on the 18th February, 1936, that the cut in pay or special pay has been discontinued by the East Indian Railway after March, 1935, is it a fact that the cut on special pay has not been discontinued by the Divisional Superintendent, Howrah ?

(b) Is it also a fact that the Divisional Superintendent, Howrah, in his letter No. E. Mis.-69/Vol. II, dated the 6th December, 1935, has ordered :

“ In continuation of my letter No. E. Mis.-89/Vol. II of 16th April, 1935, I have to advise you that the discontinuance of the ten per cent. reduction on the ‘ Special Pay ’ has been irregular and it should be re-imposed. The deduction should therefore be made from the current month's salary.

Please arrange to recover the arrear amount on account of ten per cent. reduction on ‘ Special Pay ’ from 1st April, 1935, in two instalments from the staff concerned, commencing from their salary for the month of January, 1936. Special Pay is not admissible to the old East Indian Railway employees during recorded leave, irrespective of the period of such leave. I shall let you hear further in respect of other recoveries if required to be made on hearing from the Divisional Accounts Officer, Howrah.”

(c) Is it further a fact that the special pay referred to in parts (a) and (b) only relates to the non-gazetted staff on the Howrah Division ? If not, what gazetted officers are in receipt of this special pay ?

(d) Do Government propose to take disciplinary action against the officers responsible for furnishing false information to this House? If so, what action? If not, why not?

(e) Do Government propose to refund the amount irregularly recovered from the pay of the staff concerned? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: Government are informed as follows:

(a) The reply to question No. 158 referred to emergency cuts imposed from December, 1931, which were discontinued from the 1st April, 1935. The Honourable Member is evidently referring to compensatory allowance which is granted to certain staff at Howrah. If so, I would invite his attention to the reply laid on the table of the House to Mr. Amarendra Nath Chattopadhyaya's question No. 605 asked in this House on the 17th April, 1936.

(b) Yes.

(c) No. Part (a) refers to the emergency cuts in pay which applied to all ranks of Government servants, whereas part (b) refers only to certain subordinate staff of the Howrah Division.

(d) No false information was supplied.

(e) No irregular recovery has been made.

PROMOTION OF EMPLOYEES IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

8. **Mr. M. Ananthasayanam Ayyangar:** (a) With reference to the reply given in this House to unstarred question No. 168 (a) on the 27th February, 1936, that it is not a fact that the claims of employees in the normal avenue of advancement are not considered when promotions are made in the Howrah Division, is it a fact that incorrect information has again been furnished to this House?

(b) If the answer to part (a) be in the negative, will Government please state:

(i) whether the claims of the employees in the normal channels of promotions to the posts of Goods Clerk, Howrah Goods Sheds, and Luggage and Parcel Supervisor, Howrah Station, were considered;

(ii) whether the men appointed to these posts were advanced in the normal channels of promotions; if not, what claims the men had to these two posts;

(iii) whether Selection Boards were convened to nominate suitable employees for the two posts; if not, why departures from the established procedure on this Division were made in the cases of these posts only?

(c) Is it a fact that the Divisional Superintendent has addressed a letter to the Chief Commercial Manager asking if he is agreeable for the posts of Luggage and Parcel Supervisors on the coaching side to be reserved for the failures of the Transportation side? If so, with what result?

(d) Do Government propose to take disciplinary action against the gazetted officers responsible for furnishing false information to this House? If so, what action? If not, why not?

(e) Do Government propose to compensate the aggrieved staff whose claims for promotions have been superseded? If so, how? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: Government are informed as follows:

(a) No.

(b) (i) Yes.

(ii) The employee advanced to the post of luggage and parcels supervisor was promoted on the basis of seniority-cum-suitability from among the commercial hands employed in the goods shed. The other employee appointed as goods clerk was an assistant yard master on a high grade but was absorbed in a lower grade than his own for which he was suitable as his eye-sight was declared to have deteriorated and become unsuitable for transportation work, although it was good enough for commercial and other indoor duties.

(iii) Both the posts were filled after a review of the claims of all senior men by the Divisional Officers concerned. There was no departure from the established procedure in regard to the consideration of the claims of employees for filling up these vacancies. The selection boards were not held as these posts are not selection posts.

(c) No.

(d) No false information was furnished.

(e) In view of my reply to part (b) this does not arise.

OBSERVANCE OF THE PROCEDURE LAID DOWN IN RULE 34 OF THE RAILWAY SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES.

9. **Mr. M. Ananthasayanam Ayyangar:** (a) Is it a fact that the Railway Board in their letter No. E-235-A.E.-21, dated the 21st November, 1935, to the Agent, East Indian Railway, regarding the observance of the procedure laid down in Rule 34 of the Railway Services (Classification, Control and Appeal) Rules have stated:

"I am to add that although Rule 34 of the Railway Services (Classification, Control and Appeal) Rules does not specifically require the holding of an enquiry or the serving of a charge sheet in connection with the proposed withholding of increments of gazetted officers, it is desirable that the officer concerned should be given an opportunity to defend himself before the penalty is actually imposed. It is understood that this has been the actual practice hitherto."

If so, are similar conditions provided for the non-gazetted staff? If not, why not?

(b) Is it a fact that with the letter referred to in part (a) the Railway Board enclosed a copy of letter No. F. 108/35-8, dated the 10th August, 1935, from the Secretary, Public Service Commission, to the Government of India, Home Department? If so, has the following appeared in that letter:

[31st AUG. 1936.]

"In the second, which related to the Railway Department, the officer believed to be at fault was actually punished by an authority which had not the power to do so, while no charge had ever been framed against him at all; nor had any inquiry been held into his conduct, beyond the accident in which he was supposed to have played a contributory part?"

(c) If the answer to the second part of part (b) be in the affirmative, will Government please state :

(i) their policy when it has been proved that an authority that had no power to punish had done so ;

(ii) whether that policy is applicable to both the gazetted and non-gazetted staff ;

(iii) what action was taken in the case referred to by the Public Service Commission ; and

(iv) on what Railway it occurred ?

(d) Is it a fact that the following also appears in the said letter of the Public Service Commission :

"It will be observed that in all these cases open disregard was shown for essential provisions of the rules in question to an extent which no advisory body in the position of the Public Service Commission could possibly overlook. Apart from the fact that these provisions have been deliberately inserted for the protection of the members of the Services, the disregard of them provides an officer who has been punished with an almost irresistible case for the reversal on appeal of any order passed against him. In the matter of defective procedure the Public Service Commission have only one course open to them."

If so, what action has been taken by the Railway Department, and does the same cover both the gazetted and non-gazetted staff ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The reply to the first part of the question is in the affirmative. As regards the last part, I would invite the Honourable Member's attention to rule 12 of the 'Rules regulating discipline and rights of appeal of non-gazetted Railway servants', a copy of which is in the Library of the House.

(b) The reply is in the affirmative.

(c) (i) and (ii). When any such case comes to notice, whether it be that of a gazetted officer or subordinate, it is set right in accordance with the rules applicable.

(iii) Action was taken in accordance with the procedure laid down in the rules.

(iv) Burma Railways.

(d) The reply to the first part of the question is in the affirmative. As regards the latter part, the observations of the Public Service Commission were brought to the notice of State-managed Railways. They referred to the gazetted staff only and not to the non-gazetted staff in regard to whom the Public Service Commission have no functions under the Public Service Commission (Functions) Rules. As already stated in my reply to part (a), rule 12 of the rules referred to covers the case of non-gazetted staff.

DELEGATION OF POWERS BY THE AGENT OF THE EAST INDIAN RAILWAY TO HIS SUBORDINATES.

10. **Mr. M. Ananthasayanam Ayyangar :** (a) With reference to the reply given in this House to starred question No. 1569 on the 14th April, 1936, that certain powers have been delegated to senior and junior scale officers, will Government please state whether this delegation or re-delegation of powers is in effect on the East Indian Railway ?

(b) Is it a fact that the Agent, East Indian Railway, has printed a pamphlet in 1935 in which details of the powers of Agents, Principal Officers, other Heads of Departments, and Divisional Superintendents have been published ? If so, will Government please state whether there is any provision in those schedules of powers which permit the Divisional Superintendents to re-delegate certain powers in establishment matters to their senior, junior and lower gazetted officers ?

(c) Has the Agent delegated any powers in establishment matters to senior, junior and lower gazetted officers ? If so, when were these powers delegated ? Why were they not published in the pamphlet referred to in part (b), and will Government lay a copy of the same on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) The reply to the first part of the question is in the affirmative. Reply to the second part is in the negative. There is, however, nothing to prevent a Divisional Superintendent from re-delegating powers or allowing the officers, under his control, such powers, within the delegations made to him, as he may consider necessary for day to day administration.

(c) Yes. A statement showing the delegation of powers made by the Agent will be found in the Library of the House. The Agent, East Indian Railway, reports that he did not consider it necessary to include these delegations of powers in the pamphlet referred to which related to delegation of powers to principal officers, Heads of Departments and Divisional Superintendents.

REMODELLING OF THE HOWRAH RAILWAY STATION.

11. **Mr. M. Ananthasayanam Ayyangar :** (a) Is it a fact that the East Indian Railway authorities have under contemplation the removal of the present Third Class Booking Offices, the First and Second Class Waiting Rooms, the Refreshment Rooms, etc., at Howrah Station at a cost of about rupees three and a half lakhs ? If so, will Government please state :

(i) the estimated cost of the proposed remodelling ;

(ii) the amount already incurred in preparing the various estimates ;

(iii) the necessity for such a large expenditure in these times of financial stringency ;

(iv) whether the present or expected traffic warrants such remodelling ;

(v) whether such expenditure adds to the working expenses of the Railway ; and

[31st Aug. 1936.]

(vi) whether such sanction is within the competence of the Agent or the Railway Board ?

(b) Is it a fact that in reply to a supplementary question to starred question No. 327 on the 12th February, 1936, Government have stated that they have impressed upon Agents the necessity of scrutinising every item of expenditure continuously and to effect reductions wherever possible ? If so, are these instructions observed on the East Indian Railway ?

(c) Will Government please state whether the Agent, East Indian Railway, has advised his Principal Officers, Heads of Departments, Divisional Superintendents, etc., regarding the instructions referred to in part (b) ? If so, when were the orders issued ?

(d) Do Government propose to see that unnecessary expenditure is not incurred by the Agent and his subordinate officers and state whether the remodelling of Howrah Station is to be done ? If so, to what extent and at what cost ?

The Honourable Sir Muhammad Zafrullah Khan : (a) A scheme has been submitted by the East Indian Railway for certain alterations in the arrangements of booking offices, waiting rooms, refreshment rooms, vendors' stalls and latrines at Howrah station :

(i) Rs. 2,40,000.

(ii) As this project has been prepared as part of the normal duties of the East Indian Railway staff, it is not possible to separate the cost of its preparation from that of their duties.

(iii) It is estimated that the reduction in working expenses will more than cover the interest on the capital expended.

(iv) The present traffic warrants it.

(v) No. It reduces them.

(vi) The Railway Board.

(b) Yes. Government are not aware of any grounds for doubting that such is the case.

(c) Government are not aware of any other method by which the Agent could have carried out his instructions. Government are not aware of the date when such steps were taken but have no reason to believe that there was any delay in doing so.

(d) Government are not aware of any unnecessary expenditure by the Agent and his subordinate officers. The remodelling of Howrah station proposed by them has been sanctioned by the Railway Board. The Honourable Member is referred to the answer to part (a) of the question.

EXTENSION OF A BUILDING TO HOUSE THE PERSONNEL SECTION OF THE AGENT'S OFFICE, EAST INDIAN RAILWAY.

12. Mr. M. Ananthasayanam Ayyangar : (a) Is it a fact that the Agent, East Indian Railway, has sanctioned the extension of a building to house the Personnel Section of his office ? If so, what is the amount involved ?

(b) Have Government considered whether accommodation is available in the very large offices of the Railway at Calcutta and that re-arrangement of rooms was only necessary ?

(c) What is the saving in the number of gazetted and non-gazetted staff and the amount that has been effected by the formation of the Personnel Section ?

(d) Do Government propose to restrict the powers of the Agent in regard to the sanctioning of any new work or scheme ? If not, do they propose to have each item of expenditure over one thousand rupees scrutinised by the Railway Board ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Owing to the lack of accommodation in the Head Office building, which could not be met by a mere re-arrangement of rooms, it was necessary to provide an additional room at a cost of Rs. 18,690, and the Personnel Section has been accommodated in it as a temporary measure.

(c) The exact saving will be known only after the re-organisation of the work of the Personnel Section has been completed and it can be decided definitely what reductions in staff are possible.

(d) The Agent cannot sanction works costing more than one lakh on his own authority ; Government do not consider that any further restriction is necessary.

PROCEDURE IN THE MATTER OF PROMOTIONS OBSERVED IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

13. Mr. M. Ananthasayanam Ayyangar : (a) Is it the policy of Government in the Railway Department that before the non-gazetted staff are promoted to any post, they are first placed on special duty in that post in order that they might pick up the duties of the post, then they are temporarily posted in the job and later on confirmed ?

(b) If the answer to part (a) be in the negative, will Government please state whether that procedure has been observed in the Howrah Division of the East Indian Railway ? If so, why ?

(c) Do Government propose to take disciplinary action against the gazetted officers responsible ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) Government are not aware of any cases in which irregular procedure has been followed on the Howrah Division.

(c) Does not arise.

USE OF SERVICE STAMPS BY THE INDIAN RAILWAYS CONFERENCE ASSOCIATION.

14. Mr. M. Ananthasayanam Ayyangar : (a) With reference to the replies given in this House to starred questions Nos. 565 and 476 on the 26th February, 1935, and the 14th February, 1936, respectively, that the Indian Railways Conference Association is not owned, worked or controlled by the Government of India, is it a fact that the Association uses postage stamps surcharged "Service" ?

(b) If so, will Government please state :

(i) the reasons why a private body is permitted to use "Service" stamps ;

(ii) who sanctioned the supply of such stamps to the Association ; and

(iii) whether they propose to discontinue this practice ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

[31st AUG. 1936]

(b) Government have issued instructions that Service postage stamps should not be used by the Indian Railway Conference Association in future.

INTRODUCTION OF THE REVISED SCALES OF PAY ON THE EASTERN BENGAL RAILWAY.

15. **Mr. M. Ananthasayanam Ayyangar :** (a) With reference to the reply given in this House on the 12th February, 1936, to unstarred question No. 60, that the revised scales of pay were actually introduced on the Eastern Bengal Railway on the 1st October, 1934, is it a fact that there are cases of staff employed in the Traffic and Locomotive Departments of the Calcutta District who though appointed before the 1st October, 1934, have been given the revised scales of pay?

(b) If the answer to part (a) be in the affirmative, do Government propose to give such employees the benefits of the old scales of pay and to make good the amount that would otherwise have been drawn by these men? If not, why not?

(c) If the answer to part (a) be in the negative, is it the desire of Government to be furnished with the names and designations of the staff adversely affected?

(d) Do Government propose to take disciplinary action against the gazetted officers responsible for such treatment of the non-gazetted staff? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes ; although the revised scales of pay were introduced with effect from 1st October, 1934, they were applied to all staff appointed after the 15th July, 1931, as such staff were in the first instance employed on a temporary footing because of the embargo placed on permanent appointments in order to prevent persons appointed after that date from obtaining a right to the old scales of pay.

(b) No.

(c) As the answer to part (a) above is in the affirmative, this does not arise.

(d) Does not arise.

INTRODUCTION OF THE REVISED SCALES OF PAY ON THE CERTAIN STATE RAILWAYS.

16. **Mr. M. Ananthasayanam Ayyangar :** With reference to the reply given in this House to unstarred question No. 60, on the 12th February, 1936, that the revised scales of pay though having effect from the 16th July, 1931, were actually introduced on the Eastern Bengal Railway on the 1st October, 1934, will Government please state the dates from which the revised scales of pay were actually introduced on the East Indian, the North Western, and the Great Indian Peninsula Railways?

The Honourable Sir Muhammad Zafrullah Khan : The revised scales of pay for non-gazetted staff were introduced on the East Indian, North Western (except the Press staff) and Great Indian Peninsula Railways from 20th May, 1934, 1st August, 1934 and 1st April, 1934, respectively.

REGULATIONS REGARDING DISCIPLINARY ACTION AGAINST RAILWAY STAFFS.

17. **Mr. M. Ananthasayanam Ayyangar :** (a) With reference to the reply given in this House to unstarred question No. 155 on the 27th February, 1936, that :

" Yes, a few cases have been reported and investigated, and it has been found generally that the rules were observed. Non-observance of the rules is taken up with the person concerned "

is it a fact that this statement is incorrect and that cases of breaches of the rules reported to the Agent, Eastern Bengal Railway, from the Traffic and Engineering Departments are still pending with the Agent and the appellants awaiting his decisions?

(b) Is it a fact that appeals from the Traffic and Engineering Departments submitted in February and March, 1936, have not been disposed of by the Agent?

(c) If the replies to the above be in the affirmative, do Government propose to take disciplinary action against the gazetted officers responsible for the incorrect information given in this House? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) No ; there have been no cases, recently, of successful appeal on the ground of the rules not having been observed ; nor are there any appeals pending with the Agent, Eastern Bengal Railway.

(b) No.

(c) Does not arise.

APPLICATIONS INVITED FOR STORAGE ACCOMMODATION AT THE HOWRAH GOODS SHEDS.

18. **Mr. M. Ananthasayanam Ayyangar :** (a) Is it a fact that the Divisional Superintendent, East Indian Railway, Howrah, has been inviting applications since April, 1936, from *bona fide* merchants only for storage accommodation for inward grain and seeds traffic on top of Nos. 2 and 3 Sheds, Howrah Goods on and from 1st May, 1936?

(b) If so, will Government please state :

(i) whether storage will be confined to grains and seeds only ;

(ii) whether this facility has been taken advantage of ; if so, to what extent ; and

(iii) whether any expenditure has or will be incurred to make these sheds suitable as storage godowns, if so, what is the estimated amount?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) (i) Yes ; for the present.

(ii) Yes, to the fullest extent.

(iii) Beyond petty repairs no expenditure has so far been incurred, but the scheme is likely to involve the services of an extra clerk to maintain the required details of occupation and vacation of plots, to realise rents, and to arrange recovery of handling charges where private labour is not engaged by the plot-holders themselves. The scheme is, however, still in an experimental stage.

L171LA.

ALTERATION IN THE RECORDED AGE OF THE EMPLOYEES ON THE EAST INDIAN RAILWAY.

19. **Mr. M. Ananthasayanam Ayyangar :** (a) With reference to the replies given in the Council of State to questions Nos. 133 and 134, on the 25th March, 1936, regarding proof for the alteration of the recorded age of the employees on the Eastern Bengal Railway, will Government please state :

- (i) whether an employee of the East Indian Railway is permitted to see the original documents in the office in order to satisfy himself as to whether the mistake has been made by him or by a clerk when filling up the Service Sheet ;
- (ii) whether fresh Service Sheets were prepared for employees after Government had taken over the management from the Company ; if so, whether the employees are to be punished for the errors in copying by the clerks when preparing the Service Sheets ; and
- (iii) whether there are cases in which such charges have been made ; if so, with what results ?

(b) Is it a fact that the policy of the East Indian Railway is not the same as that adopted by the Eastern Bengal and the North Western Railways ? If so, do Government propose to instruct the East Indian Railway to observe the same policy in the matter of the change of the recorded age ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) (i) Yes.

(ii) and (iii). Fresh service sheets were not prepared for all employees who were taken over by Government from the East Indian Railway Company at the time of transfer of the East Indian Railway to State management. Cases do occur in which employees, for whom it was found necessary to prepare fresh service sheets owing, for example, to the original being missing, allege that their age was wrongly recorded by the clerks preparing the fresh service sheets and each case is dealt with on its merits, according to the prescribed rules.

(b) The reply to the first part of the question is in the negative. The latter parts do not arise.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to unstarred question No. 33 asked by Mr. V. V. Giri on the 4th February, 1936.*

SAVINGS EXPECTED BY INTRODUCTION OF NEW SCALES OF PAY.

State-owned Railways.—About 3½ crores per annum.

Civil departments.—About 2½ crores per annum.

*This information also disposes of the questions regarding such savings asked by Mr. S. Satyamurti on the 12th March, 1936, as supplementary to starred question No. 1141 of Mr. Suryya Kumar Som.

mation promised in reply to unstarred question No. 66 asked by Dr. N. B. Khare on the 4th February, 1936.

DISCHARGE OF SUBORDINATE RAILWAY EMPLOYEES.

(a) Government are informed that this was not a minute sheet from the Agent but an office note recorded by the Assistant Secretary on a case in the Agent's office.

(b) As regards the first part of the question I would refer the Honourable Member to clause 2 of the service agreement of subordinates employed on the East Indian Railway which reads as follows :

“The said Railway Servant shall serve subject to the following conditions of service, namely, that such service, is permanent and non-pensionable and terminable at any time by the Railway Administration on one month's notice, or without notice on payment of one month's pay and by the Railway Servant on giving the month's notice only.”

As to the latter part of the question the competent authority is any authority declared as competent by the railway administration to remove an employee from service in accordance with the rules in force from time to time.

(c) All efforts were made to absorb the staff who were likely to be retrenched and all except one were absorbed.

(d) Yes.

(e) and (f). Only one temporary peon who was discharged has not yet been absorbed.

Information promised in reply to unstarred question No. 100 asked by Pandit Sri Krishna Dutta Paliwal on the 4th February, 1936.

REDRESS OF GRIEVANCES OF THE RAILWAY STAFF.

(a) and (c). A Superintendent of Staff who is a senior scale officer on the East Indian Railway had powers regarding discharge of non-gazetted staff under Rules 3 and 6 of the Rules regulating the discharge and dismissal of State Railway non-gazetted Government servants. Under rule 8 of the Rules regulating discipline and rights of appeal of non-gazetted railway servants, which were promulgated in June, 1935, by the Governor General in Council in exercise of the powers conferred on him by the Direction appended to the Railway Services (Classification, Control and Appeal) Rules, copies of which are in the library of the House, power to remove from service non-gazetted railway servants without assigning any reasons in exceptional circumstances according to service agreements can be exercised only by an Agent or an authority not lower than the head of a department to whom powers may have been delegated in this respect. Senior scale officers, however, continue to retain certain powers regarding discharge of non-gazetted railway servants under rules 4 and 5 of these Rules.

(b) Does not arise.

(d) and (e). I would refer the Honourable Member to clause 3 of the agreement under which a railway servant agrees to abide by all regulations for the time being in force and also to all further instructions that may, from time to time, be issued by the Government of India, the Railway Board, the Agent, East Indian Railway, or any person or officer having authority over him.

Information promised in reply to starred question No. 229 asked by Mr. Lalchand Navalrai on the 10th February, 1936.

LIMITATION OF POWER OF DISCHARGE BY A SENIOR RAILWAY OFFICER.

(a) and (b). A senior scale officer, who derives certain powers in respect of discharge or dismissal of non-gazetted railway servants from the Rules regulating discipline and rights of appeal of non-gazetted railway servants promulgated in June, 1935, by the Governor General in Council in exercise of the powers conferred on him by the Direction appended to the Railway Services (Classification, Control and Appeal Rules), copies of which are in the library of the House, is treated as an appointing authority on the North Western Railway for the purposes of paragraph 3 of the service agreement executed by non-gazetted railway servants, and exercises the powers of such authority to the extent of powers delegated to him by the Agent, North Western Railway. An extract in respect of the powers delegated by the Agent will be found in the Library of the House.

Information promised in reply to unstarred question No. 141 asked by Mr.

ENTRY OF INDIANS INTO STATES.

Serial No.	Name of Country.	(a) Conditions laid down by Dominions and Colonies on the entry of Indians		
		(i) as tourists.	(ii) for business.	(iii) for establishing industries; §(iv) for entering into services; (v) for owning residential or other properties; and (vi) for agricultural purposes.
1	2	3	4	5

DOMI

1	New Zealand ..	*Nil ..	*No restrictions on temporary visits for purposes of business.	The Government of India are not aware of any disabilities in regard to these matters, unless permanent residence is involved.
2	Australia ..	*Nil ..	*Do. .. (Business means wholesale business and does not include retail business and hawking).	
3	Canada (British Columbia is a province of the Dominion).	*Nil ..	*Do. ..	
4	Union of South Africa (Natal, the Transvaal and the Cape Colony are provinces of the Union).	Permission should be obtained before hand in each case.	Do. .. (Permission should be obtained beforehand in each case).	The position would appear to be the same as in respect of (i) and (ii) except that entry for permanent settlement is not allowed and, in the Transvaal, Indians may not own land or even occupy it in certain areas.
5	British Guiana ..	† No restrictions.	† No restrictions.	† No restrictions.

COLO

§ So far as the Government of India are aware, there is no statutory bar to the Dominions except

Hussienbhai Abdullabhai Laljee on the 18th February, 1936.

DOMINIONS AND COLONIES.

(b) Legislation discriminating between the status of Indians living there and that of the natives of those countries.	(c) Conditions placed by the Government of India on the entry into India of the nationals of Dominions and Colonies.	Remarks.
6	7	8

NIONS.

The only disability from which Indians suffer in this Dominion is their exclusion from the benefits of the Old-Age Pensions Act; but the practical consequences are not serious as the total Indian population is approximately 1,100 only.	Nil.	* No formality beyond the possession of valid passport.
None so far as the Government of India are aware. Resident Indians are not subject to any economic restrictions.	Do.	
The only disability from which Indians suffer in this Dominion is their exclusion from municipal, provincial and federal franchise in the province of British Colombia.	Do.	
There are certain restrictions against Indians in regard to ownership of fixed property, residence, franchise and trade licences. These have been pointed out to the House from time to time.	Do.	

NIES.

None so far as the Government of India are aware.	Do.	† No formality attaches to entry beyond obtaining a valid passport and all immigrants landing in British Guiana are required to show the police an amount of 96 dollars.
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appointment of lawfully resident Indians to the Civil Services in all the Colonies and Ceylon and Malaya.

[31st Aug. 1936.]

Serial No.	Name of Country.	(a) Conditions laid down by Dominions and Colonies on the entry of Indians		
		(i) as tourists.	(ii) for business.	(iii) for establishing industries; §(iv) for entering into services; (v) for owning residential or other properties; and (vi) for agricultural purposes.
1	2	3	4	5

COLO

6	Trinidad ..	*No restrictions..	*No restrictions ..	*No restrictions ..
7	Jamaica ..	Do. ..	Do. ..	Do. ..
8	Kenya ..	Do. ..	Do. ..	Do. .. (In practice Indians are not allowed to own or lease land in the Kenya Highlands, for agricultural purposes.)
9	Uganda ..	Do. ..	Do. ..	No restrictions ..
10	Tanganyika ..	†Do. ..	†Do. ..	†Do. ..
11	Nyasaland ..	†Do. ..	†Do. ..	†Do. ..

§ So far as the Government of India are aware, there is no statutory bar to the Dominions except

(b) Legislation discriminating between the status of Indians living there and that of the natives of those countries.	(c) Conditions placed by the Government of India on the entry into India of the nationals of Dominions and Colonies.	Remarks.
6	7	8
NIES—contd.		
None so far as the Government of India are aware.	Nil	* Persons not born or domiciled in Trinidad have to deposit £50 which amount will be refunded at the end of twelve months.
Indians who have been born in the Colony, or who have completed ten years residence in the island, possess the same political rights as the native population.	Do.	
....	Do.	Asiatic or African emigrants, without visible means of support or who are likely to become paupers or a charge on the colonial revenues are required to pay a deposit of 200 Shillings or furnish security to that amount.
....	Do.	Ditto.
None so far as the Government of India are aware.	Do.	†A non-native entering the territory has to produce a passport duly issued to him not more than 5 years before the date of his arrival. He has also to pay a deposit of £100 for himself and £50 per child or each dependent.
Ditto.	Do.	†The Immigration Officer can demand a deposit of £50 from an immigrant on his arrival in Nyasaland, which amount is returned to him at the end of six months, if he is able to show that he is not likely to become a public charge.

appointment of lawfully resident Indians to the Civil Services in all the Colonies and Ceylon and Malaya.

Serial No.	Name of Country.	(a) Conditions laid down by Dominions and Colonies on the entry of Indians		
		(i) as tourists.	(ii) for business.	(iii) for establishing industries; §(iv) for entering into service; (v) for owning residential or other properties; and (vi) for agricultural purposes.
1	2	3	4	5
COLO				
12	Mauritius ..	No restrictions ..	No restrictions ..	No restrictions ..
13	Zanzibar ..	*Do. ..	*Do. ..	*Do. ..
14	Northern Rhodesia	Do. ..	Do. ..	There is no formal discrimination against Asiatics entering the Colony: but each individual case is scrutinised as to fitness to enter the Colony. (i) on economic grounds and (ii) on standard or habits of life.
15	British Somaliland	Do. ..	Do. ..	No restrictions ..
16	Gold Coast Colony	†Do. ..	†Do. ..	No information ..
17	Ceylon ..	Do. ..	Do. ..	No restrictions—but please see foot-note below (§).

§ So far as the Government of India are aware, there is no statutory bar to the Dominions except

(b) Legislation discriminating between the status of Indians living there and that of the natives of those countries.	(c) Conditions placed by the Government of India on the entry into India of the nationals of Dominions and Colonies.	Remarks.
6	7	8
NIES—contd.		
None	Nil	An immigrant may be required to prove on landing that he will be able to maintain himself in the Colony for at least one year. Doubtful cases are required to deposit a security of Rs. 200.
Under the Alienation of Land (Restriction and Evidence) Decree, 1934, the alienation of land by Arabs and Africans to others including Europeans is prohibited except with the sanction of the British Resident.	Do.	*New Immigrants are required on arrival either to deposit Rs. 100 or give a guarantee of an equivalent amount.
None so far as the Government of India are aware.	Do.	
No information	Do.	
Do.	Do.	†Formality of valid passport.
Indians like other non-Ceylonese, unless they are domiciled in Ceylon and possess a Ceylon domicile of origin, cannot purchase Crown land set apart for systematic development by 'Ceylonese' under the Land Development Ordinance, No. 19 of 1935.	Do.	

appointment of lawfully resident Indians to the Civil Services in all the Colonies and Ceylon and Malaya.

[31st Aug. 1936.]

Serial No.	Name of Country.	(a) Conditions laid down by Dominions and Colonies on the entry of Indians		
		(i) as tourists.	(ii) for business.	(iii) for establishing industries; § (iv) for entering into services; (v) for owning residential or other properties; and (vi) for agricultural purposes.
1	2	3	4	5
18	Malaya ..	No restrictions ..	No restrictions ..	No restrictions. ..
19	Fiji ..	*Landing permit should be obtained beforehand from the Secretary for Indian Affairs.	*Same as in column No. 3.	*Same as in Column 3 (Please see also remarks in column 6.)
20	British North Borneo.	No restrictions ..	No restrictions ..	No restrictions ..
21	Southern Rhodesia.	Permission should be obtained beforehand in each case.	Permission should be obtained beforehand in each case.	Indians are prohibited from entering the Colony for permanent residence.
22	Dutch Guiana. (Surinam).	†No restrictions ..	†No restrictions ..	†No restrictions ..

COLO

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§ So far as the Government of India are aware, there is no statutory bar to the Dominions except

(b) Legislation discriminating between the status of Indians living there and that of the natives of those countries.	(c) Conditions placed by the Government of India on the entry into India of the nationals of Dominions and Colonies.	Remarks.
6	7	8
NIES—concl'd.		
None so far as the Government of India are aware.	Nil.	
Under the Native Lands Ordinance, No. 1 of 1905, and the rules issued thereunder, Indians and other non-natives are prohibited from buying land outright from natives.	Do.	*The Immigration authorities may demand a deposit of £50 in the case of any person who is likely to become a charge on the Colonial revenues.
No information	Do.	
ING COLONIES.		
Resident Indians enjoy Municipal and political franchise on the same basis as Europeans. There are, however, restrictions in regard to (i) the grant of licences to Indians for purposes of trade in Native areas and (ii) the sale or lease to Indians of Crown lands situated in proximity to native areas.	Do.	
COUNTRIES.		
None so far as the Government of India are aware.	Do.	†No formality attaches to entry beyond obtaining a valid passport.
appointment of lawfully resident Indians to the Civil Services in all the Colonies and Ceylon and Malaya.		

Information promised in reply to unstarred question No. 163 asked by Mr. Amarendra Nath Chattopadhyaya on the 18th February, 1936.

IRREGULARITIES IN CHARGING SALARIES OF THE SUBORDINATES ON THE EAST INDIAN RAILWAY.

(a) No.

(b), (c) (i) and (ii). Government are informed that the pay of Messrs. J. Gillard, N. E. Whaley and E. W. Goff was charged against the posts substantively held by them as they had, during the period referred to, the responsibilities attached to these posts with some additional duties. The pay of Mr. L. McNeill was charged against the Chief Commercial Manager's office budget from the 11th November, 1935, to the 22nd December, 1935, when he acted as Assistant Commercial Manager. His pay for 10th and 11th of November and 3rd to 17th December, 1935, was charged against his substantive post. Commercial Inspectors, though attached to the Divisions, work both under the Chief Commercial Manager and the Divisional Superintendents. Their pay is debited to the same sub-head of account whether they work directly under the Chief Commercial Manager or the Divisional Superintendents.

(c) (iii). The Chief Accountant and Booking Clerk performed a portion of the duties of the Commercial Transportation Inspector in addition to his own.

(iv) and (v). Yes.

(vi) Yes, but this did not involve a long stay away from headquarters as the jurisdiction of the Commercial Transportation Inspector, Howrah, extends to the suburban area of Howrah, where the train service is frequent.

(d) Government do not consider that there has been any breach of rules in this case.

Information promised in reply to part (g) of starred question No. 555 asked by Seth Govind Das on the 18th February, 1936.

BRITISH EMPIRE FORESTRY CONFERENCE HELD IN SOUTH AFRICA.

A copy of the proceedings of the British Empire Forestry Conference held in South Africa in 1935, together with a copy of Summary Report, Resolutions, and Reports of Committees, has as promised in the reply to part (g) of starred question No. 555 been placed in the Library of the House.

Information promised in reply to starred question No. 626 asked by Mr. C. N. Muthuranga Mudaliar on the 19th February, 1936.

LETTING OUT OF BUILDINGS IN CONNAUGHT CIRCUS, NEW DELHI.

(a) and (b). Conditions are prescribed by Government, not by the New Delhi Municipal Committee, at the time that a plot of land is auctioned. These prescribe, *inter alia*, the purpose for which a building on a particular site may be used. Broadly the use of buildings on the inside of Connaught Place and Connaught Circus are to be used as trading premises only while those on the outside and in certain adjacent areas may be used as offices. This division is based on administrative and financial considerations.

(c) Government have no information.

(d) No. The New Delhi Municipal Committee is not concerned.

(e) The attention of the Honourable Member is invited to the reply given to part (f) of his starred question No. 622 on the 19th February, 1936.

Information promised in reply to starred question No. 788 asked by Mr. Amarendra Nath Chattopadhyaya on the 25th February, 1936.

UNIFORM INTERPRETATION AND APPLICATION ON ALL STATE RAILWAYS OF THE RULES FRAMED BY THE RAILWAY BOARD.

(c), (e) and (f). The words old scales referred to in Railway Board's letter No. 807-E.G.II, dated 31st August, 1934, signify the scales of pay applicable to certain retrenched employees at the time of their retrenchment. These words were wrongly interpreted by the East Indian Railway to mean the co-ordinated scales of pay in force prior to the introduction of the revised scales of pay which apply to the staff appointed after the 15th July, 1931. The correct interpretation has been communicated to the East Indian Railway with the instructions that retrenched employees borne on the waiting lists should, on their re-appointment prior to 1st April, 1936, be given if they were entitled to the old scales of pay under the rules, the old scales of pay which were applicable to them at the time of their retrenchment.

Information promised in reply to starred questions Nos. 816, 817 and 818 asked by Mr. Amarendra Nath Chattopadhyaya on the 25th February, 1936.

SUPPLY OF MILK TO THE DETENUS AT DEOLI.

816. (a) Milk supplied twice daily by the Contractor, who obtains it from the local cowherds twice daily. The supply is supervised by the medical staff.

(b) No. Milk of exactly the same quality obtained from the same source is daily consumed by all the officers and other inhabitants of the station.

DETENU SUFFERING FROM TUBERCULOSIS AT DEOLI.

817. (a) and (b). No detenu is suffering from tuberculosis.

(c) Separate single-bed wards exist in the Camp hospital for the segregation of suspected cases; and adequate treatment and diet are given until the diagnosis is confirmed. Definite tuberculosis cases are retransferred to Bengal.

FACILITIES FOR TREATMENT OF DETENU ALOKENATH CHAKRAVARTI.

818. (a) 15th December, 1933.

(b) The complaint from which he was suffering is technically known as spasmodic torticollis. There was no displacement of the muscles of the neck and shoulder, but only a certain degree of atrophy, which is the usual sequel to this complaint. He has stated that he has been suffering from this affliction since 1929.

(c) He is at present being treated with massage and various medicines. His state of health is reported to have greatly improved. He is able to sit up and occasionally walks with help. A few weeks ago he was unable to do this.

(d) He is no longer in Ajmer Hospital. He returned to Deoli on the 2nd December, 1935. He has not fully recovered, but as I have said he has much improved.

(e) He says that this is a fact. I am not sure whether the treatment by correspondence has ceased.

(f) If he makes such a request, it will be considered.

Information promised in reply to supplementary questions in connection with Seth Govind Das's starred question No. 845 asked by Pandit Lakshmi Kanta Maitra and Mr. S. Satyamurti on the 26th February, 1936.

TRAINING OF INDIAN STUDENTS IN CERTAIN FOREIGN COUNTRIES.

The High Commissioner for India, London, from whom an inquiry has been made, has intimated that he does not keep particulars of Indian students residing in individual countries in Europe, as Indian students, who go to the Continent for courses

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of study and training, usually make their own arrangements direct. Approximate numbers are however given in the Annual Report of the Education Department (of the High Commissioner's office) drawn from information furnished by the foreign universities concerned. In 1934-35 the total number of Indian students on the Continent was :—

France	25
German	57
Switzerland	4
Italy	24

2. The High Commissioner for India has stated that no information is available in his office as to whether any discourtesy is being shown to Indian students in certain countries in Europe, but that if any instance of alleged discourtesy were brought to his notice, he would make such inquiries and take such action as might be necessary and possible.

Information promised in reply to part (b) of starred question No. 988 asked by Dr. Ziauddin Ahmad on the 6th March, 1936.

RECRUITMENT OF MUSLIMS IN PORT TRUSTS.

A summary of the replies received from the Port Trusts in India to the circular letter issued by the Government of India regarding representation of Muslims and other minority communities in the Port Trust Services.

Chittagong Port Trust.—In view of the large percentage of Muslims already employed in the Port Commissioners' service no special action is considered by them to be necessary.

Madras Port Trust.—The Trustees will observe the spirit of the letter from the Government of India in the recruitment of staff.

Vizagapatam.—If the population in the neighbourhood of the administration contains no members of the minority communities, it would be necessary to recruit staff from a distance in order to carry out the Government of India policy. Employment of staff whose homes are distant from the scene of their employment usually involves extra expense. The policy of communal representation should, therefore, be controlled by considerations of economy and practicability.

Calcutta Port Commissioners.—About 37 per cent. of the Commissioners' staff are Muslims. The vast majority of these are in inferior posts and the percentage in superior posts is very small. The small number in the superior posts requiring educational qualifications is due, not to any discrimination against Muslims but to the generally poor quality of the applicants for appointment. According to the Commissioners' experience the reservation of 25 per cent. of superior appointments for Muslims or even a much lower percentage would have resulted sometimes not only in the passing over of better qualified men but in the appointment of men unfit for their posts. The Commissioners are, however, desirous of seeing more superior posts filled by Muslims and will take care that suitable Muslim candidates are advised of future vacancies and given encouragement to apply. They are not, however, prepared to bind themselves in any way to recruit on a communal basis.

Bombay Port Trust.—The nature of work is more varied in Port service than in most other services and different classes of work attract different communities, so that the distribution of appointments is often largely governed by the nature of work. It would, therefore, be very difficult, if not impracticable, to adhere to any rigid ratio for the recruitment of staff. A careful review of the results of the Port Trust policy of recruiting to the service on the basis of merit shows that the various communities in Bombay are fairly represented in their service. In the matter of direct recruitment for officers' posts during recent years the distribution has been 18 per cent. Hindus, 29 per cent. Muslims and 53 per cent. other classes. Interests of minority communities are, therefore, not neglected. Apart from the impracticability of adopting any fixed percentage, the Trustees are of the unanimous opinion after

examining the statistics of actual staff employed, that a change in the present system of recruitment is unnecessary. In any case, the Trustees are unwilling to adopt rules framed to regulate recruitment on a communal basis.

Karachi Port Trust.—The Trust has supplied detailed figures which show that Muslims have a large share of the posts in the Karachi Port Trust but mostly of the lower grades because it is stated for their lack of educational qualifications. There is a lack of Muslim candidates with even a Bombay Matriculation qualification but when such come forward they will be given a trial in reasonable proportion in the clerical branch. The first Indian pilot taken into the Karachi Port Trust service was a Muslim and in fact in every appointment Muslims are given a fair chance and in the ordinary clerical Branch preference over other candidates is given as stated above. In their view, the Port Trust are doing even more than the Government of India desire in the matter but nevertheless they consider it inadvisable to lay down any hard and fast rule or in any way to reduce the standard of efficiency in the Port Trust service by the appointment of men less fit for their posts because they are of a particular community.

Information promised in reply to starred question No. 1085 asked by Pandit Lakshmi Kanta Maitra on the 10th March, 1936.

EDUCATIONAL INSTITUTIONS MAINTAINED BY RAILWAY ADMINISTRATIONS FOR THE EDUCATION OF THE CHILDREN OF THEIR EMPLOYEES.

(a) and (b). I lay two statements on the table of the House giving the required information.

(c) Administrative control over these institutions is vested in the Agents of Railways concerned.

Statement showing the location and number of schools maintained by certain railway Administration.

Location.	Number of schools.		Remarks.
	Indian.	Anglo-Indian and Europeans.	
<i>East Indian Railway.</i>			
Asansol, Sahibganj, Jamalpur, Dinapore and Tundla.	5	..	
Ondal, Jhajha, Keshavapur Behari (Jamalpur) Jamalpur Islamia, Moghalsarai and Bareilly.	6	..	
Pathardihi, Gomoh and 16 schools at the collieries at Girdih.	18	..	
Oakgrove Hill Schools	..	3	
Lillooab, Bandel, Burdwan, Ondal, Asansol, Dhanbad, Gomoh, Madhupur, Jhajha Rampur Haut, Sahibganj, Jamalpur, Gaya, Dinapore, Moghal Sarai, Mirzapur, Tundla and Moradabad.	..	18	
Total ..	29	21	

Location.	Number of schools.		Remarks.	
	Indian.	Anglo-Indian and Europeans.		
<i>Bengal Nagpur Railway.</i>				
Adra, Bilaspur, Chakradharpur, Dongargarh, Khargpur, Khurda Road, Nainpur and Santagachi.	..	8		
Adra	3	..		
Bilaspur	3	..		
Chakradharpur	3	..		
Khargpur	3	..		
Nainpur	3	..		
Chindwara, Dongargarh, Sahdol, Tatanagar, Bhojudih and Jharsuguda.	6	..		
Khurda Road	2	..		
Total ..	23	8		
<i>Assam Bengal Railway.</i>				
Pahartali	2	..		
Akhaura, Bhairab Bazar, Kayothali, Lumding, Mariani and Badarpur.	6	..		
Total ..	8	..		
<i>Great Indian Peninsula Railway.</i>				
Parel, Kalyan, Lonavla, Dhond, Sholapur, Igatpuri, Bhusawal, Manmad, Nagpur, Itarsi and Bina.	..	11*		
Total ..	..	11		

* These schools are primarily intended for the children of European and Anglo-Indian employees, but in accordance with the Educational Code, children of Indian employees may be admitted upto a limit of 20% with the sanction of the Agent.

Location.	Number of school.		Remarks.	
	Indian.	Anglo-Indian and Europeans.		
<i>Bombay Baroda, and Central India Railway.</i>				
Abu Road, Ajmer, Bandikui, Bulsar, Gohad, Fatehgar, Gangapur, Mhow, Neemuch, Phulera, Rewari and Ratlam.	..	12		
Ajmer, Dohad, Gangapur, Godhra, Phulera, Kotah Sabarmati and Udhna.	8	..		
Abu Road	2	..		
Bandikui	2	..		
Ratlam	2	..		
Total ..	14	12		
<i>Madras and Southern Mahratta Railway.</i>				
Bitragunta, Haffieldpet, Jalarpet, Perambur, Arsikere, Bangalore City, Castle Rock, Gadag, Gooty, Guntakal, Hubli, Miraj, Pakala and Rajahmundry and Mormugao Harbour.	..	15		
Guntakal, Bitragunta, Jalarpet, Gooty, and Pakala.	5	..		
Total ..	5	15		
<i>Eastern Bengal Railway.</i>				
Saidpur, Katihar, Chitpur and Kanchrapara ..	..	4*	* Children of Indian employees are admitted to these schools up to the percentage permitted by the Educational Department rules for such schools.	
Total ..	..	4		
<i>Bengal and North Western Railway.</i>				
Gorakhpur	1	..	† In these schools children of Indian employees are admitted to the extent of 25% on total enrolment.	
Gonda, Gorakhpur, Benares, Sonapore and Samastipur.	..	5†		
Total ..	1	5		

Statement showing the expenditure incurred during 1932-33, 1933-34 and 1934-35 by certain Railway Administrations mentioned in Column I on the education of children of Indian and Anglo-Indian and European railway employees.

Railways.	Amount spent on the education of children of Indian employees.			* Amount spent on the education of children of Anglo-Indian and European employees.			Remarks.
	1932-33.	1933-34.	1934-35.	1932-33.	1933-34.	1934-35.	
Eastern Bengal	Rs. 14,223	Rs. 14,272	Rs. 14,705	Rs. 66,198	Rs. 69,007	Rs. 68,955	
East Indian	58,810	67,441	73,648	3,07,670	2,93,294	3,15,526	
Bengal Nagpur	57,312	59,123	60,030	27,348	26,676	25,572	
Assam-Bengal	14,463	13,440	14,219	10,745	12,809	12,247	
Bengal and North Western	6,290	6,076	6,159	9,684	10,166	10,236	
Great Indian Peninsula	31,024	18,423	26,512	1,25,958	1,32,547	1,04,230	
Bombay, Baroda and Central India	34,178	35,719	41,366	55,569	54,131	46,896	
Madras and Southern Mahratta	13,994	15,467	8,413	48,757	52,729	56,427	

* In addition a total sum of Rs. 75,357 was spent by the B. N. Railway during the years 1932-33, 1933-34 and 1934-35 towards the grant given to employees for the education of their children at Hill Schools.

Information promised in reply to parts (a) to (c) of starred question No. 1152 asked by Seth Govind Das on the 12th March, 1936.

PUBLICATION OF THE "SEA-BORNE TRADE AND NAVIGATION ACCOUNTS".

The total expenditure incurred on both the monthly and annual Sea-borne Trade and Navigation Accounts is about Rs. 2½ lakhs and the revenue derived from sales is about Rs. 7,500.

Information promised in reply to unstarred questions Nos. 321, 323, 326 and 333 asked by Dr. N. B. Khare on the 13th March, 1936.

PROCEDURE FOR INQUIRY INTO THE CONDUCT OF NON-GAZETTED RAILWAY STAFF.

321. The provisions of the Public Servants (Enquiries) Act, 1850, are applicable to employees on State-managed Railways who are not removable from their appointments without the sanction of Government. As regards other non-gazetted staff, I would refer the Honourable Member to the 'Rules regulating discipline and rights of appeal of non-gazetted Railway Servants' a copy of which will be found in the Library of the House.

POWERS OF DIVISIONAL SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

323. The reply to the opening part of the question is in the affirmative.

As regards (a), Government are informed that when powers have not been specifically delegated to officers under Divisional Superintendents these officers exercise powers within the delegation of powers made to a Divisional Superintendent to the extent that may be considered necessary for day to day administration and are responsible to the Divisional Superintendent for proper conduct of business according to the internal official arrangements.

(b) I would refer the Honourable Member to the schedule referred to in paragraph 1 of the circular quoted by him.

(c) Presumably the Honourable Member wishes to know the authority under which the Divisional Superintendents are empowered to execute service agreements with non-pensionable railway servants. If so, I would refer him to paragraph 13 of the Government of India, Home Department, Notification No. F. 1084-31-Judicial, dated the 14th July, 1932, a copy of which is in the Library of the House.

POSTS OF TRANSPORTATION INSPECTORS SANCTIONED BY THE EAST INDIAN RAILWAY.

326. Government are informed as follows :

(a) and (b). As both the officers who formed the Selection Committee in question have retired, it is not possible to get any further information on the subject. It may, however, be stated that two lists, one containing the names of all suitable candidates for the posts of Transportation Inspectors and the other of all officiating Inspectors with a summary of the recommendations from the Divisional Superintendents and others were prepared and received the consideration of the Selection Committee. The persons selected for the appointments were from these lists.

(c) Government do not consider any action was necessary.

(d) There was no necessity for a fresh Selection Board.

(e) The reply is in the negative.

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APPEALS AGAINST THE REMOVAL OF A COOLY JAMADAR OR A COOLY ON STATE RAILWAYS.

333. On the Burma, Eastern Bengal, East Indian and Great Indian Peninsula Railways, licensed coolies and Jemadars are not appointed by the Railway Administrations but by contractors; no appeal, therefore, lies to any officer of the Railway Administration from such coolies and Jemadars.

On the North Western Railway, Cooly Jemadars are licensed by Divisional Superintendents who are entitled, in accordance with the terms of the license, to withdraw it at any time. They have no right of appeal. Coolies, whether appointed by Jemadars or by Station Masters, are not railway servants and have, therefore, no right of appeal above the authority recruiting them.

Information promised in reply to part (b) of starred question No. 1292 asked by Khan Sahib Nawab Siddique Ali Khan on the 17th March, 1936.

DEPARTMENTAL PUBLICATIONS TO THE CREDIT OF THE DEPUTY DIRECTOR GENERAL OF ARCHÆOLOGY.

Statement showing the publications issued by the Archaeological Officers other than the Deputy Director General of Archaeology in India laid on the table of the Legislative Assembly with reference to part (b) of Khan Sahib Nawab Siddique Ali Khan's starred question No. 1292 in the Legislative Assembly on the 17th March, 1936].

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| 1. Mr. J. F. Blakiston | 1. Edited Memoir on the drawings of Geometric Pattern in Saracenic Art. |
| | 2. Memoir on the Jami Masjid at Badaun. |
| | 3. Edited Annual Report for 1924-25. |
| | 4. Ditto 1925-26. |
| | Ditto 1934-35 (in hand). |
| 2. Dr. M. A. Hamid | Nil. |
| 3. Khan Bahadur M. Sana Ullah .. | Contributed Chapter XXV and Appendix I in Mohenjodaro Volume. |
| 4. Khan Bahadur Maulvi Zafar Hasan. | 1. List of Mohammadan and Hindu Monuments in the Delhi Province: Volume I—IV 1916—1922. |
| | 2. Memoir No. 9. Mosque of Sheikh Abdu Nabi. |
| | 3. Memoir No. 10. A, Guide to Nizam-ud-Din. |
| | 4. Memoir No. 29. Specimens of Calligraphy in the Delhi Museum of Archaeology. |
| | 5. Memoir No. 45. Bibliography of Indo-Moslem History excluding Provincial monarchies. |
| | 6. Contributed articles in Epigraphia Indo-Moslemica for 1909-10, 1913-14, 1919-20, 1933-34. |
| 5. Dr. Ansari | Nil. |
| 6. Mr. H. L. Srivastava | Nil. |
| 7. Mr. M. H. Kuraishi | 1. Urdu Translation of Sir John Marshall's Guide to Taxila. |
| | 2. Urdu Translation of Sir John Marshall's Guide to Sanchi. |
| | 3. Catalogue of the Sanchi Museum of Archaeology. |
| | 4. Guide to Nalanda. |
| | 5. Descriptive List of the Protected Monuments in Bihar and Orissa (New Imperial Series Report Volume). |
| | 6. Persian text in Memoir on Kotla Firoz Shah. |

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| 8. Mr. M. S. Vats | Monograph on Harappa (not yet published). |
| 9. Mr. Q. M. Moneer | Nil. |
| 10. Dr. M. Nazim | 1. Memoir No. 49, Bijapur Inscriptions. |
| | 2. Contributed articles in Epigraphia Indo-Moslemica for 1929, 1934 and 1935. |
| 11. Mr. G. C. Chandra | Nil. |
| 12. Mr. N. G. Majumdar | 1. Memoir No. 48, Explorations in Sind. |
| | 2. Contributed articles in Epigraphia Indica for Volume XIX, 1927-28, Volume XXI, 1931, Volume XXII, Part 4, 1934. |
| 13. Mr. C. R. Krishnamacharlu .. | 1. Edited Annual Report on South Indian Epigraphy for 1931-32 and for 1932-33-34 in Press. |
| | 2. Contributed articles in Epigraphia Indica Volume XV, No. 26, Volume XVI, No. 18, Volume XVIII, No. 41, Volume XXI, No. 24. |
| 14. Mr. H. H. Khan | Nil. |
| 15. Dr. N. P. Chakravarti | 1. Edited Epigraphia Indica Volume XXI, Part VII. |
| | Edited Epigraphia Indica Volume XXII, Part I-IV. |
| | 2. Contributed articles in Epigraphia Indica Volume XXI, Part I, XXI, Parts IV and V, Volume XXII, Part I. |
| 16. Mr. T. N. Ramchandran | Nil. (Has joined the Department only recently). |
| 17. Dr. Chabra | Nil. (Has joined the Department only recently). |

Information promised in reply to starred questions Nos. 1303 and 1308 asked by Dr. P. N. Banerjee on the 17th March, 1936.

PAYMENT FOR HOLIDAYS TO THE EMPLOYEES OF THE EAST INDIAN RAILWAY PRESS.

1303. Government are informed as follows :

(a) All employees of the East Indian Railway Press irrespective of the community to which they belong have in the past enjoyed and are now enjoying the paid holidays prescribed for the Press establishment, unless a holiday falls within the period of an employee's leave in which case it is treated as leave.

(b) This is a matter of opinion.

(c) No. The 28th December was not a paid Shop holiday.

(d) The Workshop staff granted leave on the 28th December, 1935, were granted leave with pay if due or leave without pay if no leave was due.

(e) Information is not readily available and Government do not consider the amount of time and labour involved in collecting it will be justified by the results likely to be obtained.

(f) Does not arise.

WORKS COMMITTEE OF THE EAST INDIAN RAILWAY PRESS.

1308. Government are informed as follows :

(a) Yes.

(b) (i) and (ii). The Works (Welfare) Committee has never functioned owing to the staff failing to nominate representatives to serve on the Committee.

Information promised in reply to starred questions Nos. 1362 and 1363 asked by Pandit Sri Krishna Dutta Paliwal on the 20th March, 1936.

RECRUITMENT TO THE CADRE OF DIVISIONAL ACCOUNTANTS.

1362. It is a fact that the appointments to the Subordinate Accounts Service Cadre are considered as departmental promotion, and to the Divisional Accountants' Cadre as direct recruitment, for the purpose of the communal recruitment rules; but the sources of recruitment to these Cadres is not "almost the same". Divisional Accountants who serve both in the offices of Accountants-General and in the offices of the Public Works Department in the various Provinces or areas are recruited from three different sources, viz.:

- (1) from Audit Office clerks,
- (2) from clerks in Divisional or Sub-Divisional Offices in Public Works Department, and
- (3) from Graduates and others of Superior or special qualifications not in Government service.

The Departmental clerks have no more vested right in promotion as Divisional Accountants than have the others. Appointments to a Divisional Accountant Cadre are therefore not considered as cases of departmental promotions. On the other hand, promotions to the Subordinate Accounts Service are made mainly and almost entirely from source (1) mentioned above, except that a very small number of appointments is also made from source (3). The considerations which apply in the case of Divisional Accountants do not therefore apply to the Subordinate Accounts Service.

RECRUITMENT TO THE CADRE OF DIVISIONAL ACCOUNTANTS.

1363. Although the Divisional Accountants under the Accountant General, Central Revenues, are liable to be posted to Public Works Divisions in different parts of India, recruitment for the cadre is not made on an all-India basis. The Divisional Accountant cadre is 28. There are 14 posts in Delhi and 14 outside. Of the outside posts one each is in Port Blair, Rangoon and the Persian Gulf—not suitable recruiting areas. Six posts are located near or fairly near Delhi—Simla, Dehra Dun, Ambala, etc. Hence the number of posts that might be held to justify all-India recruitment is comparatively small. As a matter of fact recruitment is mainly in Delhi, and it is not unreasonable that the Delhi communal proportions should apply.

Information promised in reply to parts (d) and (e) of starred question No. 1365, parts (a) to (f) of starred question No. 1366 and parts (a) to (e) of starred question No. 1367 asked by Mr. D. K. Lahiri Chaudhury on the 20th March, 1936.

ARRANGEMENTS FOR WORK ON SUNDAYS AND POSTAL HOLIDAYS IN THE HOWRAH RAILWAY MAIL SERVICE.

1365. (d) The staff employed in the Railway Mail Service sorting offices is required to perform work on holidays including Sundays, and this is the case with the Howrah Railway Mail Service Sorting Office also.

(e) (i) Such relaxation as is practicable is given on holidays to the staff employed in the Howrah Railway Mail Service. Of the 38 sorters employed in the office, 14 of 8 hours duty per day. Orders have been issued to give all the sorters a chance of working in set No. 1 by rotation. The staff of the Howrah Railway Mail Service trains where the maximum hours of work per week are only 36. I may add for the Honourable Member's information that the performance of some work on Sundays and holidays is a recognised condition of service in the Postal Department.

(e) (ii) No reply was received from the head of the circle as none was called for. A copy of the Honourable Member's question was sent to the head of the circle concerned for such action as he considered suitable and practicable.

(e) (iii) This does not arise.

GRANT OF RELAXATIONS ON SUNDAYS AND HOLIDAYS TO THE CLERKS IN THE SUB-RECORD OFFICE OF THE HOWRAH RAILWAY MAIL SERVICE.

1366. (a) and (e). The sorters attached to the Sub-Record Office, Howrah, as clerks have been ordered to work at the Howrah Railway Station Post Office as sorters for a portion of their daily hours of duty. No breach of rules is involved in this and they are permitted to enjoy the concession of 20 days maximum casual leave per annum in view of the fact that they do not enjoy relaxation on Sundays and holidays.

(b), (c) and (d). Yes.

(f) Does not arise.

FIXATION OF WORKING HOURS OF INFERIOR STAFF IN THE RAILWAY MAIL SERVICE.

1367. (a) Ordinarily, the working hours of inferior staff in the Railway Mail Service conform to those of the set to which they are attached, but this is not the case where the inferior staff is attached for duty partly to one set and partly to another. In such cases care is taken to see that the daily or weekly hours of duty of such inferior staff do not exceed the standards fixed.

(b) Yes, if they are wholly attached to the set in which they are working.

(c) Yes.

(d) The facts are not as stated by the Honourable Member. Certain members of the inferior staff of the Howrah Railway Mail Service are attached partly to set No. 1 and partly to set No. 2, and certain other members of the inferior staff are attached to the Howrah Railway Mail Service Post Office. Their hours of duty do not, therefore, conform to those of the sorters either of set No. 1 or of set No. 2; but in no case do the hours of duty of the inferior staff exceed 8 hours per day.

(e) Does not arise.

Information promised in reply to parts (b) and (c) of unstarred question No. 369 asked by Lieut.-Colonel Sir Henry Gidney on the 20th March, 1936.

PROMOTIONS AND DEMOTIONS OF ELECTRICIANS AND CHARGEMEN, ETC., ON THE GREAT INDIAN PENINSULA RAILWAY.

Government are informed as follows:

(b) No. Generally demotion and promotion are made on the same basis, but in the case of electrical chargemen promotion in the past was made on a divisional basis but at a comparatively recent date demotion had been ordered on a departmental basis, in view of the fact that the cadre was a small one.

(c) Generally where promotion is made on a divisional basis demotion will be on the same basis and where promotion is made on a departmental basis demotion will be made on the same basis.

Information promised in reply to unstarred questions Nos. 383 and 384 asked by Mr. Sham Lal on the 20th March, 1936.

SUPERNUMERARY BRAKESMEN OF THE OLD OUDH AND ROHILKUND RAILWAY.

383. (a) to (f), (h) and (i). Government are informed that the posts of brakemen on the Lucknow Division were abolished in 1931. Out of 11 brakemen who were retrenched 7 have been re-employed, one died and the remaining 3 did not turn up when called by the Divisional Superintendent, Lucknow, in connection with

re-employment, and their names were struck off the waiting lists; 9 posts of brakesmen were abolished on the Moradabad Division in 1935 and the holders of those posts were treated as supernumerary pending absorption in other vacancies. The number of supernumerary brakesmen to be absorbed as a result of the orders issued in 1935 was four. Two of them were absorbed as sorters on Rs. 27 per mensem in the scale 18-1-27 with effect from 1st September, 1935, and 1st November, 1935, respectively. One was absorbed as Assistant Trains Clerk on Rs. 28 in the scale Rs. 28-2-50 on the 27th November, 1935, and the 4th resigned service from 21st December, 1935.

(g) Government are informed that there is no material difference between the duties of letter delivery clerks and sorters. The category of train despatch clerks is extinct. They used to be employed on the old Oudh and Rohilkhand Railway on duties similar to those of letter delivery clerks.

(j) and (m). I would refer the Honourable Member to my reply to Qazi Mohammad Ahmad Kazmi's question No. 832 asked in this House on the 26th February, 1936.

(k) and (n). I would refer the Honourable Member to the reply given to question No. 573 asked by Mr. Muhammad Azhar Ali on 26th February, 1935, in which it was stated that the Government consider that continuance of mileage allowances to staff working as letter delivery clerks is not according to their present policies and that the Agent, East Indian Railway, had been instructed to discontinue the practice and to absorb the staff concerned in categories the duties of which they are actually performing.

(l) The present policy of the Government is to abolish posts which are considered surplus and to absorb holders of such posts into other vacancies as far as possible as an alternative to discharge.

(c) If and when staff other than supernumerary brakesmen were ordered to relieve brakesmen they were paid daily allowance if permissible and not mileage allowance.

SUPERNUMERARY BRAKESMEN OF THE OLD OUDH AND ROHILKUND RAILWAY.

384. (a) and (b). Reply to the first part of (a) is in the affirmative. As regards the latter part of (a) and (b) I would refer the Honourable Member to the information laid on the table of the House in reply to parts (a) to (f), (h) and (i) of question No. 383 asked by Mr. Sham Lal on 20th March, 1936, in the Legislative Assembly.

(c) Yes.

(d) Staff appointed as sorters have been given the new scales of pay of the posts as there were no old scales of pay for these posts.

Information promised in reply to unstarred question No. 402 asked by Sardar Mangal Singh on the 20th March, 1936.

NEW SCALES OF PAY FOR JOURNEYMEN ON THE NORTH WESTERN RAILWAY.

Government are informed as follows:

(a) The order that the revised scales of pay would be introduced with effect from the 1st August, 1934, was first notified through the Agent, North Western Railway's letter No. 561-EJ/67, dated the 31st July, 1934, addressed to the subordinate offices, and was published in the North Western Railway Gazette Extraordinary, dated the 6th August, 1934. A letter of the same number, dated the 17th September, 1934, giving detailed instructions in regard to the application of the revised scales was published in the North Western Railway Gazette Extraordinary, dated the 24th September, 1934.

(b) and (c). The pay of staff newly appointed after 15th July, 1931, and before 1st August, 1934, to whom revised scales were applicable was refixed in the revised scales with effect from 1st August, 1934, but no recovery was made on account of

payments made before 1st October, 1934, from such employees as had been paid at a higher rate than that admissible under the revised scales.

(d), (e) and (j). I would refer the Honourable Member to my reply to unstarred question No. 169 asked by Mr. Nabi Baksh Illahi Baksh Bhutto on the 18th February, 1936. As regards the latter part of (j) the reply is in the negative.

(f) No.

(g) Yes.

(h) As regards the first part of the question the new scales of pay for the junior and senior Chargemen are as follows:

Junior Chargemen—100—10½—120.

Senior Chargemen—100—10½—120—140 (fixed)—160 (fixed)—180 (fixed).

As regards the second part, I would refer the Honourable Member to my reply to unstarred question No. 169 asked by Mr. Nabi Baksh Illahi Baksh Bhutto on the 18th February, 1936.

(i) No.

Information promised in reply to unstarred question No. 404 asked by Babu Kailash Behari Lal on the 20th March, 1936.

PROVISION OF A WAITING ROOM AT NATHNAGAR STATION.

(b) The Agent, East Indian Railway, reports that the question was gone into and it was found that the number of passengers dealt with at Nathnagar did not warrant the provision of a waiting room at that station, nor has a recent re-examination of the question altered the Administration's views in this matter.

Information promised in reply to unstarred question No. 426 asked by Mr. Sham Lal on the 20th March, 1936.

DISCHARGE OF COMMERCIAL STAFF ON THE NORTH WESTERN RAILWAY.

Government are informed as follows:

(a) (i), (ii) and (iii). Yes. In this connection the Honourable Member is referred to clause 5 of the agreement (reproduced below) executed by these men:

"that after one month's temporary employment I must be prepared to pass any examination considered necessary for holding charge I am appointed to, failing which my services are liable to be terminated immediately."

(b) Does not arise.

Information promised in reply to parts (a) to (c) of starred question No. 1388 asked by Pandit Lakshmi Kanta Maitra on the 23rd March, 1936.

GRANT OF HOLIDAYS TO THE OFFICIALS WORKING IN THE RAILWAY MAIL SERVICE SORTING OFFICES.

(a) The number of notified holidays including Sundays for Circle offices, for offices of the Superintendents of post offices and of Railway Mail Service, and for post offices varies in different circles. But even on notified holidays the staff may be required to perform some work if the exigencies of the service require it. Further the performance of some work on Sundays and holidays is a recognised condition of service in the postal department. The staff employed in the Railway Mail Service sorting office is required to perform work on holidays including Sundays.

(b) Such relaxation as may be practicable is given on holidays to the staff employed in Railway Mail Service sorting offices. Moreover the staff employed in Railway Mail Service sorting offices are periodically transferred to work in travelling

sections where the maximum hours of work are fixed at 36 per week and is thus not required to work on all holidays throughout the year.

(c) Does not arise in view of replies to parts (a) and (b).

Information promised in reply to starred question No. 1424 asked by Dr. P. N. Banerjee on the 23rd March, 1936.

FACILITIES TO THE EMPLOYEES OF THE RAILWAY INSTITUTES IN CERTAIN MATTERS ON STATE RAILWAYS.

Staff employed in railway institutes are not railway servants. They are employees of the managing committees, who appoint them on such terms and conditions of service as they may consider necessary. Railway Administrations do not maintain information regarding their terms and conditions of service. Government regret that they are not prepared to collect information in respect of employees who are not railway servants.

Information promised in reply to unstarred question No. 431 asked by Mr. Ghansham Singh Gupta on the 23rd March, 1936.

DISTINCTION BETWEEN INDIANS AND EUROPEANS IN ORDNANCE FACTORIES.

(a) There is no distinction between Indians and Asiatic domiciled Europeans doing the same class of work in Ordnance Factories as regards any conditions of service.

(b) The allowances referred to are in the nature of "overseas pay" and are admissible only to those of non-Asiatic domicile.

(c) and (e). At present overseas pay is generally admissible to superior officers of non-Asiatic domicile in civil departments of the Central Government. In no department is any distinction made between Indians and Europeans, irrespective of domicile.

(d) No. A revised scale of pay was introduced for those of Asiatic domicile recruited for Ordnance Factories after the 27th September, 1931.

(f) 9 Europeans have been recruited locally for Ordnance Factories during the last 5 years. In three cases the posts were advertised and the best men available were selected. In the remaining six cases men were specially selected either by transfer from other establishments or on account of special qualifications for the posts.

Information promised in reply to unstarred questions Nos. 434 and 435 asked by Mr. Amarendra Nath Chhattopadhyaya on the 23rd March, 1936.

SUCCESSFUL *ex*-APPRENTICE MECHANICS OF THE EAST INDIAN RAILWAY TECHNICAL SCHOOL.

434. Government are informed as follows:

(a) The appointment of apprentices as chargemen in the technically trained grade is subject to their being vacancies in that grade; when vacancies do not exist, but are available in a lower grade, apprentices are given the option of appointment in such lower grade vacancies on the understanding that their future promotion will be subject to the rules and principles applicable to employees serving in these lower grades.

(b) The position as stated by the Honourable Member is not correct. The procedure mentioned in reply to part (a) above is followed in all the Mechanical Workshops of the East Indian Railway.

(c) No.

(d) In view of the reply to part (b) above this does not arise.

(e) and (f). In view of the reply to part (a) above, Government do not consider any further action is necessary.

SUCCESSFUL *ex*-APPRENTICES OF THE LILLOOAH WORKSHOPS.

435. Government are informed as follows:

The procedure is that when apprentices who have completed their period of training are appointed to fill temporary vacancies occurring due to staff acting in higher grades, they are appointed in an officiating capacity. When staff officiating in higher grades are confirmed, thus causing a permanent vacancy in the chargeman (technically trained) grade, an officiating chargeman (technically trained) may be confirmed as a permanent measure.

Information promised in reply to unstarred question No. 445 asked by Mr. Muhammad Azhar Ali on the 23rd March, 1936.

SANITATION OF SHAHDARA, DELHI.

(a) The Public Health Commissioner with the Government of India, who is also Director of Public Health, Delhi Province, did not visit the area in 1935-36. The Assistant Director of Public Health, Delhi Province, however, visited it on more than one occasion.

(b) No. The area is looked after by the Notified Area Committee, Shahdara. The Sub-Assistant Surgeon in charge of the Shahdara dispensary is Health Officer of the Committee and is responsible for looking after the Health of the population.

(c) The Health Officer insists that vendors of vegetables, fruits and other eatables should provide wire gauze and covers to protect them from insects and flies. Rotten vegetables, fruits, etc., are seized and destroyed, if necessary.

(d) A scheme for the improvement of the drainage system is being considered by local authorities.

(e) The Notified Area Committee with its limited means keeps the ponds as clean as possible by the use of disinfectants such as diesel oil and phenyle.

(f) This is a local matter under the administration of the Notified Area Committee.

Information promised in reply to parts (a), (b) and (d) of starred question No. 1429 asked by Sir Muhammad Yakub on the 24th March, 1936.

STENOGRAPHERS IN THE GOVERNMENT OF INDIA DEPARTMENTS.

(a) 143, both permanent and temporary.

(b) (i). 25.

(ii) 94.

(d) Five, *viz.*, Legislative, Legislative Assembly, Commerce, Military Finance, and Finance Departments.

N.B.—The foregoing states the position on 1st March, 1936.

Information promised in reply to starred question No. 1433 asked by Prof. N. G. Ranga on the 24th March, 1936.

UNSYMPATHETIC AND ANTI-INDIAN ATTITUDE OF THE EDUCATIONAL ADVISER FOR INDIAN STUDENTS AT OXFORD.

(a) Yes.

(b) No.

(c) Does not arise.

(d) The High Commissioner for India, London, who was consulted in the matter, has stated that he has no evidence to the effect that the general body of Indian students at Oxford University are discontented with Mr. Williamson's alleged 'unsympathetic and anti-Indian attitude'.

Information promised in reply to starred question No. 1453 asked by Khan Bahadur Shaikh Fazl-i-Haq Piracha on the 7th April, 1936.

CANCELLATION OF THE APPOINTMENTS OF MUSLIM INSPECTORS IN THE CREW DEPARTMENT, EASTERN BENGAL RAILWAY.

Government are informed as follows:

(a) and (c). Yes.

(b) The Agent favoured the appointments, but as they were somewhat exceptional invited instructions from the Board before making them.

(d) and (e). The Agent did not make the appointments because the Railway Board informed him they were not in favour of the proposal.

(f) Information is not available.

(g) In view of my reply to part (f), this does not arise.

Information promised in reply to starred question No. 1460 asked by Mr. Sri Prakasa on the 7th April, 1936.

RAILWAY ADVERTISEMENTS IN THE INDIAN NEWSPAPER.

(d) and (e). Government are informed that it is at the instance of the Government of the United Provinces that the East Indian Railway refrain from advertising in the *Aj* (Benares) and the *Pratap* (Cawnpore).

Information promised in reply to unstarred question No. 453 asked by Dr. P. N. Banerjea on the 7th April, 1936.

LIBRARIES AND INSTITUTES SUBSIDISED BY STATE RAILWAYS.

Government are informed that the information asked by the Honourable Member is not maintained by Railway Administrations. Libraries are generally attached to railway institutes, maintained out of institute funds and controlled by the managing committee of the institute, who employ such staff as they consider necessary. No grants are given to libraries but institutes receive grants-in-aid from the Staff Benefit Fund and occasional contributions from the same Fund for the purchase of books, etc.

Information promised in reply to unstarred questions Nos. 467 and 468 asked by Mr. Amarendra Nath Chattopadhyaya on the 7th April, 1936.

CABINETS OF ROSS PATENT TICKET CASES PURCHASED FOR USE AT THE HOWRAH BOOKING OFFICES.

467. (a) (i). Eighteen Ross Patent Ticket Cases have been ordered; 16 have been supplied.

(a) (ii). Three cases cost Rs. 150 each and the others Rs. 175 each. Each magazine costs Rs. 5.

(a) (iii). Three cases are in use at Howrah—two in the Intermediate class and one in the Third Class Booking Offices.

(b) (i). 1,600.

(b) (ii). Rs. 13,515.

(b) (iii). A proposal to combine all the Third Class Booking Offices at Howrah into one office to provide efficient supervision, economy in staff and space for

installing the 18 ticket cases is under consideration. An estimate of the cost of the scheme is being prepared.

(b) (iv). The risk of frauds is diminished by the use of these ticket cases as tickets cannot be extracted out of course from the magazines which is possible with the ordinary ticket tubes.

(b) (v). The expenditure was considered justifiable with a view to preventing the fraudulent removal of tickets.

(b) (vi). The question will be decided on results of the trial at Howrah.

INTRODUCTION OF ROSS PATENT TICKET CABINETS ON THE EASTERN BENGAL RAILWAY.

468. (a) Ross Patent Ticket Cabinets have been introduced in the North and South Stations at Sealdah.

(i) Nine cabinets with 980 tubes have been purchased at a cost of Rs. 6,475.

(ii) Five cabinets are in use on the North Station and four on the South Station at Sealdah.

(iii) No.

(iv) The non-introduction of these cabinets, so far, at the main station at Sealdah is due to the fact that it was decided to test the existing Cabinets exhaustively before extending their use to other stations.

(b) No.

(c) Yes; but these defects were rectified by the supplier.

Information promised in reply to unstarred questions Nos. 479, parts (c) and (d), 491, 492, 493, 494, 497, 498, 499, part (d), 510, 518, 519, 541, 547, 548, 561 and 562 asked by Dr. N. B. Khare on the 7th April, 1936.

RENT CHARGED BY THE EAST INDIAN RAILWAY FOR REFRESHMENT ROOMS.

479. (c) and (d). Yes. The rates are generally as shown below:

Messrs. G. F. Kellner & Co., pay a lump sum rent of Rs. 1,087-10-0 per mensem for all the refreshment rooms on the whole of the line which is made up of Rs. 1,000 per mensem for the old East Indian Railway section and Rs. 87-10-0 per mensem for the old Oudh and Rohilkhand Railway section.

Howrah Division—Hindu and Mohammedan refreshment room contractors at Howrah pay Rs. 90 per mensem each.

Asansol Division—The basis of charge is Rs. 5 per mensem for each room.

Dinapore Division—The basis of charge is 6 per cent. on the capital cost exclusive of the cost of land.

Allahabad Division—Rs. 5 per mensem per room.

Lucknow and Moradabad Divisions—Nominal rents of Re. 1 per mensem from each contractor, except at Lhaksar where 5 per cent. of the capital cost is recovered from a contractor.

These rents which are exclusive of the rental on electric equipment, are at present under examination. There is no uniformity in the rates of rental charges as the rents have been fixed after taking into consideration the amount of catering done and possible profits made.

PROCEDURE ON STATE RAILWAYS FOR PUNISHING OR REDUCING THE STAFF FROM SUPERIOR TO INFERIOR SERVICE ON FAILURE TO PASS AN EXAMINATION.

491. It is presumed that the Honourable Member is referring to the departmental examinations which certain categories of staff are required to pass during their service. If so, it may be stated that as a general rule on the four State-managed Railways in India, a member of the non-gazetted subordinate service is not reduced to inferior service because of his failure to pass a departmental examination.

As regards punishing the staff who fail to pass a departmental examination, Government are informed as follows:

East Indian Railway.—(a) In the case of examinations which are intended as a test of the capacity of the individual to perform his daily duties, failure to pass the examination renders the employee liable to removal from his post and the procedure for dealing with such staff who fail to qualify is as laid down in the notification at paragraph 30 published in the East Indian Railway Gazette, dated the 24th January, 1934, as modified by paragraph 632 of the Gazette, dated the 3rd October, 1934, copies attached.

(b) There are certain training courses and examinations which it is necessary for certain classes of staff to pass before they are eligible for promotion; failure to pass such examinations would render the employee ineligible for the promotion in question.

North Western Railway.—Failure to qualify in a training course is a bar to promotion to that class of appointment for which the qualification obtained by passing that course is laid down, but not a bar to promotion to higher posts for which a training course qualification is not required. The general procedure is that failure to qualify in an examination at the training school is not taken as a conclusive proof that a man is unfit to work in a particular capacity. In the case of train working a man who is considered as being so ignorant as to be dangerous in the matter of the safety of the travelling public, a special report on him is made by the Superintendent of the school. In any case his executive officer, on the basis of the school reports and all other available information, decides whether to allow him to carry on or to put him on probation or to examine him in any way he considers fairest as to his real capabilities, and no one is removed from his post without such personal consideration of his case by his executive officer.

Great Indian Peninsula Railway.—Staff who are concerned with train working are required to pass a periodical competency examination. If they fail after two attempts, they are removed to posts not concerned with train working, or removed from the service, if their records are unsatisfactory.

Eastern Bengal Railway—Traffic Department.—Signallers failing to pass higher test in telegraphy or to qualify in train passing and coaching duties do not get increments beyond the efficiency bar.

Mechanical Department.—Firemen are required to pass as shunters and shunters as drivers within a specified period of service. The penalty for failure to pass this examination is discharge. If, however, the man is otherwise deserving, special consideration is shown to him.

Copy of paragraph 632 of East Indian Railway Gazette No. 20, dated the 3rd October, 1934.

Railway School of Transportation, Chandausi.—In modification of the orders contained in gazette notification No. 30 of East Indian Railway Gazette No. 2 of 24th January, 1934, it is notified that the penalties for failing in the examination will not be applied automatically but at the discretion of the Divisional Superintendent. Staff retained at the school under paragraph 3 (b) of the notification will not be required to pay their own messing.

If a man is reported to have failed in any subject, it will rest entirely with the Divisional Superintendent whether he should be allowed to continue in his post or not, and whether his increment should be affected.

A special report on those who fail will be submitted by the school Superintendent to the Divisional Superintendent.

Copy of paragraph 30 of East Indian Railway Gazette No. 2 of 24th January, 1934.

Railway School of Transportation, Chandausi.—The following is published for the information of all concerned and in supersession of East Indian Railway Gazette Notification No. 953 of 8th August, 1928.

1. The subjects in the Assistant Station Masters Refresher Course will remain as at present, i.e.:

- (i) Transportation,
- (ii) Commercial,
- (iii) Telegraphy,
- (iv) First Aid.

but the Transportation Examination will be subdivided under three heads:

Practical—Practical Test in the Model Room.

Theory A—Questions regarding the safe working of trains.

Theory B—Questions not covered by Theory A.

2. Certificates of competency will only be issued to men who pass in all subjects. Staff who fail in any subject will be shown in the School-Superintendent's Report to the Divisional Superintendent as 'Failed in—' but passed in other duties'.

3. Staff failing to obtain a certificate of competency will be dealt with as follows:

- (a) Those who pass in Transportation, Practical and Theory A, but fail in any other subject, will be sent back to their Divisions as at present, and Divisional Superintendents may continue to utilise them for train passing or any other duties as desired, but they will not be granted any further annual increment with effect from the date they were sent to the school until they obtain a school certificate. Such staff should be returned to the School at the earliest opportunity, vide sub-paragraph (c) below.
- (b) Those who fail in Transportation Practical or in Theory A, will be retained at the school for the following course and will pay their own messing charges at the standard rate. These messing charges will be recovered through their salary bills in one instalment.
- (c) Staff undergoing further instruction due to failure in the first examination, vide sub-paragraphs (a) and (b) above will only be instructed and examined in the subjects in which they previously failed. If a man fails on the second examination, vide sub-paragraph (b) above, it will be taken as definite proof that the man is unfit for the post he substantively holds and if no other suitable post is available in which he can be permanently absorbed he will be discharged.

4. All staff of other categories attending any Refresher Courses, as distinct from instructional Courses who fail to pass in all subjects will be returned to their Divisions and be given no further annual increment until they have passed in the subjects failed in. Such staff should be returned to the school for further instruction at the earliest opportunity.

5. As soon as possible after the holding of an examination, the Superintendent will intimate by wire to the Divisional Superintendents concerned, which men are being retained in the School under paragraph 4 (b) above. Divisional Superintendents may then correspondingly reduce the number of Assistant Station Masters they are sending for the next course, if they wish.

6. Extract of Transportation Lectures and a Series of typical examination questions will be printed and may be obtained from the School Superintendent at

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approximately cost price. As soon as these are available, a notification to the effect, stating the price, will be published in the East Indian Railway Gazette.

7. A committee composed of two Transportation Officers to be detailed by the Chief Operating Superintendent, will visit the School once a year, or oftener as the Chief Operating Superintendent may direct and study the method of instruction with a view to keeping it as much in touch with line requirements as possible. They will submit to the Chief Operating Superintendent a report of their visit with such recommendations as they consider necessary.

8. These orders will take effect on and from the Course commencing in January, 1934, and will not have retrospective effect.

SCALE OF PAY APPLICABLE TO THE STAFF RECRUITED BY THE EAST INDIAN RAILWAY BETWEEN 1ST JULY, 1925, AND 1ST NOVEMBER, 1928.

492. Government are informed as follows:—

(a) That the staff recruited between the 1st July, 1925, and 1st August, 1928 (1st September, 1930, in respect of Running Staff) were governed by the old East Indian or the old Oudh and Rohilkhand Railways scales according to the area in which they were recruited. Persons appointed thereafter but up to the 15th July, 1931, are governed by the revised scales of pay referred to part (c) of the statement laid on the table of the House in answer to Mr. K. Ahmed's question No. 1469, asked on the 28th November, 1932.

(b) Revised scales of pay have been introduced on the East Indian Railway since 1925 to meet difficulties arising from the amalgamation of the Oudh and Rohilkhand Railway; to adjust pays fixed at a time when cost of living was high to changed conditions; to improve pay of inferior, lower-paid, and workshop staff; and finally, as on other railways, new scale of pay for all staff engaged after 15th July, 1931.

STAFF IN EACH SCALE OF PAY AS BUDGETED FOR THE YEAR 1936-37 BY THE EAST INDIAN RAILWAY.

493. I would refer the Honourable Member to the Pink Book containing East Indian Railway Revised Estimates, 1935-36 and Budget Estimates, 1936-37, a copy of which is in the Library of the House. Government have no other information and do not consider that the expense and labour involved in compiling the information will be commensurate with the results likely to be achieved.

SCALES OF PAY REVISED WITH EFFECT FROM 1ST AUGUST, 1928, ON THE EAST INDIAN RAILWAY.

494. A copy of the Agent, East Indian Railway's circular No. 485-A.E.-388, dated the 1st October, 1928, containing the revised scales of pay for subordinate staff introduced with effect from 1st August, 1928, has been placed in the Library of the House.

ABUSES OF POWER IN REGARD TO APPEALS FROM RAILWAY SERVANTS ON THE EAST INDIAN RAILWAY.

497. Government are informed that a number of direct appeals are received by the Agent, East Indian Railway every day, but it is not always possible to decide off hand whether these lie to the Agent. They are generally sent to the department concerned 'for disposal', and it has been made clear to the departments that the words 'for disposal' imply that the appeal must be dealt with in accordance with the rules on the subject.

DISPOSAL OF APPEALS FROM RAILWAY SERVANTS ON THE EAST INDIAN RAILWAY.

498. If the Honourable Member will quote an instance of an appeal which lay to the Agent but was withheld, otherwise than in accordance with the rules, it will be investigated. Government are informed that all appeals are carefully examined and care is taken to see that the procedure laid down in the rules is observed.

RULES FOR RESIDENTIAL BUILDINGS ON STATE RAILWAYS.

499. *Ad-interim* reply given by Honourable Member to part (d) of, unstarred question No. 499 on the 7th April, 1936:

The information is being obtained and a reply will be laid on the table in due course.

Proposed final reply to be placed on the table of the House at a meeting of the next session of the Assembly.

(d) (i). The North Western Railway was able to work out the details of the rent pooling scheme by 1st August, 1928. The staff were not deprived of any benefits, as the new rules as stated in the reply to part (b) of the question, were issued in 1926.

(ii) The said rules could not be enforced from 1st July, 1925, on the East Indian Railway as they were issued in 1926. The earlier rules issued in 1922 were, however, applied to the ticket checking staff, and under these rules the privilege of giving rent free quarters to this class of staff was discontinued on the East Indian Railway proper with effect from the date on which the line was taken over by Government, and on the Oudh and Rohilkhand section with effect from the date on which it was amalgamated with the East Indian Railway. I may mention that such of the ticket checking staff as enjoyed the privilege of rent free quarters or house-rent allowance in lieu thereof, or rent free quarters when available, have been permitted to continue to enjoy this privilege.

DIFFERENCE IN THE NATURE OF DUTIES OF CERTAIN STAFF ON THE EAST INDIAN RAILWAY.

510. Government are informed as follows:

(a) Brakesmen have not been employed as such on the East Indian Railway for some years, and it is not, therefore, possible at this stage to specify the precise nature of the duties they used to perform. A guard is in charge of a train in all matters affecting stopping or movement of the train for traffic purposes. Details of the duties of a guard can be found in Chapter III (Working of Trains generally) of the General Rules for all open lines of Railways in British India administered by the Government a copy of which is in the library of the House.

(b) The duties of letter delivery clerks before this category was replaced by 'sorters' were to deliver dak and empty ticket bags, etc., to stations. Letter despatch clerks and train despatch clerks are not employed on the East Indian Railway.

(c) I would invite the Honourable Member's attention to the reply to part (f) of Sheikh Fazal Haq Piracha's question No. 1125 asked on the floor of this House on the 2nd October, 1931. Crewmen have not been employed on the East Indian Railway since the 1st June, 1931. When they were employed their duties were largely similar to those now performed by travelling ticket examiners, the principal difference being that crewmen were not responsible for the collection of cash.

ACTING ALLOWANCES OF THE *ex*-COMPANY STAFF OF THE EAST INDIAN RAILWAY.

518. (a) and (b). Yes.

(c) (i). No, as the change sanctioned in the Railway Board's letter referred to introduced an additional concession to which these employees were not previously

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entitled, and consequently the question of asking them to agree to the grant of the additional concession did not arise. Any employee who does not wish to avail of the concession will not be forced to do so.

(ii), (iii) and (iv). Do not arise.

RELATIONSHIP BETWEEN THE AGENT AND CERTAIN OTHER STAFF ON STATE RAILWAYS.

519. While the officials mentioned by the Honourable Member are under the Agent's control so far as general administration is concerned they exercise the powers of a local Government in respect of staff under their administrative control for the purposes of the Rules contained in Appendices I and II referred to in Rule 27 of Rules regulating discipline and rights of appeal of non-gazetted railway servants.

CHECKING OF THE WORK OF STATION MASTERS BY A TRAFFIC INSPECTOR ON THE EAST INDIAN RAILWAY.

541. The reply to the first part is in the affirmative. As regards the latter part this is a matter of detailed administration entirely within the competence of the local Railway Administration to decide.

SENIORITY OF EAST INDIAN RAILWAY AND OLD OUDH AND ROHILKHAND RAILWAY STAFF.

547. For staff other than Engineering staff separate seniority lists are not maintained and promotions to higher grade appointments including selection posts, which are controlled by the Heads of Departments, are made on the joint cadre, and no distinction is made as between the Oudh and Rohilkhand Railway and East Indian Railway posts. In the case of non-selection posts, promotions are regulated by seniority subject to fitness, and in the case of selection posts promotions are made by selection from among the staff who are recommended by the Divisional Superintendents as fit for promotion. In the case of promotions to lower grades than those controlled from headquarters, each division has its own cadre of posts, and promotions are made by the Divisional Superintendent from the seniority list of his own division.

STATION MASTER'S EXAMINATION IN THE MORADABAD DIVISION, EAST INDIAN RAILWAY.

548. (a) Government have no information and do not consider that the amount of time and labour involved in compiling the information will be justified by results. Government are informed as follows:

(b) The Goods Accounts Examination was introduced in 1928, was applicable to both the old Oudh and Rohilkhand Railway staff and to East Indian Railway staff.

(c) Previous to 1928 the examination qualifying for promotion as Station Master or as Inspector on the Oudh and Rohilkhand Railway was the goods audit examination, sometimes called the station masters examination.

(d) The date from which the Goods Accounts Examination was introduced.

(e) As regards the first part of the question, the staff of both (old) Oudh and Rohilkhand and (old) East Indian Railways, who have passed the old Goods Audit Examination to qualify for promotion as station master or inspector. The latter part of the question does not arise.

POWER TO PASS AN ORDER OF DISCHARGE BY A SENIOR SCALE OFFICER ON STATE RAILWAYS.

561. On the State-managed Railways officers below the rank of a Divisional Superintendent derive powers in respect of discharge and dismissal of non-gazetted

railway servants from the Rules regulating discipline and rights of appeal of non-gazetted railway servants which were promulgated in June, 1935, by the Governor General in Council in exercise of the powers conferred on him by the Direction appended to the Railway Services (Classification, Control and Appeal) Rules, copies of which will be found in the Library of the House; and exercise powers to the extent permissible under the rules. Powers have actually been delegated by the Agents of North Western, East Indian and Eastern Bengal Railways accordingly. Copies of the extracts in respect of the powers delegated by the Agents of these Railways have been placed in the Library of the House. On the Great Indian Peninsula Railway also powers have been delegated to senior scale officers in respect of discharge and dismissal in accordance with the Rules regulating discipline and rights of appeal of non-gazetted railway servants.

DISMISSAL OR DISCHARGE OF AN EMPLOYEE BY A SENIOR SCALE OR ADMINISTRATIVE OFFICER ON STATE RAILWAYS.

562. (a) and (c). I would refer the Honourable Member to the information laid on the table of the House in reply to question No. 561 asked by him on the 7th April, 1936.

(b) Terms of service agreement have nothing to do with delegation of powers by railway administrations.

(d) I would refer the Honourable Member to Rule 8 of the Rules regulating discipline and rights of appeal of non-gazetted Railway servants.

Information promised in reply to unstarred question No. 564 asked by Mr. Amarendra Nath Chattopadhyaya on the 7th April, 1936.

PROCEDURE IN REGARD TO THE CONVENING OF SELECTION BOARDS ON THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Presumably the Honourable Member is referring to selection boards held for the filling of posts declared as selection posts. If this is so, Government are informed:

(a) That such selection boards are not held on the Howrah division but at the headquarters office since selection posts are filled by the head of a department. On the Howrah division special selection committees are convened for the purpose of reviewing the cases of senior men who are eligible for promotion. The cases of seniormost men are reviewed by the branch officer, if possible, in consultation with the Staff Superintendent at a special meeting with a view to ensure that senior employees are not passed over unless they have actually been found to be unfit for promotion.

(b) When any of the senior men eligible for consideration is ill or on leave on the date of the interview the vacancy is temporarily filled by the suitable seniormost employee interviewed, and the selected man's senior, who could not attend on account of illness or leave, is given the earliest opportunity immediately he resumes work of having his case reviewed. If he is found to be suitable for the vacancy he replaces the junior employee temporarily selected to fill the vacancy in his absence.

Information promised in reply to unstarred question No. 575 asked by Mr. N. M. Joshi on the 7th April, 1936.

SUPPLY OF NECESSARY UNIFORMS FOR A CABINMAN OFFICIATING AS A GUARD ON THE GREAT INDIAN PENINSULA RAILWAY.

Government are informed as follows:

(a) The reply to the first part is in the affirmative. As regards the last part it is presumed that the Honourable Member is referring to the

rain coats; if so, I would invite his attention to my reply to part (d) of the question.

- (b) The information asked for is not readily available and its collection will involve an amount of labour and expense not likely to be justified by results.
- (c) If spare rain coats are available the officiating staff are permitted to use them.
- (d) No.
- (e) Does not arise.

Information promised in reply to unstarred question No. 591 asked by Mr. Muhammad Azhar Ali on the 7th April, 1936.

HARDWAR STATION ON THE EAST INDIAN RAILWAY.

- (a) Hardwar station was built in 1886. The cost is not available.
- (b) to (d). The information is not available.
- (e) Figures are available only for the financial year 1934-35 and are as follows :

Daily average inwards passengers ..	..	1,200
Daily average outwards passengers ..	..	1,100
- (f) Only the earnings of local outwards traffic from Hardwar during the financial year 1934-35 are obtainable and amount to Rs. 3,26,391 or an average of Rs. 894 per day.
- (g) and (h). The information is not available.

Information promised in reply to unstarred question No. 604 asked by Pandit Krishna Kant Malaviya on the 7th April, 1936.

TRAFFIC IN MONKEYS FROM THE PROVINCES TO CALCUTTA FOR EXPORT TO FOREIGN COUNTRIES.

(a) Yes. As regards the countries to which monkeys are mainly exported attention is invited to clause (a) of the reply given by Sir James Crerar on 21st September, 1931, to Mr. C. S. Ranga Iyer's question No. 614. During 1935-36 monkeys were exported mainly to the United States of America, the Straits Settlements, Belgium, Germany and the United Kingdom. Government have no definite information regarding the purpose for which monkeys are exported. In this connection attention is invited to paragraph 1 of the information laid on the table of the House on the 14th September, 1932, in reply to Mr. Ranga Iyer's starred questions Nos. 615 to 618 and 660 which were answered on the 21st and 22nd September, 1931.

(b) and (c). With reference to the case referred to in clause (b) of the question it has been ascertained that the consignment in question was not accepted by the railway staff for despatch until the regulations regarding the carriage of monkeys by rail had been complied with. The railway staff are thus fully alive to their responsibilities in the matter and the Government of India do not consider that any further instructions are called for.

Information promised in reply to parts (a) to (e) of starred question No. 1501 asked by Mr. Anugrah Narayan Sinha on the 8th April, 1936.

POSTMEN AND LOWER GRADE STAFF UNION, DELHI PROVINCE.

(a) The facts are not exactly as stated by the Honourable Member. The Postmen and Lower Grade Staff Union, Delhi Province, Delhi, is a "branch" union affiliated to the All-India Postmen and Lower Grade Staff Union. It applied for recognition and was told that separate recognition by the Director-General was not

necessary as it was affiliated to the recognised All-India (including Burma) Postmen and Lower Grade Staff Union. The channel for submitting representations was duly prescribed but this implied no departure from the rules regulating the status of Unions.

(b) and (c). The orders referred to by the Honourable Member were issued at first but as the Postmaster-General pointed out that the Provincial Union at Lahore was already representing the interests of all the Postmen and Lower Grade Staff in the Punjab and North-West Frontier postal circle they were subsequently modified to provide that the Delhi Union should be treated as a part of the Circle or Provincial Union at Lahore through which Union it was required to submit its representations to the head of the circle.

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

(e) The Clerks Union at Delhi is a Circle Union and has consequently direct relations with the head of the circle. It has been explained in the reply to parts (a) and (b) of this question that the Postmen and Lower Grade Staff Union at Delhi is a "branch" Union. There are no grounds therefore to treat it in a similar manner.

Information promised in reply to starred question No. 1531 asked by Professor N. G. Ranga on the 9th April, 1936.

FAILURE OF CROPS IN AHMEDABAD AND OTHER DISTRICTS OF GUJERAT.

- (i) There was failure mainly of the cotton crop during 1933-34 and 1934-35.
- (ii) The Revenue and Police Patel of Aslali village submitted a petition under compulsion by the village people but it was subsequently withdrawn unconditionally.
- (iii) There is no famine in any district of Gujerat and the question of extending salt concessions does not arise.

Information promised in reply to parts (c) to (m) of starred question No. 1538 asked by Mr. S. Satyamurti on the 9th April, 1936.

COFFEE CESS COMMITTEE.

(c) The Indian Coffee Cess Committee has so far held one meeting at Bangalore in November, 1935.

(d) and (e). The following Sub-Committees have been appointed by the Coffee Cess Committee :

- (i) *The Executive Sub-Committee.*—Its functions are to deal with the general administration of the Committee to control the finances of the committee and to exercise such powers in matters of policy as is authorised from time to time, by the Committee. This Sub-Committee met on the 24th November, 1935, at Bangalore, on the 26th January, 1936 at Madras and at Coonoor on the 2nd May, 1936. The cost of the Sub-Committee upto the 30th June, 1936, being travelling and daily allowances to non-Government members, was about Rs. 1,383.
- (ii) *The Market Expansion Sub-Committee.*—Its function is to examine the question of finding wider markets for Indian Coffee, as detailed in the enclosed statement. This Sub-Committee met on the 24th November, 1935 at Bangalore, on the 5th January, 14th and 15th March, and 26th April, 1936 at Saklaspur. Two joint meetings of the Executive Sub-Committee and this Sub-Committee were also held at Coonoor on the 2nd May, 1936, and at Bangalore on the 10th June, 1936. The cost of this Sub-Committee upto the 30th June, 1936, was about Rs. 1,464.
- (iii) *The Selection Sub-Committee.*—It was only an *ad hoc* Committee constituted to consider the several applications for the post of the Secretary.

Statement showing the functions of the market Expansion Sub-Committee.

The following more important subjects have been under discussion :

- (1) Deccan Propaganda Scheme : First proposals of—and amended proposals of—
- (2) Engagement of Marketing and Advertising Experts.
- (3) Press Publicity and Broadcasting : Advertising General Write-ups and talks-counteracting of Tea Advertisement in South India.
- (4) Trade Co-operation : Seeking names of Distributing Trade desirous of co-operating. Co-operation from Associated Trade.
- (5) Secretary's Report : On preliminary visit to Hyderabad, with addenda concerning informal meeting with Trade at Coimbatore.
- (6) India Coffee House : Establishment and functions of at Secunderabad and relative staff, equipment, etc.
- (7) Propaganda Budget : Detailed scheme and Budget approval of Executive Sub-Committee.
- (8) Press Contributions : Approval of—
- (9) Exhibitions, etc. : Hyderabad Silver Jubilee Exhibition, British Industries Fair, All-India Empire Exhibition at Bangalore and Delhi Exhibition.

I.

Information promised in reply to parts (a) (i) and (a) (iv) of starred question No. 1563 and part (a) (iv) of starred question No. 1564 asked by Bhai Parma Nand on the 14th April, 1936.

PROMOTION OF THIRD DIVISION CLERKS IN THE GOVERNMENT OF INDIA OFFICES.
Part (a) (i) of No. 1563.

Name of Department.	Number of candidates promoted to the Second Division who are qualified for the Third Division only.
Commerce	2 (1 temporary).
Defence .. .. .	....
Financial Adviser, Military Finance ..	1 (officiating).
Finance .. .. .	....
Home	1
Imperial Council of Agricultural Research ..	....
Industries and Labour .. .. .	....
Legislative .. .. .	....

II

PROMOTION OF THIRD DIVISION CLERKS IN THE GOVERNMENT OF INDIA OFFICES.

Parts (a) (iv) of No. 1563 and (a) (iv) of No. 1564.

Name of Department.	Number of clerks qualified for the Second Division who have yet to be promoted.	Number of Supernumerary posts.	Number of 3rd Division men promoted to the Second Division in one out of five vacancies.
(1)	(2)	(3)	(4)
Commerce	2 (one is provisionally permanent in the 2nd Division).	..	2
Defence	5	..	....
Education, Health and Lands.	....	..	1
Finance	1	3	....
Financial Adviser, Military Finance.	....	..	Some have been promoted.
Foreign and Political ..	3 (temporary)	8	(Promotion has been given in accordance with the rules).
Home	10 (5 are provisionally permanent in the 2nd Division).	2	1
Imperial Council of Agricultural Research.	1	..	....
Industries and Labour ..	5	6	....
Legislative .. .. .	....	7	....
Legislative Assembly ..	There are no Third Division appointments in this Department.		
Railway	1	..	Some have been promoted.
Reforms	(It is a temporary office).		

Information promised in reply to parts (e) to (g) of starred question No. 1571 and starred question No. 1591 asked by Mr. Muhammad Azhar Ali on 14th April, 1936.

NON-PROSECUTION OF Sadhus, Fakirs AND BEGGARS TRAVELLING WITHOUT TICKETS ON THE EAST INDIAN RAILWAYS.

1571. (e)—(g). The Agent, East Indian Railway, states that it was found that prosecution of mendicants served no useful purpose and only resulted in extra cost to the State and that there was nothing that the Railway could do beyond ejecting mendicants from trains. Government do not propose to interfere in the matter.

[31st AUG. 1936.]

ABSENCE OF A SHED ON THE PLATFORM OF THE HARDWAR RAILWAY STATION.

1591. (a) It is not possible to estimate the number of passengers that can be accommodated with their luggage in an area of 1,680 sq. feet, as the amount of luggage that passengers travel with varies considerably and much depends also on whether passengers lie or sit down. A rough figure would be from 150 to 200.

(b) The length of passenger trains varies from 280 feet to 840 feet.

(c) Yes.

(d) Yes, by the Railway Administration who have been guided by the fact that no accidents to passengers have, so far, been reported as a result of the slopes. Government have no reason to think otherwise.

(e) Figures are available only for the financial year 1934-35 and are as follows:

Daily average inwards passengers .. 1,200

Daily average outwards passengers .. 1,100

(f) Amenities for passengers including shelter from heat-stroke and rain, are given constant attention and consideration, and additional facilities and amenities are provided at Hardwar station from time to time.

Information promised in reply to starred questions Nos. 1618, 1620 and 1623 asked by Mr. V. V. Giri on behalf of Mr. Sri Prakasa on the 14th April, 1936.

CLOSING OF THE LEVEL CROSSING NEAR THE BENARES CANTONMENT RAILWAY STATION.

1618. (a) The level crossing is closed for a period exceeding 15 minutes on an average only once in 24 hours and at other times for lesser periods.

(b) No.

(c) It is not practicable to issue instructions that the level crossing should not be closed for more than 5 minutes at a time, as the period of closing depends on the shunting movements to be done and on the passage of trains. Orders have, however, been issued that if the shunting takes more than 10 minutes, it is to be stopped to pass the road traffic and then shunting to be resumed, if necessary.

(d) Traffic on the Grand Trunk road can cross the railway by the bridge at Chowkaghat, or by this level crossing. The question of constructing a subway in place of the level crossing is for the Local Government to decide.

CONSTRUCTION OF HYDRANTS SUPPLYING DRINKING WATER OR URINALS AND LATRINES BY THE ROADSIDE IN NEW DELHI.

1620. (a) and (b). Two public urinals constructed on the water borne system, which can be used both as urinals and latrines, have been provided, one on Queen Mary's avenue and the other on Talkatora Road. A scheme for increasing public urinals is under the consideration of the New Delhi Municipal Committee.

OPENING OF A PASSAGE DIRECT TO THE DHARMASHALA OUTSIDE ETAWAH RAILWAY STATION.

1623. (a) The plot in question was a part of the land originally acquired for the construction of the station.

(b) Does not arise.

Information promised in reply to starred question No. 1650 asked by Mr. M. Ananthasayanam Ayyangar on the 16th April, 1936.

FILMS, BOOKS AND OTHER PUBLICATIONS IN FOREIGN COUNTRIES CALCULATED TO LOWER INDIA IN THE EYES OF THE WORLD.

Statement.

The suggestion that the League of Nations should be approached with a view to stopping the misrepresentation of India through cinematograph films, books, etc., has been carefully considered by the Government of India in consultation with the Secretary of State, who in turn consulted the Home Office and Foreign Office. It has been agreed that no useful purpose would be served by bringing the matter to the notice of the League. In view of the business before that body, there is no prospect at present of getting this matter considered by it and, even if this were later found possible, the probability is that considerable time would be taken in evolving a formula for the acceptance of foreign powers which may quite conceivably never prove effective in stopping misrepresentation or the production of films, etc., which offend the sentiments of people of this country. It is not therefore proposed to pursue the matter. The Government of India consider that far more effective results are likely to be achieved by bringing to the notice of foreign powers, through diplomatic channels, concrete cases of objectionable films and books, whenever this is necessary and feasible. To this end His Majesty's representatives abroad who are fully alive to the necessity of protecting against any misrepresentation affecting the British Empire have been instructed to maintain a careful watch for such films and to bring them to notice as promptly as possible.

Information promised in reply to starred question No. 1661 asked by Mr. Lalchand Navalrai on the 16th April, 1936.

GRANT OF HOLIDAYS TO GOODS AND PARCEL CLERKS ON IMPORTANT INDIAN FESTIVAL DAYS.

Government are informed as follows:

(a) On the Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railway, Goods and Parcel offices are closed on Good Friday and Xmas day only, and not on the New Year's day, except in the case of the Eastern Bengal Railway where the city Booking offices and Goods Shed situated in Calcutta are closed on the New Year day also. Arrangements are, however, made for the delivery of perishable, live-stock, etc., even on closed holidays.

(b) The reply to the first part of the question is in the affirmative. As regards the second part, Railways are essentially public utility services, and the number of days on which normal business is suspended for any reason must be kept as few as possible. In view of the very large number of religious festivals which vary in their significance and importance in the different areas served by the same Railway, it would not be in the public or in Railways' interest, if the number of closed holidays was increased in order to satisfy all communal demands for holidays on this account.

(c) The Posts and Telegraphs Department give some of their employees holidays on certain Indian festivals, but on all these holidays a certain amount of work is performed in the Posts and Telegraph offices, e.g.,

(i) one delivery of letters by postmen,

(ii) despatch of mails, booking and delivery of express telegrams, etc., etc.

(d) The assumption of the Honourable Member in the first part of the question is not correct. On Hindu holiday non-Hindu transact business with Railways as usual, and on Muslim holidays non-Muslim communities carry on their business.

[31st Aug. 1936.]

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(i) one delivery of letters by postmen,

(ii) despatch of mails, booking and delivery of express telegrams, etc., etc.

(d) The assumption of the Honourable Member in the first part of the question is not correct. On Hindu holiday non-Hindu transact business with Railways as usual, and on Muslim holidays non-Muslim communities carry on their business.

ENGINEERING FIRMS FABRICATING AND ASSEMBLING STEEL PRODUCTS IN INDIA.

1698. (a) The Honourable Member is referred to the "Large Industrial Establishments in India, 1935", copy of which is in the Library.

(b) and (c). Detailed information is not available.

Information promised in reply to starred questions Nos. 1703, 1704, 1705, 1706, 1707 and 1709 asked by Mr. Muhammad Azhar Ali on the 17th April, 1936.

APPLICATION OF THE PUNJAB EXCISE ACT AND EXCISE RULES TO THE DELHI PROVINCE.

1703. (a) Compared with the Punjab Delhi is a small province with limited sources of income. The abolition of L-10 licences would cause considerable loss of revenue. Delhi being the seat of Government and a trade centre has amongst its population people of every class and many nationalities. L-2 licences have been issued in the civil station and cantonment areas as there is a demand for superior liquor in these localities. L-10 licences are issued for the vend of foreign liquor in the bazar for the general public.

(b) No instance of L-2 shops competing with country spirit shops by selling cheap brands of foreign liquor has been brought to the notice of the local authorities.

GRANT OF LICENCES FOR VENDING FOREIGN LIQUOR IN DELHI.

1704. (a) The question of the abolition of L-10 licences in Delhi was considered in 1929, 1930, 1934 and 1935, but it was decided to retain them. The following points were taken into consideration when reaching a decision :

1. Loss of excise revenue in the case of abolition of L-10 licences ;
2. Apprehension that competition between L-10 shops when converted into L-2 shops and country liquor shops might be encouraged by the fact that the conversion of L-10 licences into L-2 licences would mean an appreciable reduction in the incidence of vend fees on those shops.

(b) The material difference in the conditions of grant of L-10 and L-2 licences are the following :

An L-2 licence is for sale of foreign liquor and is meant for a shop of proved respectability in a Civil Station or Cantonment, or any other place where there is a demand for superior foreign liquor, and is granted on assessed fees on a fixed scale.

An L-10 licence is meant for the sale of foreign liquor in a 'bazar'; these licences are situate close to country liquor shops and compete with country liquor by selling cheap and obscure brands of foreign liquor and are sold by auction.

L-2 licences do not in practice compete with country liquor shops.

The costs of upkeep, etc., of an L-2 licence are high ; while an L-10 licence requires small capital to run.

(c) Yes. L-2 licences are granted to firms or persons of approved respectability in a civil station, or cantonment, or in any other places where there is a demand for superior foreign liquor. L-10 licences are sold by public auction to the highest bidder and are intended for the retail vend of foreign liquor in the bazar to the general public.

(d) The rate of excise duty is the same whatever the method of distribution. If the Honourable Member refers to vend fees the question hardly seems to arise in view of reply to part (c) of question No. 1705.

GRANT OF LICENCES FOR VENDING FOREIGN LIQUOR IN DELHI.

1705. (a) The licensee holding a licence in form L-2 at Mori Gate is allowed to retain a L-4 licence with the sanction of the Chief Commissioner under rule 14 of the Chief Commissioner's Notification No. 8058-Commerce, dated the 3rd October, 1935. There is no restriction against a L-2 licensee holding a licence in form L-17.

(b) There are no hard and fast rules discriminating between inferior and superior foreign liquor. The liquor which pays higher still head duty than country spirit is foreign liquor and L-2 shops sell superior foreign liquor. It was decided by the Chief Commissioner in 1927 that the sale of rum and malt whisky should be permissible under a L-2 licence as they were considered to be superior foreign liquor, and other species of Indian made foreign liquor are not necessarily inferior to them.

(c) The rules for L-2 shops do not purport to prohibit their selling cheap brands or inferior brands, but in practice their business is restricted to the superior brands (except to a negligible extent) due to the selection for the location of L-2 licences of places where the demand is mainly for superior liquor.

(d) There is no regular bazar at Mori Gate. There are certain shops of confectioners which meet the demand of the locality, and which depend for their business also on residents of the Civil Lines.

(e) The justification for giving L-2 licences on assessed fees lies in the general policy relating to the grant of such licences, which is to make available supplies of superior foreign liquor at a reasonable price in a manner not likely to cause inconvenience to the consumers and at the same time to derive as much revenue as possible from this class of licensee. To require persons who are catered for by L-2 licensees to go to the shop of a person successful at auction would be very inconvenient to them, since it is much better from their point of view that licences should be given to general merchants and should be continued from year to year.

(f) No notification under which different localities are declared for different licences has been issued. Licences are granted according to local circumstances and the demand for liquor which exists.

(g) In Delhi L-10 shops are situated close to country spirit shops and compete with them by selling cheap and obscure brands of foreign liquor. No such competition exists between the L-2 and L-10 shops or between the L-2 and country spirit shops. In the circumstances there appears to be no necessity for protection of L-10 shops against L-2 shops. When bids are given for L-10 shops the bidders are well aware of this fact.

GRANT OF LICENCES FOR VENDING FOREIGN LIQUOR IN DELHI.

1706. (a) Yes.

(b) There are many brands of medicated wines. Important ones are as follows :

1. Wincarnis.
2. Hall's wine.
3. Manola.
4. Vibrona.
5. Stearn's tonic.
6. Vane tonic.
7. Buckfort tonic.

(c) I cannot answer because the word "this" occurs three times in Rule 17 and the Honourable Member has not specified which particular place where the word is used is in his mind.

(d) No.

(e) Most people residing near Gandhi gali or Chaori Bazar are not accustomed to a European or a modern style of living.

(f) The majority of upper class consumers live in Civil Lines, New Delhi and Delhi Cantonment where L-2 shops are in existence to provide the necessary facilities.

(g) No such difficulty has been brought to the notice of the local authorities.

(h) The expression "Upper class" was used in the reply quoted to refer to Indians living in a European or modern fashion and to Europeans living in bungalows.

GRANT OF LICENCES FOR VENDING FOREIGN LIQUOR IN DELHI.

1707. (a) Yes. The question was considered in 1930, 1934 and 1935. It was decided to retain L-10 licences and to make no alterations in the present rules.

(b) No. A statement of excise revenue from each form of licence for 1934-35 and 1935-36 is given below :

						Rs.
1934-35—						
L-2	..	..	..	..	..	14,229
L-10	..	..	..	..	..	21,700
1935-36—						
L-2	..	..	..	..	..	18,710
L-10	..	..	..	..	..	20,700

OFFICER NEXT IN AUTHORITY TO A DIVISIONAL SUPERINTENDENT ON STATE RAILWAYS.

1709. Presumably the Honourable Member is referring to the officer next above the Divisional Superintendent on State-managed Railways. If so, the head of a Department on the Great Indian Peninsula and East Indian Railways and the Agent on the North Western Railway is the officer next in authority to a Divisional Superintendent.

Information promised in reply to part (e) of starred question No. 1729 asked by Mr. S. Satyamurti on the 17th April, 1936.

INSISTENCE BY THE RAILWAY DEPARTMENT TO PURCHASE A PARTICULAR BRAND AND TRADE MARK OF ARTICLES.

(e) No.

Information promised in reply to unstarred question No. 605, parts (b) to (e) of unstarred question No. 606 and unstarred question No. 614 asked by Mr. Amarendra Nath Chattopadhyaya on the 17th April, 1936.

CONTINUANCE OF THE CUT ON ALLOWANCES OF THE RAILWAY STAFF AT CALCUTTA AND HOWRAH.

605. (a) Yes. I may, however, add that the local allowance granted to the staff at Howrah is not 'special pay' but 'compensatory allowance', the cut on which has not been withdrawn.

(b) The reductions referred to, which were made in pursuance of economy campaign, were distinct from the emergency cut and Government are not prepared to withdraw them.

ACCEPTANCE OF BAPTISM AND UNIVERSITY CERTIFICATES IN SUPPORT OF APPLICATIONS FOR CHANGES IN AGES OF THE EAST INDIAN RAILWAY STAFF.

Parts (b) to (e) of No. 606. Government are informed as follows :

(b) The particulars including age recorded in the service sheet are attested by the employees when the service records are prepared and the employees therefore have the opportunity of pointing out any errors.

(c) The service records are generally prepared by the establishment section of the office in which the employee is appointed and are attested by the employee and a gazetted officer.

(d) Each employee was required to execute a fresh agreement from 1st January, 1925, but new service records were not prepared.

(e) The age of the employee was required to be shown in the agreement. Particulars were generally filled in by the employee himself, but in cases of illiterate or semi-literate staff the details were filled in by the establishment section concerned. The employees when signing the agreement had the opportunity of pointing out any discrepancy that had occurred.

EXTENSIONS OF SERVICE GRANTED TO THE STAFF OF THE INCOME-TAX DEPARTMENT AT CALCUTTA.

614. (a) Yes.

(i) Four non-gazetted officers were on extension of service in April, 1936.

(ii) The extensions were granted in the public interest.

(iii) Yes.

(iv) Probably some of the discharged men could have been absorbed if the extension had not been granted, but it was not known at the time when the extensions were sanctioned that the taxation of "lower incomes" would be discontinued from 1st April, 1936.

(a) (v) and (b). The Government do not propose to cancel the extensions already sanctioned.

Information promised in reply to starred question No. 1750 asked by Pandit Govind Ballabh Pant on the 18th April, 1936.

SCALES OF PAY OF TEACHERS IN RAILWAY MIDDLE SCHOOLS.

Government are informed as follows :

(a) In order to recruit better class of teachers for railway schools Government decided in 1929 to regulate the rates of pay in railway schools by the rates of pay of teachers of schools of equivalent standard administered by Provincial Governments concerned. The scales of pay of teachers of railway schools were revised accordingly.

(b) and (d). Yes, the annual increments of six teachers of the school in question have been held up at the efficiency bars pending satisfactory report on their work. The Inspector of Schools has been asked to assist the Railway to arrive at a fair decision by giving his opinion on the qualifications and capabilities of these six teachers.

(c) Government understand that in United Provinces Government schools there is no efficiency bar in the scale of pay for trained graduate teachers sanctioned in 1921 ; but that there is an efficiency bar in the scale of pay sanctioned for trained undergraduate teachers and that promotion beyond the efficiency bar is limited to 25 per cent. of the sanctioned strength.

(e) Ten.

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- (f) and (g). The New State Railway Leave Rules as modified for vacation departments apply to teaching staff at Oakgrove school appointed on and from the 1st April, 1930. They are also applicable to teaching staff at European and Anglo-Indian schools and Indian schools on the plains irrespective of date of appointment. The teaching staff at Oakgrove school appointment prior to 1st April, 1930, are granted leave on the basis of the East Indian Railway Company's leave rules and according to the merits of each application.

Information promised in reply to starred question No. 1751 asked by Pandit Krishna Kant Malaviya on the 18th April, 1936.

HOLIDAY FOR BAISAKHI IN THE GOVERNMENT OF INDIA OFFICES.

(a) — (e). In almost all Government of India Departments and their attached and subordinate offices situated at the headquarters of the Government of India a sectional holiday on account of Baisakhi is granted to such Hindus as wish to avail themselves of it, provided that the state of work permits and the maximum number of sectional holidays, viz., six holidays in a year, is not exceeded by any individual.

The attached and subordinate offices situated outside the headquarters of the Government of India follow the practice of the local authorities in regard to the observance of holidays.

Information promised in reply to starred question No. 1761 asked by Mr. Kuladhar Chaliha on the 18th April, 1936.

TRANSFER OF BORAPATHAR MAUZA IN GOLAGHAT SUB-DIVISION IN ASSAM TO THE MIKIR HILL TRACTS.

(a) Borapathar Mauza has been included in the Mikir Hills jurisdiction for at least 30 years. Under the new constitution it will remain within that jurisdiction which will be a partially excluded area.

(b) The inhabitants of the Mauza have never been subject to the ordinary jurisdiction of the civil and criminal courts. Appeals lie to the Commissioner and local Government.

(c) Under the new constitution they will exercise the ordinary right of franchise in the General and Muslim constituencies of Golaghat.

Information promised in reply to starred questions Nos. 1763 to 1765 asked by Pandit Sri Krishna Dutta Paliwal on the 18th April, 1936.

REDUCTION IN THE GRANT-IN-AID OF THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

1763. Government are informed as follows :

- (a) No.
- (b) The reply to the first part of the question is in the affirmative and to the latter part in the negative.
- (c) No.
- (d) The amount was Rs. 7,200 in 1934-35 and Rs. 8,556 in 1935-36.

STOPPAGE OF THE TEACHING OF SANSKRIT AND PERSIAN IN THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

1764. Government are informed as follows :

- (a) and (b). Yes.
- (c) Yes. It is, however, possible that both these teachers may be absorbed in other vacancies.

- (d) The saving will amount to Rs. 2,040 per annum.
- (e) A similar question did not arise at other schools.
- (f) None.

STOPPAGE OF THE TEACHING OF SANSKRIT AND PERSIAN IN THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

1765. Government are informed as follows :

- (a) A public meeting was held at Tundla, which adopted a resolution, a copy of which I lay on the table of the House. Other representations on this subject have also been made to the East Indian Railway Administration. The East Indian Railway Administration has made a representation to the United Provinces Government for increase of grant as without this the school funds do not admit of the retention of Sanskrit and Persian.
- (b) Yes.
- (c) Government understand that a representation was made to the Managing Committee of the School.
- (d) Government understand that a reply in the terms mentioned in the question was given by the Vice-President of the School Committee.
- (e) The Vice-President is the Executive Officer responsible for the work of the School, vide Rule 3 of the Rules and Regulations for the management of East Indian Railway Schools, dated 1st April, 1925. The Vice-President is authorised to reply to representations made to the Committee through the Honorary Secretary when the matter is one of detail or when the views of the Committee have been previously ascertained.
- (f) Superintendent, East Indian Railway Schools.
- (g) The saving on account of the abolition of these two posts will be Rs. 1,793 during the financial year 1936-37. This will balance the school budget.
- (h) Government have no information.
- (i) It is purely a question of finance ; and, if the money is forthcoming, the question of restoring Persian and Sanskrit will receive consideration.

Resolution No. 13, dated the 29th December, 1935, passed by the Hindu Youngmen's Association, Tundla.

This meeting of the Hindu Youngmen's Association, Tundla, strongly protests against and expresses its deep sense of resentment of the orders of the Railway authority of the Railway High School, Tundla, whereby the education of classics, i.e., Sanskrit and Persian, have been abolished from the school and request the Agent, East Indian Railway, and the Railway Board and the Minister of Education, United Provinces, not to interfere in the education of Sanskrit and Persian which are the religious and cultural languages of Hindus and Musalmans, who are the permanent residents of the town and the province and to withdraw the prohibition order and thereby remove the discontent from the public at as early a date as possible.

Copy to—

The Agent, East Indian Railway, Calcutta.

Minister of Education, United Provinces.

Divisional Superintendent, East Indian Railway, Allahabad.

Inspector of Schools, Agra.

Secretary to the Railway Board, New Delhi.

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Information promised in reply to starred questions Nos. 1784, 1788, 1791, 1795, 1796, 1800 and 1802 asked by Dr. N. B. Khare on the 20th April, 1936.

ENHANCEMENT OF THE PAY OF THE INSPECTOR APPOINTED TO INVESTIGATE CASES OF CLAIMS PREFERRED AGAINST THE EAST INDIAN RAILWAY.

1784. Government are informed as follows :

- (a) Yes.
- (b) Under items (1) and (2) of the Schedule of Powers of Agents of State Railways in establishment matters, a copy of which is in the Library of the House.

USE OF THE WORD "COOLY" IN RESPECT OF INDIANS AND "LABOUR" IN RESPECT OF EUROPEANS AND ANGLO-INDIANS.

1788. Government understand that contract for licensed coolies at Howrah is at present held by a European.

FILLING UP OF VACANCIES ON THE EAST INDIAN RAILWAY WITHOUT THE MEDIUM OF SELECTION BOARDS.

1791. Government are informed as follows :

It is not understood what the Honourable Member means by "junior most staff". If it refers to the staff who are lowest in seniority in the junior most grade of a particular category of staff, it is obvious that such persons would not be suitable for selection as office Superintendents. As regards the latter part of the question, the following are confirmed in the 4 permanent vacancies of office Superintendents which occurred in 1934 and 1935 :

1. Mr. M. N. Ghosh.
2. Mr. D. V. Barwanker.
3. Mr. G. R. Pandya.
4. Mr. D. J. McMullin.

REGULATIONS REGARDING DISCIPLINARY ACTION AGAINST RAILWAY STAFF.

1795. Government are informed as follows :

- (a) The words "for official use only" are intended to mean that the pamphlet in which subsidiary rules framed by the Agent, East Indian Railway, are published is a departmental publication for the use of the staff who are delegated with powers to administer the rules, and that all copies of the pamphlet are the property of Administration.
- (b) and (c). Some of the non-gazetted supervising staff, who are delegated with powers to administer the rule subject to the restrictions contained therein, are required to know the subsidiary rules.
- (d) If the Honourable Member is referring to non-gazetted staff other than subordinate supervising staff, who are vested with powers under the subsidiary rules, the reply is that they have no occasion to use or refer to these subsidiary rules.
- (e) The subsidiary rules are not intended for general information, but only for the guidance of those officials who are vested with powers under them. There is no question of victimization.

REGULATIONS REGARDING DISCIPLINARY ACTION AGAINST RAILWAY STAFF.

1796. Government are informed as follows :

The subsidiary rules containing the powers delegated have been made known to the staff to whom these have been delegated. It is not necessary that they should be published for general information. The rules by which staff can claim to be dealt with are those published by the Railway Board, and these have been given publicity through the East Indian Railway Gazette.

SCALES OF PAY IN FORCE ON THE EAST INDIAN RAILWAY ON CERTAIN DATES.

1800. (a) to (e). The East Indian Railway Company's scales, the Old Oudh and Rohilkund State Railway's scales, the co-ordinated scales and the revised scales of pay were in force on the East Indian Railway on 1st April, 1936.

SENIORITY OF TRANSPORTATION AND COMMERCIAL STAFF ON THE EAST INDIAN RAILWAY.

1802. Government are informed as follows :

Seniority in the Operating Department (Transportation and Commercial), East Indian Railway, is usually determined according to the date of entry into a grade or class.

Information promised in reply to starred questions Nos. 1810, 1811, 1813 and 1814 asked by Sirdar Jogendra Singh on the 21st April, 1936.

DISMISSAL OF CERTAIN EMPLOYEES OF THE DELHI MUNICIPAL COMMITTEE.

1810. (a) Thirteen employees including the Assistant Secretary, two senior clerks and ten junior clerks were dismissed.

(b) (i) and (ii). Yes.

(b) (iii). Does not arise.

(c) Yes. The irregularities committed during the year 1932-33 were brought to the notice of the Committee by the Audit Department in 1934.

(d) Yes.

(e) No. The Secretary was simply asked to hold a thorough enquiry and the final orders were passed by the Executive and Finance Sub-Committee.

(f) In view of the reply to part (c) above, the question does not arise.

(g) No. Cases of corruption and grave carelessness in discharge of their duties by Municipal employees were separately dealt with from the rest of the audit note which related to the ordinary office procedure.

(h) All cases in which charges had to be framed were taken up together.

(i) No.

(j) The audit note was received in 1934, and was the subject of a lengthy enquiry.

DISPOSAL OF APPLICATIONS FOR THE CONSTRUCTION OF PRIVATE BUILDINGS IN DELHI.

1811. (a) Yes.

(b) No. Such power has not been delegated to the Senior Vice-President ; but the Members of the Committee decided, at an informal meeting, that the opinion of the Senior Vice-President, who presides at meetings at which building applications

are considered, should be accepted in cases in which there is a difference of opinion as to the application of rules. Even so it is open to any member to challenge a division of the point after the Senior Vice-President has expressed his opinion.

(c) No record of such cases has been kept.

(d) and (e). In view of the answer given to part (b) of the question, these parts do not arise.

(f) I would invite the Honourable Member's attention to the answer to part (b).

ALLEGED CORRUPTION IN THE DELHI MUNICIPAL COMMITTEE.

1813. (a) No action has been taken as the statement in question did not cite specific cases of corruption.

(b) The Auditors after examining the Building Department Registers, prepared a list of 700 files which had not been consigned to the record room, and these were described as missing. Of these, 400 files have since been consigned to the record room. A number of files are still pending but there is no information that any are missing.

ALLEGED CORRUPTION IN THE DELHI MUNICIPAL COMMITTEE.

1814. (a) and (b). The Government have seen the press report referred to by the Honourable Member. Rai Bahadur Sohan Lal, Secretary of the Delhi Municipal Committee denies having granted an interview or having made any statement to any representative of the "Hindustan Times".

(c) Does not arise.

Information promised in reply to starred question No. 1817 asked by Maulvi Syed Murtuza Sahib Bahadur on the 21st April, 1936.

RE-EMPLOYMENT OF THE NORTH WESTERN RAILWAY STRIKERS.

Government are informed as follows :

- (a) The letter quoted was issued by the North Western Railway and not by the Railway Board and contained instructions to register the names of staff discharged on account of reduction of establishment or participation in the unrest of 1925 for re-employment in preference to Great Indian Peninsula Railway strikers and outsiders.
- (b) *Ex-North Western Railway* strikers of 1925 have been re-employed since the issue of the letter referred to in part (a) above, but information is not available to show whether more *ex-North Western Railway* strikers, drivers and shunters were engaged before or as a result of this instruction.
- (c) It is possible that certain North Western Railway strikers of 1925 have been medically examined and not subsequently absorbed due to retrenchment which commenced in 1931 (not 1930), but the number so affected is not available.
- (d) So far as can be easily traced applications were received by Government from two *ex-North Western Railway* strikers asking for re-employment. They were forwarded to the Agent, North Western Railway, for disposal.
- (e) Government do not consider any further instructions to the Agent, North Western Railway, on this subject are called for.

Information promised in reply to starred question No. 1823 asked by Sardar Sant Singh on the 21st April, 1936.

DEFALCATIONS DISCOVERED AT QUETTA GRASS FARM.

(a) Yes, several years ago.

(b) and (c). The documents are of a confidential nature, and Government are not prepared to lay them on the table of the House.

(d) One British Officer of the Royal Indian Army Service Corps was dismissed ; one British Officer of the Military Farms Department was retired, and one British Officer of the Military Farms Department was Court Martialled and acquitted.

(e) Disciplinary action was taken against 15 persons with the following results :

- 1 British subordinate was sentenced by General Court Martial to 7 years' penal servitude.
- 1 British subordinate was summarily dealt with and reduced in rank.
- 1 Viceroy's Commissioned Officer was sentenced to 1 year's rigorous imprisonment, and 1 Indian Non-Commissioned Officer was sentenced to 2 years' rigorous imprisonment.
- 1 Indian Non-Commissioned Officer gave King's evidence and was discharged under the Indian Army Act.
- 2 Indian Non-Commissioned Officers were discharged on reduced pension.
- 4 Indian Non-Commissioned Officers were summarily dismissed.
- 3 Indian civilian clerks were dismissed.
- 1 Indian civilian clerk was discharged in accordance with the terms of his agreement.

(f) The reply to the first part is in the negative. The second part does not arise.

Information promised in reply to starred questions Nos. 1834, 1836 and 1837 asked by Maulvi Syed Murtuza Sahib Bahadur on the 21st April, 1936.

COMMUNAL COMPOSITION OF CERTAIN MILITARY SERVICES.

1834. (a) On the assumption that by the word "class" the Honourable Member means "clerks", the strength of Upper and Lower Division clerks in the different services is as follows :

	Upper Division Clerks.	Lower Division Clerks.	Total.
Military Engineer Services	109	637	746
Indian Army Corps of Clerks	170	186*	356*
Indian Army Ordnance Corps	63	413 (including 124 Routine Division clerks.)	476
Military Grass Farms	17	96	113
Royal Indian Army Service Corps	156	932	1,088
Army Remount Department	7	44	51

* Includes 2 temporary appointments.

(b)—

	Europeans and Anglo-Indians.	Indian Christians.	Hindus.	Muslims.	Sikhs.	Parsees.	Jews.	Total.
Military Engineer Services ..	2	26	567	100	51	..	..	746
Indian Army Corps of Clerks ..	1	36	214	75	27	1	..	354*
Indian Army Ordnance Corps ..	..	20	306	95	53	..	2	476
Military Grass Farms ..	..	4	76	29	3	1	..	113
Royal Indian Army Service Corps	1	28	713	174	149	5	..	1,070†
Army Remount Department ..	..	..	29	18	4	..	..	51

* Excludes—

1 clerk for Station Supply Officer, Wana.

1 clerk for Station Supply Officer, Jutogh.

† 18 posts are vacant.

(c)—

	Sub-Divisional Officers.	Superintendents, Electrical and Mechanical.	Overseers.	Store-keepers.	Draftsmen.	Total.
Europeans and Anglo-Indians.	7	3	1	..	..	11
Indian Christians ..	..	13	4	..	2	19
Hindus ..	51	41	151	44	43	330
Muslims ..	12	8	56	13	39	128
Sikhs ..	10	4	36	2	8	60
Total ..	80	69	248	59	92	548

(d) The reply to the first portion of the question is in the affirmative. The rest of the question does not arise.

CLERKS IN THE INDIA ARMY CORPS AND THE MILITARY ENGINEERING SERVICES GETTING SHORTHAND ALLOWANCE.

1836. (a) and (b). Yes. A shorthand allowance of Rs. 75 per mensem is authorised for each Command Headquarters and of Rs. 20 per mensem for each District Headquarters, Independent Brigade Area, and the offices of Chief Engineers of Commands. The allowance is granted at the discretion of the Army, District and Independent Brigade Area Commanders and the Chief Engineers and may be divided between any clerks who are for the time being actually employed on shorthand work in addition to their normal duties, provided that they maintain their efficiency in shorthand. The allowance is granted purely with regard to administrative convenience and efficiency, irrespective of the community to which the clerk concerned belongs, and as changes are continually made any figures shewing the communities of these clerks would be valueless.

HOME DEPARTMENT CIRCULAR *re* THE FRIDAY PRAYER.

1837. The reply to the first portion of this question is in the negative ; the second portion therefore does not arise.

Information promised in reply to starred question No. 1840 asked by Prof. N. G. Ranga on the 21st April, 1936.

ALLEGATIONS AGAINST CERTAIN BRITISH SOLDIERS OF THE GLOUCESTERSHIRE REGIMENT AT MADRAS.

(a) and (b). It appears that the report which was published in the press was a gross exaggeration. The facts of the case are as follows :

The seats reserved for male passengers were full when four soldiers entered the tram-car. There were however several empty seats which the soldiers do not seem to have realised were reserved for females, and two of the four soldiers took these seats. The tram-car conductor came to remonstrate with them, and some argument had apparently begun when an Indian policeman in plain clothes, who was the uncle of a female occupant of the compartment, intervened in a state of great excitement. There is no evidence whatever that the conductor was insulted nor that the soldiers were asked to apologise and refused. No allegation of any indecency on the part of any of the soldiers was made by any of the occupants of the tram except by the woman and her uncle. They alleged that one of the soldiers made indecent signs to the woman, but all four soldiers denied this absolutely and there was no further evidence to support it. In the course of the altercation the policeman came close up to one of the soldiers who gave him a push to keep him back. The other soldiers then interposed between the two and prevented a further disturbance taking place.

(c) A crowd collected, but at once dispersed quietly on being warned by a Police Sergeant.

(d) A charge was laid by the Army authorities against two of the soldiers under Section 40 of the Army Act for creating a disturbance and they were awarded fourteen days detention each.

DEATHS OF KHAN BAHADUR MIAN SIR FAZLI-HUSAIN, SIR M. RAMACHANDRA RAO AND MR. W. S. LAMB.

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, may I have your permission to mention the deaths of three persons who at one time or other were Members of this House ? The first is Khan Bahadur Mian Sir Fazl-i-Husain. His period of membership of this House was from the 10th January, 1931,

[Sir Nripendra Sircar.]

to 30th September, 1931. His activities lasted up to a very recent date, and there is hardly any Member of this House who is not fully aware of them. It is not necessary for me, therefore, to speak at length. I would remind this House that he was in the Local Government of the Punjab : he was, first of all, a Minister, and then he was a Revenue Member. Then he joined the Government of India : he was here for a certain amount of time : he was the Leader of the House in the Council of State, and, in his official capacity as Revenue-Member of the Government of the Punjab and as Member for Education in the Government of India, he took a very leading and prominent part, and, as I said, these matters are all known to this House. I desire, Sir, to express to this House, and to convey to the family of the deceased through the Honourable the President, our deep sense of loss at the demise of Sir Fazl-i-Husain.

There are two other Members whom I would like to mention. One is the late Sir M. Ramachandra Rao. His period of membership was from 1924 to 1926. I personally am not very much aware of the activities of the late Sir Ramchandra Rao, but I have seen accounts of his activities in the press, and they must be fresh in the minds of Members of this House.

Yet another case is that of Mr. W. S. Lamb, who represented the Europeans of Burma in this Assembly during 1925, and also from 1926 up to the dissolution of that House. I think he returned in 1927, and I am not aware of further particulars of this Member.

In all these cases, I would convey to the families of the deceased, through you, our sense of loss and deep regret at their death.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Mr. President, it is a melancholy duty which we have to perform at the commencement of every Session, and it only reminds one that life is after all mortal. So far as Sir Fazl-i-Husain is concerned, before I came to this House I only knew him by reputation ; but I am bound to admit that I had the same admiration for him as any public man would have for a man of strong public opinions and implacable in their application so far as he conceived it right so to do. Since my coming to this House and my personal contact with him, I was very happy to observe that his vision in matters public was so considerably altered that I cannot help wishing that he had lived long enough to operate the views which were exchanged between him and myself, particularly during the last few months. He began to realise more and more that the problem of this country was a human problem of raising the standard of life, the betterment of education and hygiene in this country. He began further to realise that in that human problem there was no room for any distinction of caste or faith, and it is in that vision of the larger services which I expected him to render that I particularly feel the loss that the country has suffered in the death of Sir Fazl-i-Husain.

So far as Sir Ramachandra Rao is concerned, I was aware of the question which he made his own, namely, the interests of the people of the Indian States to the extent to which it was possible to serve them through any legislative measure in the larger constitution of the Government of this country.

I associate myself with what has fallen from the Leader of the House as regards the expression of regret at the death of the three gentlemen he has named.

Mr. M. Ghiasuddin (Punjab Landholders) : Sir, I beg to associate the Independent Party and myself with the sentiments expressed so nobly by the Honourable the Leader of the House and the Honourable the Leader of the Opposition. It is indeed with a heavy heart that I speak this morning : the passing away of Sir Fazl-i-Husain is indeed a national loss. But to me it is really more of a personal loss. Sir, I belong to that generation which grew up under the benevolent influence of Sir Fazl-i-Husain and which mostly derived its political inspirations from him. Whenever there was an outstanding question, it was always to Sir Fazl-i-Husain that we looked to, and whenever we wanted any advice we went to him. The greatest service that Sir Fazl-i-Husain was able to render was to those sons of India who have made their homes across the seas. He was ever ready in their service. I had the honour and privilege of working with him on the Standing Emigration Committee, and I can say from personal experience that the zeal with which he worked for them was almost fanatical. His negotiations on behalf of the Government of India resulted in improvement of the conditions of the Indians in South Africa, and that is something which will always be remembered by historians. I must also refer to his services in the cause of education and uplift of masses in our province. During the time he was the Education Minister in the Punjab, several new colleges were started and a great impetus was given to compulsory primary education. Today he has been taken away from us at a time when we need him most. Sir Fazl-i-Husain was in failing health for the last fourteen years, but it was only his sense of duty which kept him at the helm of affairs. A good many times he was told by his medical advisers to take rest ; but his sense of duty would not permit him to do so. In the end, I would say that he died like a warrior fighting for the cause, that is, the education and uplift of his people, a cause which was so dear to his heart. His death reminds me of one of the beautiful lines of an Urdu poet who has said :

*"Qatraah wuh jis men shorish-i-daryâ kâ ho zahur.
Hotâ hai jald chashm-i-jahân se nehan zarur."*

Sardar Sant Singh (West Punjab : Sikh) : Sir, on behalf of the Congress Nationalist Party, I beg to associate myself with all that has fallen from the Leader of the House, the Leader of the Opposition and the previous speaker. Sir Fazl-i-Husain was one of those dynamic personalities of his time who commanded hearing even from those who happened to differ from him on political and other matters. It must be said to his credit, Sir, that during his time as a Minister in the Punjab and as an Executive Councillor of the Governor General's Executive Council he had raised issues which set the people thinking about their future political careers both in the provinces as well as in the Centre. At a time when he was organising the Unionist Party in the Punjab on economic lines, he was unfortunately suddenly taken away from our midst. His death has left a big void in the Unionist ranks in the Punjab which it will be difficult to fill. Today we find that, on the eve of the introduction of a new Constitution, the Punjab politicians do not find any leader to lead them. Sir, I join in offering our condolence to the bereaved members of the family.

Sir Leslie Hudson (Bombay : European) : Sir, on behalf of my Party and myself, I wish to join in the remarks that have fallen from the lips of my friends on my right. Sir Fazl-i-Husain was well-known to almost all of us in our Party. We knew him as a most courteous gentleman in all the dealings, whether business or social, we had with him. He was an outstanding personality in this country, and more particularly in the Punjab. His experience and ability as an administrator are well-known throughout the length and breadth of this country, both in a provincial capacity and also as a Member of the Viceroy's Executive Council. He was, I think, a realist in his policies, and a man who always took a statesmanlike view of the position of his co-religionists in India. He knew their strength as well as their weaknesses, and he was a very stalwart support to them in both those capacities. As Mr. Ghiasuddin has said, Sir Fazl-i-Husain's policy as regards the Indians overseas was throughout a striking success. His championship of them during his term of office in His Excellency's Council is well-known to us all. We shall miss what were his far too infrequent visits to this Assembly where his powers of debate were held in high admiration. Sir, a commanding figure has been removed from the Indian political sphere which it will be very hard to replace.

Sir Ramachandra Rao was an outstanding leader in the co-operative movement, and he was, I believe, responsible for the establishment of the Land Mortgage Bank system in Madras.

The late Mr. Lamb was a personal friend of mine, and he was a loyal and capable Member of our Group. He was full of humour and kindness in his relations with us all.

Sir, I join in asking you to convey our condolences to the relatives of the deceased.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh : Muhammadan Rural) : Sir, Sir Fazl-i-Husain was a wonderful personality. He left the impress of it on every sphere of life with which he came in contact. Whether it be the profession of law, or the public and political life of the country,—provincial as well as All-India,—or the administration of a Government Department either in the Centre or in the Province,—his hard work, consummate ability, dogged tenacity, and splendid foresight and statesmanship came into play and forced on him that leadership which came to him without asking. He was undoubtedly anxious that the Muslims of India who had been lagging behind their Hindu brethren in education and other activities of life should go ahead and come into line with the latter, because he believed that unless that was achieved, self-Government for India must continue a dream. But this attitude of his never brought him near to communalism as was evidenced by the wonderful and glowing tributes which were paid to his memory by our Hindu brethren. By his death, Sir, the Government have lost a capable adviser, and the country a consummate leader and shrewd administrator. It is no wonder, therefore, that I should like to join those who have already spoken in adding my humble tribute to the memory of such a talented man and patriot whose death has been mourned all over the country and whose loss has been a personal one to me and whom it was my good fortune to study at close quarters.

Sir, in the deaths of Sir Ramachandra Rao and Mr. W. S. Lamb, I have lost two personal friends. Sir, I extend my sincere condolence to the members of these three bereaved families.

Mr. President (The Honourable Sir Abdur Rahim) : It is my duty, as desired by the Members of the Assembly, to convey to the bereaved members of the families of Sir Fazl-i-Husain, Sir Ramachandra Rao and Mr. W. S. Lamb the condolences of the Assembly and the feeling tributes that have been paid to the memories of these three gentlemen who some time or other were Members of this House. Sir Fazl-i-Husain was a distinguished figure in the political and public life of India, and his death, as has been stated, is a serious loss to the country, and especially to the Muslim community in the Punjab. He had a long and distinguished career during which he rendered very valuable services to the people of this country, and those who had the privilege of knowing him realised that he was a man of outstanding personality, a great judge of human character, and one who never spared himself in the discharge of his duties. I am sure, as has been expressed, his death, when he was about to embark on further political activities in his own province, will be mourned by all who knew him and realised the value of his services to the country as a whole.

I had hardly the privilege of knowing Sir Ramachandra Rao. But he had a great reputation for public service in his Presidency. I shall convey the condolence of this House to the bereaved members of the three families.

NOMINATION OF THE PANEL OF CHAIRMEN.

Mr. President (The Honourable Sir Abdur Rahim) : I have to inform the House that under rule 3(1) of the Indian Legislative Rules, I nominate Mr. S. Satyamurti, Sir Leslie Hudson, Mr. Abdul Matin Chaudhury and Mr. M. S. Aney on the Panel of Chairmen for the current Session.

APPOINTMENT OF THE COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Abdur Rahim) : I have to announce that under Standing Order 80 (1) of the Legislative Assembly Standing Orders the following Honourable Members will form the Committee on Petitions :

- (1) Sir Leslie Hudson,
- (2) Pandit Nilakantha Das,
- (3) Maulvi Syed Murtuza Sahib Bahadur, and
- (4) Mr. N. M. Joshi.

According to the provision of the same Standing Order, the Deputy President will be the Chairman of the Committee.

MOTION FOR ADJOURNMENT.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have received notice of a number of motions for adjourning the business

[Mr. President.]

of the Assembly, the first of which stands in the name of Mr. S. Satyamurti. He wishes to move an adjournment of the business of the Assembly in order that the House may consider "the attitude and action of the Government of India in respect of the new rules for recruitment to the Indian Civil Service in London and in India". Does the Honourable Member wish to ask for leave to move that motion?

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any objection?

The Honourable Sir Henry Craik (Home Member) : No.

Mr. President (The Honourable Sir Abdur Rahim) : The motion will be taken at 4 o'clock.

GOVERNOR GENERAL'S ASSENT TO BILLS.

Secretary of the Assembly : Sir, information has been received that the following Bills, which were passed by both Chambers of the Indian Legislature during the Delhi Session, 1936, have been assented to by His Excellency the Governor General under the provisions of sub-section (1) of section 68 of the Government of India Act :

- (1) The Italian Loans and Credits Prohibition Act, 1936,
- (2) The Salt Additional Import Duty (Extending) Act, 1936,
- (3) The Parsi Marriage and Divorce Act, 1936,
- (4) The Payment of Wages Act, 1936.
- (5) The Decrees and Orders Validating Act, 1936,
- (6) The Cochin Port Act, 1936.
- (7) The Indian Aircraft (Amendment) Act, 1936,
- (8) The Factories (Amendment) Act, 1936,
- (9) The Indian Lac Cess (Amendment) Act, 1936,
- (10) The Indian Tariff (Amendment) Act, 1936,
- (11) The Indian Mines (Amendment) Act, 1936, and
- (12) The Indian Tariff (Second Amendment) Act, 1936.

STATEMENTS LAID ON THE TABLE.

OBJECTS ON WHICH THE PETROL TAX FUND WAS EXPENDED.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I lay on the table the statement promised in reply to part (b) of short notice question No. 146 asked by the Honourable Mr. E. Miller in the Council of State on the 28th August, 1934, showing the

objects on which the Petrol Tax Fund was expended during the financial year, 1935-36 :

Object.	Expenditure. Rs.
1. Financial Assistance to four ground engineer apprentices and scholarship to a research scholar, in England ..	*14,460
2. Lighting of W/T masts at Mingaladon (Rangoon) ..	2,598
3. Provision of a sun beacon at Jodhpur ..	1,862
4. Provision of an Osira floodlight at Safdar Jang's tomb near the New Delhi aerodrome ..	3,929
5. Provision of a beacon at Hyderabad ..	15,000
6. Purchase of an altigraph ..	175
7. Training of Indians in Wireless Telegraphy ..	3,697
8. Purchase of spares for the wind T indicator installed at Karachi Air Port ..	468
9. Experimental floodlighting of the obstructions to the west of the Civil Aerodrome at Bombay (Juhu) ..	267
10. Provision of portable Neon lights for trial at certain aerodromes (New Delhi and Karachi) ..	2,560
11. Provision of loud speakers in the buildings at New Delhi aerodrome ..	1,648
12. Experimental equipment of an aeroplane with armourplate glass wind screens ..	100
13. Grant for additional travelling allowance and miscellaneous expenses to ground engineer apprentices ..	130
14. Provision of a Westinghouse beacon at Sukkur (experiment abandoned) ..	12
15. Installation of a G. E. C. Neon beacon at New Delhi ..	1,850
Total ..	48,756

*Revised estimate ; actual expenditure not yet known.

PAYMENTS FROM SUGAR EXCISE DUTY TO SUGAR MANUFACTURING PROVINCES.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) : Sir, I lay on the table the information promised in the course of discussion on the 25th March, 1936, on the motion for a supplementary grant in respect of "Agriculture", regarding payments from Sugar Excise Duty to Sugar Manufacturing Provinces.

The following tentative provision was made for the Sugar Excise Fund during the past two years :

	Rs.
1934-35 ..	5,48,000
1935-36 ..	6,43,000
Total ..	11,91,000

Of this the Government of India decided :

- (i) to keep aside a sum of Rs. 1,91,000 as a Central reserve fund for grants to the centrally administered areas and for assisting any special measures in a particular province, and

- (ii) to allot provisionally the balance of Rs. 10 lakhs for financing approved schemes in the provinces in proportion to the estimated production of white sugar in each province in 1935-36. On this basis the allocation was roughly made as follows :

Province.	Percentage of estimated production of white sugar in 1935-36.	Amount. Rs.
United Provinces	54	5,40,000
Bihar and Orissa	29	2,90,000
Madras	6	60,000
Punjab	3	30,000
Bombay	3	30,000
Burma	3	30,000
Bengal	2	20,000
Total	100	10,00,000

THE INDIAN COMPANIES (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Companies Act, 1913, for certain purposes.

THE GENERAL CLAUSES (AMENDMENT) BILL.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I beg to move for leave to introduce a Bill further to amend the General Clauses Act, 1897, for a certain purpose.

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

“ That leave be granted to introduce a Bill further to amend the General Clauses Act, 1897, for a certain purpose.”

The motion was adopted.

The Honourable Sir Nripendra Sircar : Sir, I introduce the Bill.

THE REPEALING AND AMENDING BILL.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I beg to move for leave to introduce a Bill to amend certain enactments and to repeal certain other enactments.

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

“ That leave be granted to introduce a Bill to amend certain enactments and to repeal certain other enactments.”

The motion was adopted.

The Honourable Sir Nripendra Sircar : Sir, I introduce the Bill.

THE TRADE DISPUTES (AMENDMENT) BILL.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I beg to move for leave to introduce a Bill further to amend the Trade Disputes Act, 1929, for certain purposes.

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

“ That leave be granted to introduce a Bill further to amend the Trade Disputes Act, 1929, for certain purposes.”

The motion was adopted.

The Honourable Sir Frank Noyce : Sir, I introduce the Bill.

THE CHITTAGONG PORT (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I beg to move for leave to introduce a Bill further to amend the Chittagong Port Act, 1914, for certain purposes.

The only observation that I wish to make at this stage is that unfortunately in the printing of the Bill an error has crept into the Third Schedule, paragraph 11. The Third Schedule, paragraph 11, gives a list of certain survey plot numbers, and in the last line but one, number 1153 is repeated. The first 1153 is meant to be 1154, and the second will remain as 1153. If Honourable Members will kindly correct their copies accordingly, perhaps it will obviate the necessity of moving a formal amendment later to correct that mistake.

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

“ That leave be granted to introduce a Bill further to amend the Chittagong Port Act, 1914, for certain purposes.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I introduce the Bill.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I beg to move :

“ That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee, consisting of Mr. V. V. Giri, Mr. Sri Prakasa, Mr. Kailash Behari Lal, Maulana Shaukat Ali, Pandit Krishna Kant Malaviya, Mr. G. Morgan, Sir Muhammad Yakub, Sir Abdul Halim Ghuznavi, Dr. R. D. Dalal, Mr. R. F. Mudie, 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 Bill has been before the House since the last Session, and I have no doubt that Honourable Members have had plenty of opportunity

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[Sir Muhammad Zafrullah Khan.]

to study its provisions. The provisions of this Bill are not at all complicated, though inasmuch as they touch a very large number of persons conflicting opinions have been expressed at least with regard to some of them.

Sir, the object of the Bill is so to strengthen the law dealing with persons travelling on the railways without a proper pass or ticket as to mitigate and reduce to its minimum the evil of ticketless travel. Various estimates have been made of the number of people who evade due payment to the railways of their fares when using these services. These estimates are necessarily mere approximations to the actual figures. Since 1928 figures have been kept of people who have been actually detected travelling without tickets and these figures show that since 1928, on the average about 25 lakhs of persons are detected in this country travelling without proper passes or tickets. The lowest figure during these years has been 23 lakhs and the highest has been as much as 29 lakhs, so that on the average 25 lakhs may be accepted as correct but that, as I have said, is the number of people who are detected as travelling without a ticket or proper pass and I am afraid the apprehension is correct that a very much larger number than these escape detection. The question has sometimes been raised that possibly the system of detection adopted by the railways is not adequate. There are limits to the system of detection that might be adopted by the railways. As it is, railways are spending a sum of 25 or 26 lakhs on the average every year on the system of trying to detect people who make use of the railways without paying their proper dues to them.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : For purposes of detection only ?

The Honourable Sir Muhammad Zafrullah Khan : For the purpose of checking those who travel on the railways and therefore the object is to discover whether anybody is travelling without having paid his or her proper dues to the railways. Now, it is possible to increase this checking staff and experiments have occasionally been made in that direction. The result is that a more intensive system of checking does disclose that a very much larger number of people actually travel without proper passes or tickets than is detected by the normal system of checking, but it so happens that the extra returns from this intensive checking amount to almost as much as the extra expenditure that is undertaken. The position is this. There is a considerable amount of money properly due to the railways for carrying passengers, which is not being paid to the railways and to that extent the income of the railways is being affected. If the railways could recover this extra money, it could be utilised towards providing additional facilities and amenities for people who pay for the service which they require from the railways. I do not think there would be any question that this practice that is so prevalent in this country ought to be put an end to if possible or at least to be reduced to a minimum. On this question in the abstract, there will be no difference of opinion between the different sections of this House. The question is what is the kind of remedy to be adopted for that purpose. Government have put forward certain amendments to the Indian Railways Act which are designed to a very large extent to check this practice.

This measure, as I have said, was put forward in the last Session, and Honourable Members have had an opportunity of considering it. It has also been considered by the Central Advisory Council for the Railways and, as I have said, criticism has been offered to various aspects of the amendments put forward but that criticism is of a nature which I think eminently deserves consideration in Select Committee. It will be difficult to consider all that detailed criticism in a full Session of this House. Let me say that both the critics of this measure as well as the supporters of this measure have two objects in view. One is this : If the law does require strengthening in the direction of provision being made for dealing with ticketless travel on a more stringent basis, let that be done but care should be taken that in amending the law no kind of power is conferred upon railway staff the misuse of which might amount to a hardship or at least an unnecessary hardship upon people who, though negligent, may not necessarily have been dishonest in this respect. I may say at once that I agree entirely with that position. It is not possible at this stage to state whether it would be possible to discover any set of amendments which would satisfy every kind of critic to the proposals that have been put forward on behalf of Government, but I am free to state that in Select Committee, in case the House does appoint a Select Committee to consider this measure, it would be my object to see that if any of these proposals made on behalf of Government are shown to be unduly harsh upon that class of persons they are so modified as to exclude the danger of harassment or persecution of honest travellers on the railways. On the other hand I am quite sure Honourable Members will realise that if as many as 25 lakhs of persons take the risk every year of travelling without tickets so that on detection they have to pay a larger amount of money in respect of the same journey than they would otherwise have to pay, then the evil is prevalent to an extent which does require a remedy. Briefly the proposals are these. With regard to section 68 of the Railways Act which provides that no person shall travel upon the railways without a proper pass or ticket unless he has been authorised or been permitted by a railway servant to do so, it is proposed to amend this section so as to provide that railway servants who are properly authorised to do so, when permitting a person to travel without a proper pass or ticket, may supply such a person with a certificate to the effect that such person has been authorised to travel without a proper pass or ticket, in which case the person holding such a certificate when he has to pay proper dues will not be liable to pay any additional penalty in respect of the distance he has already travelled or proposes to travel which he would be liable to pay if he did not hold such a certificate. A further amendment of the section gives powers to railway staff to eject from a railway carriage a person who is travelling without a proper pass or ticket. That is an amendment over which much trouble need not arise but the main amendments to the Act are those that are proposed to sections 112 and 113 of the Act. These two sections deal with people who are found travelling without a ticket or without a pass or who give intimation before detection that they have not been able to secure a proper pass or ticket. These are the two sections which are intended by the proposed amendments to be tightened up.

Now, the main amendment is that the penalty for travelling without a proper pass or ticket is sought to be raised from a mere fine which might extend to Rs. 100 to a certain term of imprisonment. It is also proposed

[Sir Muhammad Zafrullah Khan.]

that a person who is discovered on the railway without a proper pass or ticket shall, if he wants to escape conviction under this section, prove that he did so without any intent to defraud. These are the two main amendments that are proposed to section 112. Section 113 is also proposed to be amended in this sense that if a person who has become liable to pay his fare and the penalty for travelling without a ticket refuses to pay the amount that he is liable to pay, power is being taken to arrest him and to produce him before a magistrate. The offence of travelling without a ticket with intent to defraud has also been made cognisable. These are the main provisions of the Bill. As I have said, Government do not claim that these provisions are in themselves either so rigid that no modification is acceptable or that they are so perfect that no modification need be made in them. The attitude of Government is that a serious evil exists and that measures have to be taken to reduce this evil, if the law is lax in certain respects, the law ought to be strengthened. On the other hand, it should be our care to see that nothing is introduced in the law which is likely to operate harshly upon the honest traveller. With these observations, Sir, I move.

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

" That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee, consisting of Mr. V. V. Giri, Mr. Sri Prakasa, Mr. Kailash Behari Lal, Maulana Shaukat Ali, Pandit Krishna Kant Malaviya, Mr. G. Morgan, Sir Muhammad Yakub, Sir Abdul Halim Ghuznavi, Dr. R. D. Dalal, Mr. R. F. Mudie, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I beg to move :

" That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be circulated for the purpose of eliciting opinion thereon by the 31st December, 1936."

Sir, the Bill which is now before us is a Bill of momentous importance, one upon which we should not deliberate without seriously considering every aspect of the question. We no doubt all have a great sympathy with the Honourable the Mover's desire that we should reduce the number of ticketless travels, and that is a thing which we should make every endeavour to reduce. In this object we are entirely in agreement with the Honourable the Mover. But the methods which he has suggested for reducing them are very revolting, such as no other civilised country in the world has ever dreamt of. In other countries, they have devised a method by means of which travel without a ticket is rendered impossible. On the other hand, in India, they have devised a method by means of which they encourage travel without ticket. In Germany, for instance, it is impossible for any traveller to enter any railway station without a ticket or a pass. The entrance to the platform is by a barrier. There is a person at the gate all twenty-four hours to see no person can enter a platform without a ticket. In addition to it, tickets are also checked in running trains, and no person can get out of the station without handing over his ticket at the gate. In other countries like France and England, the system is not so perfect as it is in Germany, but still there the tickets are usually checked in running trains. In India, however, we never devised any method of this kind.

and tickets are only checked when the train stops at certain stations. Our system of checking tickets is very defective, and it encourages travelling without ticket. Mr. Moody, in consultation with his colleague, devised a new system in 1931 which is known as the Moody-Ward system for checking tickets, but one great omission that they made was that they did not provide for transition from one system to the other. They were not starting with a clean slate. There was a system already in existence prior to their report, but they never mentioned the method by which the old system should be transferred into the proposed one, with the result that five years and a half have passed away and still the question has not yet been settled. Thus, there have been an enormous number of questions put in this House as regards the travelling ticket inspectors. I myself made not less than two dozen representations to various railway authorities about the injustice done to the T. T. I.'s and the officers in the Crew Department. Five years have passed away, and their cases are still undecided. Therefore, even the new method, devised by the Government for checking tickets in two major lines, East Indian Railway and North Western Railway, has not proved a success. That method was devised without consulting the travelling public, and you have left the persons who are responsible for checking the tickets in an unenviable position. There is great discontent amongst them, and discontented men naturally cannot carry out their duties so efficiently as contented men can do. My first point is that you have not really considered all the avenues by means of which this system of travel without a ticket may be put a stop to or be minimised. You are not prepared to spend money, and you want to check tickets by insufficient low paid and discontented staff and then expect the results now attained in European countries. You have failed to put your own house in order, and you have come forward with a drastic measure which is not justified by the circumstances of the case.

My Honourable friend has mentioned that 25 lakhs of persons travel without tickets, but I should like to ask what is the percentage of the persons who travel without tickets to the total number of travellers. The percentage is less than .5, it is less than a half per cent. Therefore, the number is not so large that it may really justify the introduction of this extraordinary measure. In these circumstances, the railway authorities should, in consultation with the representatives of the travelling public, devise a better method of checking tickets. It is unfair to ask this House to shelter the weakness of Railway Administrations by drastic legislation.

Now, Sir, there are one or two other points which to my mind are exceedingly difficult to understand. Sir, we have been told time after time that the railways are really a commercial concern. The Parliament in the Government of India Act has created a new Railway Authority, and the basic principle of that measure is that the railways should be treated as purely a commercial concern and we should avoid all political influences, so much so that a person who is a Member of a Legislature and who has been a Member of a Legislature for the last twelve months cannot be a Member of that Railway Authority. Indian Railways will soon be a commercial concern and will be free from political influences, and this system will come into force from the 1st April, 1937, simultaneously with Provincial Autonomy. The commercialisation will come into operation within seven months. Why then introduce this punishment of imprisonment on the eve of its commercialisation? You ask us to treat our

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railways as a commercial concern, and I request you to introduce only such legislation which a commercial concern can justify. On the one hand you profess to treat the railways as a commercial concern, and, on the other hand, you treat the matter as if it were an act dangerous to the public peace. You seek to legislate in a manner as if railway travel without a ticket is a violation of the public peace; and at the same moment you ask us to believe that the railway system should be treated as a commercial concern which seems to my mind to be a contradiction in terms.

Now, the old Act, in section 112, has provided a punishment for travelling without a ticket. The passengers without a ticket may be punished with a fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have had to travel. If a person is found to travel without a ticket, he has to pay all the penalties which are prescribed in the Railway Act. In addition to that, he has also to pay a fine of Rs. 100. Clause 3 of the proposed Bill modifies section 112, and in future a traveller without a ticket shall be punished with imprisonment which may extend to two months or with fine which may extend to Rs. 100 in addition to the amount of the single fare for any distance he may have travelled. Now, you have left it to the option of the magistrate whether a fine of Rs. 100 should be imposed or whether he should undergo an imprisonment of two months. I think that is not a business proposition. A business concern will never ask that you should send a person who has violated any rule of business to the jail. He should like to have the money. A person may be sent to jail for non-payment of the dues, but he should not be sent to jail as an alternative to payment by the magistrate. According to the old Act, you can recover Rs. 100; but, under the new clause, he may pay either Rs. 100 or he may be sent to jail for two months. The second point, which to my mind is really against any principle of justice, is this. According to section 112 of the present Act, the words are "If a person with intent to defraud a railway administration.....". It really meant that the burden of proof that there was a defraud must be on the prosecuting authority, but, in the proposed amendment, which is now before the House, the burden of proof is not on the prosecuting authority, but on the accused. The proposed amendment is "Unless he satisfies the Court that he had no intention to defraud the railway administration". That is, the burden of proof of defraud will not be now on the railway administration, but it will be on the accused. Now, I appeal to all the persons who are lawyers in this House and also to the Honourable the Mover himself, who is a distinguished lawyer, whether he would allow a thing of this kind, namely, that the burden of proof should not be on the prosecuting authority, but on the person who is being prosecuted under this Act. I understand that the trying magistrate is to be appointed by the Railway Administration.

The Honourable Sir Muhammad Zafrullah Khan : Where does the Honourable Member get that from?

Dr. Ziauddin Ahmad : "If a person is liable to pay extra charges..... an application should be made to any magistrate by any railway servant". Now, the magistrates.....

The Honourable Sir Muhammad Zafrullah Khan : Will you kindly withdraw the allegation that you have made which is not based on any facts whatsoever.

Dr. Ziauddin Ahmad : Then, how are the magistrates appointed?

The Honourable Sir Muhammad Zafrullah Khan : By Government.

Dr. Ziauddin Ahmad : (On the recommendation of the Divisional Superintendents.

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Dr. Ziauddin Ahmad : I understood that the railway magistrates are appointed on the recommendation of the Divisional Superintendents. If that is not a fact, then I withdraw my remarks.

The Honourable Sir Muhammad Zafrullah Khan : That is not a fact.

Dr. Ziauddin Ahmad : I had the impression on the ground that several persons approached me to recommend their appointments as Railway Magistrates to Divisional Superintendents. I withdraw the point.

Now, Sir, the next point to which I would like to draw the attention of the House is the proposed amendment to section 131 of the Railway Act. The amended clause will read as follows :

"If a person commits any offence mentioned in section 112, etc., he may be arrested without warrant or other written authority by any railway servant or police officer, or by any other person whom such officer may call to his aid."

He may be a railway coolie or any other person. It is suggested to introduce a new principle that a person who is to be sent to the jail for two months can be arrested without warrant or other written authority by any railway servant or by any person who is appointed by the railway servant in this behalf.

The next point to which I would like to refer is clause 5 of the Bill which runs thus :

"or if a person fails or refuses to pay any excess charge or other sum demanded under Section 113 and there are reasonable grounds for believing that except by his arrest he cannot be placed before a magistrate without undue delay, trouble or expense."

Mark the word "trouble". Who is going to judge this "trouble"? The railway authorities themselves. Whenever any case comes up, they will say that it will probably involve a good deal of trouble if it is delayed. Therefore, the man will have to undergo his trial immediately under this new clause.

Sir, this Bill requires a good deal of consideration both in principle and in detail. I have no doubt that the question will be scrutinised by the Select Committee, but the question of principle is still there, and we should not be in a great hurry to pass such a measure on the eve of the institution of the Railway Authority. After a few months, the railways will be taken away from us. They will be a business concern, and it is rather unfair for the Government to come to us and ask us to pass a measure of this kind which no commercial concern will ever dream of demanding.

[Dr. Ziauddin Ahmad.]

The next point which I would like to emphasise is that we have now a great competition between road and rail. If you introduce such stringent measures which no country has ever dreamt of before, then many persons would be tempted to travel by road and will avoid to travel by rail. There will be a good deal of propaganda in the country. People will say that if you violate any of these things you may be sent to jail. This in itself will induce a very large number of persons to give up travelling by rail and they will take to travel by road. Therefore, this principle which is underlying the Bill is one which requires very serious consideration especially at a moment when we are going to wash off our hands and cease to have any connection with railways in the near future. I move my motion of circulation, firstly, on the ground that we have not yet considered all the methods by means of which ticketless travel could be checked. We have not considered the ways and means of stopping this evil of ticketless travel, but all at once the Government have brought forward this measure where a ticketless traveller may be sent to jail and not pay the fine of Rs. 100, and the burden of proof is put on the ticketless traveller and not on the prosecuting authority. This is quite unjustifiable, especially at a time when we are to hand over our power to the new Railway Authority. With these words, I request that this measure should be considered by the public and we should devise methods by means of which we can avoid this evil of ticketless travel more effectively. Better system of checking tickets will be more effective than stringent provision of punishment.

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

"That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be circulated for the purpose of eliciting opinion thereon by 31st December, 1936."

The debate will now proceed both on the original motion and on the motion moved just now.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, it may seem a little ungracious on my part to speak against this Bill at this early stage, when the Honourable the Commerce Member has extended to me the courtesy of including my name in the list of the members of his Select Committee, but I am bound to oppose this Bill lock, stock, and barrel. I do not think that we can permit any legislation along the lines proposed by the Honourable the Commerce Member, unless he can ensure to the country at large an efficient, honest, and courteous railway service. Unless this condition is fulfilled, it will be impossible for any representatives of the people, sitting in this House, to give countenance to any Bill of the sort that is before us today. It is possible that the Government may say that the people also should be honest. I agree. But when you have a service which is under your discipline and which is recruited under certain conditions. I think it is but fair to expect a higher standard of honesty and integrity. members of the public generally. Therefore, long before Government think of making the whole world honest, they should see to it that at least their servants are honest. Moreover, persons in authority are expected to set the standard, not in fine dressing and loud speaking, but in integrity,

honesty, benevolence, and other human virtues. The whole system of recruiting for the railway service is evidently wrong ; otherwise so many objections would not be raised against that service. I have been a persistent traveller since my childhood. I have also been in the habit of corresponding with the railway authorities since before I knew how to write a letter correctly. Though I have been very anxious to follow all the rules laid down by the Railways, having been a careful student of railway time tables, I am sorry to say that I have constantly got into trouble with railway officials ; and my experience on that score is sad indeed.

I will begin with a simple question. Have the Government thought of making any law to prevent over-crowding in railways ? When a bus is over-crowded, there is prosecution. When a railway compartment is over-crowded, so far as I know, there has been no prosecution. All that the railway says is : "Why do so many people come to travel by these particular trains ? Why should so many people go and bathe in a particular river on a particular occasion ?" The Railways do not take into consideration their own duty of making sure that trains are not over-crowded, and that railway companies and railway officials are promptly punished if there is any over-crowding. As this Bill has been before the House for some time, and as I have done a good bit of travelling in this interval, I thought I might consult some railway officials also on this subject. One day, Sir, while travelling, I found a travelling ticket examiner coming into my compartment. He was in a black coat with a bright red tie. The black coat rather frightened me, lest he should be a follower of Mussolini ; but the red tie encouraged me, and I thought he might be a brother communist ! So, I took him into my confidence and asked him what he thought of this precious Bill that was before the Legislature. He said that he thought that the principle of the Bill was wrong ; that he had been a travelling ticket examiner for a long time ; and that he never found persons, who were really *bona fide* travellers, travelling without tickets. Persons who did really travel without tickets were, he informed me, persons from whom you could get nothing whether you put them into jail or whether you fined them. Unfortunately as this talk was progressing, somebody in the compartment recognised me, as a member of this House. This news got about and the travelling ticket examiner got frightened and stopped at once, saying he would seek another opportunity of seeing me, which he never did.

Now, Sir, who are the persons who travel without tickets ?

An Honourable Member : First class passengers !

Mr. Sri Prakasa : I will come to that particular class a little later on, when I fear gentlemen opposite will begin to jump ! Ordinarily those who travel without tickets are poor beggars, mendicants and others, who secrete themselves under the seats or in the latrines, and get along as far as possible. You now intend to get hold of them and put them into prison. If you do so, you are only increasing the burden on the general taxpayer, because the taxpayer will have to shoulder the burden of feeding these good men in jail for long periods of time, and while the railways will stand to gain nothing, the general finances of the country are bound to suffer.

[Mr. Sri Prakasa.]

Then, Sir, there is another class of passengers that sometimes finds himself without ticket. He is the person who arrives at the railway station at the last moment and rushes into a compartment. The Honourable Member opposite will say that he has inserted a clause in his Bill to the effect that a certificate could be obtained from somebody or other to the effect that the man is a *bona fide* passenger and that he should not be harassed. Once the Honourable Member for Railways said that he also sometimes patronized the third class. Not in the spirit of patronage, but really in the spirit of public duty, if he would divest himself of the sort of clothes that he usually wears and make himself look like an ordinary third class passenger, and travel on a *mela* day particularly when there is a heavy rush, he will see that he will not be able to get at anybody who would give him a certificate. It may even be that instead of a certificate he might almost get a kick, as so many unfortunate third class passengers do from guards and others who regard themselves as rulers of the line. So that that clause means nothing.

Once I related to the House an experience of my own on this subject. I may confess to the House that I am a nervous man and I go on examining my ticket myself every five minutes when I am travelling, to see that it is safe and intact. I have great admiration for the man who really travels without a ticket (Laughter), because it requires gumption and courage of a very high order to do so. But once it did happen, as I told the House some time back, that I found myself without a ticket, because I arrived at the last moment and rushed into a compartment. There were a certain number of friends who had, unfortunately for myself and more unfortunately for the Law Member who is so angry at ovations for politicians, come to see me off; and I told them to inform the guard that I was in this predicament. At 1 o'clock at night, I was shaken up and asked for my ticket. I explained to the ticket examiner the situation. The train was rushing along, and I asked him to wait till the next station where I promised to take him to the guard. He said the guard had no authority on the subject; and he immediately charged me double fare plus a penalty of Rs. 3 for non-booking. It was a crowded compartment. I was anxious to avoid a scene; and I paid the money. Now, the Honourable the Commerce Member instead of expressing regret for what had happened, only said that I was wrongly charged the penalty; but that the double charge, in his opinion, was all right, despite my having been perfectly *bona fide*; and if I had only written to the railway authorities I would have got back some portion of the money. The fact is that I did write to the railway authorities, and got back, after a good deal of trouble, the extra charge as well as the penalty. But I did feel rather funny in that compartment. Luckily nobody recognised me, because you always feel rather small when people recognise you in such a predicament; but you do not mind so much if all onlookers are strangers when you are made a fool of. It would have done nobody any good to catch hold of me and put me into prison at that time.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can resume his speech after Lunch.

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

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

MEMBER SWORN.

Khan Bahadur Sir Abdul Hamid, Kt., C.I.E., O.B.E., M.L.A. (Nominated Non-Official).

THE INDIAN RAILWAYS (AMENDMENT) BILL—contd.

Mr. Sri Prakasa : Sir, when we adjourned for lunch, I was trying to enlighten the House from an experience of my own; and I said that I yielded to the bullying of the travelling ticket examiner, because I was feeling rather funny in a crowded compartment. He refused to accept my word that I was a perfectly *bona fide* passenger, and that if he would only wait till the train stopped at the next station, I could bring the guard as witness to prove that due information was given to him about my predicament and the circumstances in which I happened to be a ticketless traveller. In this connection, I should like to draw the attention of the sponsors of this measure to the very simple fact that it is almost impossible for an ordinary passenger to be able to get a certificate of the type the Commerce Member is thinking of introducing. Already we have a system of certificates; and the invariable experience of persons is that they cannot get one. You will hear other Honourable Members telling you how they have themselves tried to get certificates whenever they have had to travel in a lower or higher class owing to overcrowding; and that nobody listened to them. My Honourable friend, Choudhri Raghbir Narayan Singh, was just telling me of an incident which I have his authority to narrate to the House. On one occasion he had a second class ticket; and as the second class compartments were overcrowded, he travelled intermediate and asked the guard to give him a certificate. The guard did give him some sort of a paper which he thought was a certificate and which he carelessly failed to examine immediately for himself, thinking that the guard must have given him a proper paper. At the end of the journey, when he pulled out that paper he found that it was a blank sheet with some figures written on it!

You will probably be hearing my friend, Babu Kailash Behari Lal, who only the other day had a very bad experience. He had his little daughter travelling with him, less than three years of age. The travelling ticket examiner insisted that the girl was more than three years. Well, there was the usual interchange of polite language; and there was the threat of an examination by a medical board by the time the train got to Delhi; but nothing really happened. I have had a similar experience with my own children, when they were very small. They have now grown beyond the ticketless stage, and I have to take tickets for them now; but I have had my trouble with the railway when they were below three. So among the many things that I carry in my attache case when I travel, I also carry a piece of paper giving the exact birth dates of my children, so that I could show that to any one who troubles me on the way. Once I had the opportunity of showing it and saying that if they would only wait, I could get the necessary horoscope also.

My friend opposite wants to prosecute all these little children and send them to jail for being ticketless. I do not exactly understand how a child of 3 will be able to explain to the Court and to the satisfaction of the Court, that he or she is less than three years of age. I quite under-

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stand the anxiety of the Honourable Member that the prosecutor's task should be made very easy. I understand that he has been a public prosecutor himself and that he made quite a fortune in prosecuting conspiracy cases; and I do not wonder that he desires that a system should now be introduced by which instead of his having to prove that the men in the dock are guilty, the men in the dock should prove that they are innocent, so that the lawyer will have his fee and will undergo no trouble. The magistrates in our country are always obliging to the prosecution, as we know to our cost; and the men will be sent to jail without any difficulty. I could regale the House with many illustrations. It is a pity that the House has a very strong bourgeois mentality, with the result that Members do not like to admit publicly their own experiences. But I am made of sterner stuff: I do not mind telling what I have myself undergone or what my friends have undergone in the course of their experiences as travellers on Indian Railways. The idea behind the Bill is that realising the legitimate fare is not sufficient to deter passengers from travelling without tickets or attempting to travel without tickets: even penalties are not enough; and my friend thinks that if men are only put into jail, things will be all right. Now, as one who has been a chronic prisoner himself, I can say that jails for good characters—and I may say, as an aside, that I am supposed to bear a fairly good character—are uncomfortable; but jails for genuinely bad characters are very good places. They are able to get round the jail officials quite easily: they are suddenly turned from ordinary prisoners into C. N. W.'s—if that means anything to gentlemen opposite who must have sent many persons to jail. The mystic letters mean 'convict night watchmen': then a little palm oiling puts them into the position of C. O.'s—which means 'convict overseers'; and they then jump into what we know in our province as regular 'pakkas', C. W.'s or 'convict warders'. The worse your character in the outside world, the better you are in jail; and so I think many of my friends, mendicants, beggars and others, whom a capitalist society as represented by this Government, looks down upon with scorn, will welcome a six months' free food, clothing, housing, free everything in jail.

I will tell you a story, Sir. There was a Pathan who was put into prison. The Pathan was very nervous in the beginning; but when the night came and two little lanterns were hung up in two corners of the long barrack, and blankets and other things were supplied to him, he said: "Oh, I had thought jails were terrible places". Then a friend of mine asked him: "What did you think they were like and what sort of treatment did you come prepared for?" He replied: "I thought they would tie up my hands and feet and swing me from the roof; and, instead of doing that, they gave me a more comfortable place than I ever had." So, Sir, these poor mendicants, beggars, and others who now hide themselves under seats to ward off the travelling ticket examiners, will have a pleasant six months in His Majesty's jails for which, not Sir Muhammad Zafrullah Khan, but we shall have to pay as taxpayers. If that satisfies my friend, he is quite welcome to his satisfaction; but it does not satisfy me, Sir, because I have to pay a fair amount of tax....

Captain Sardar Sher Muhammad Khan (Nominated Non-Official): He pays the tax too.

Mr. Sri Prakasa: You may take that amount of tax as so much less of salary; it makes no difference. No Government servant pays taxes. That amount is to be regarded as so much less of salary. Then they make so much on travelling allowances on which no taxes are levied. In fact they really make up for most of the taxes they pay....

Captain Sardar Sher Muhammad Khan: They pay supertax too.

Mr. Sri Prakasa: Well, on that I shall say something when the Finance Bill comes up.

I have described two classes of ticketless travellers, one the poor man whom you intend to put into jail and who can never give you money;—but who instead, will cost you a good bit for his upkeep in jail. You stand to gain nothing. The other class of passenger is the *bona fide* passenger;—and my Honourable friend himself may be one of them when he is out of service. Then he will probably realise that he made a mistake in introducing a Bill like this, because he himself would be a victim of that. This class consists of those who cannot buy tickets for one reason or another; and who have to go by a particular train; who cannot reach the guard; and whom the guard does not hear even if he is able to reach him. Such a man will be in an awful predicament. He will be dragged out anywhere, mid-journey, placed before a Magistrate; and he will have to prove that he is innocent. Ten to one, the Magistrate is not going to believe the man; and he will be punished. That will not redound either to the credit of the railway administration or of the Government....

The Honourable Sir Muhammad Zafrullah Khan: Why not pay up?

Mr. Sri Prakasa: Pay up what?

The Honourable Sir Muhammad Zafrullah Khan: The fare and the penalty.

Mr. Sri Prakasa: Why the penalty? Any way, I am coming to that.

Now, we should adopt the simple system which exists in almost all the civilized countries of the world. I do not pretend to know many civilized countries, but I certainly know many of the countries of Europe. There you can always change your ticket from a lower class to a higher class without any difficulty, and without any extra payment as penalty, etc. The Conductor comes up to you, and you tell him that the third class being crowded, you are travelling in the second class. He at once makes out a ticket and gives it to you. Or you say that you could not buy a ticket in time and that you boarded the train as you were in a hurry; and there again the Conductor makes out a ticket and gives it to you. I will tell the House an instance of my own. As you know, they are very strict about the arrival of students by a particular time at night at the Cambridge University; the students must be in their rooms by a certain hour. After a bar dinner in London, I rushed along to the railway station. The train was about to leave for Cambridge and that was the last train. I was running along, and I explained my position to the man at the gate telling him that I must go by that very train. There was absolutely no difficulty; he just made out a ticket for me, and actually helped me to get into that train and so I was able to get back to the university in time. Why cannot this Government, which

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pretends to be so efficient and which has such an inflated idea of its own greatness, make some provision of this nature, so that it may not be possible for any one to travel without a ticket; and if in certain circumstances some people have so to travel the railway authorities may make it possible for them to travel without harassment, and pay just the legitimate fare and no fines or penalties as if they were criminals. Here the railway officials themselves do not know what their rights and duties are. Some one tells you that he has no orders to make out a ticket; another tells you that you should see Mr. So and So, and a third man tells you that you should go to such and such an office until it is time for the train to start off.

Sir, I had a very bad experience when I was leaving Delhi after the last Session of the Assembly. Nobody seemed to know the rule about changing a ticket from an inter class to a second class. One man said: 'Go to Mr. So and So'; another said: 'Mr. Sarma or some one else will do what you want'; and it was with the greatest difficulty that I could bring them to reason and get them to make out the tickets I wanted. I could do that because I myself am a very close student of the railway rules; and so I was able to point out to them what they had to do, and what charges they were to make. But everybody does not know, and is not expected to know, the rules. The poor third class passenger, the unsophisticated villager is not expected to have studied about 10 or 12 pages of the rules contained in the six-anna guide of the East Indian Railway! What is he to do? Has he no right to get proper advice, proper guidance and proper treatment at the hands of the railway officials? Has he no right to hope that the railway official will do the right thing, make the right charge, and not cheat him in any way? Can the Honourable the Commerce Member honestly state, with all his wealth of information, that railway officials are paragons of virtue, courtesy and efficiency? I do not think it is possible for him to say that; and when he dare not say that, how can he forge instruments to penalise the public for a fault for which the railway official is really to blame? Sir, since we adjourned for lunch, my attention has been called to the fact that in the Railway Act, there is a section about overcrowding. The section says that a railway has to pay a certain amount of fine if it violates the rule about overcrowding. I ask my Honourable friend how many times has a railway company paid fines under section 93 of the Indian Railways Act?

An Honourable Member : Who will pay whom?

Mr. Sri Prakasa : The Act says that the Railway Company has to pay the Government. Anyway, as my Honourable friend is out for revenue, and not for blood, let me assure him that he can make quite a lot of money if he will have C. I. D. men about, to catch hold of the railway administration every time a compartment is overcrowded. My friend will find that hundreds of compartments are overcrowded every day on the Indian Railways, and he will have Rs. 20 for each overcrowded compartment; that will help him to make Rs. 20,000 or more a day if he will only look in the proper quarters for revenue.

An Honourable Member : That is transferring money from one pocket into another.

Mr. Sri Prakasa : The Railway can realise the money from its officials guilty of having permitted overcrowding. Now, Sir, what are my proposals? As the House knows, I am a very reasonable man, and I always give practical suggestions whenever I am tackling a problem. How can you obviate this evil of ticketless travelling, if it is an evil? You can have better railway stations. It is no use having open railway stations, as most of our railway stations are, and then complaining against people sneaking in. You should have a barred and bolted railway station. You should see that no one can come in or go out without a ticket; and your railway officials must not allow themselves to be bullied by persons with hats and coats on and who pretend to have peculiar rights as high officers of Government. There are rules about platform tickets for instance. I ask if a Governor General or a Governor takes a platform ticket when he goes to a station. Do Honourable Members of the Executive Council take platform tickets when they go there? Perhaps many of them do, because, after all, they have to shed many of their bad manners when they become Members of Council. But I ask the District Magistrates circling behind them, whether they take platform tickets when they go to the station in their districts. Do they not walk up hectoring and bullying the ticket collector at the gate, who is frightened out of his wits and allows them to go in? Let us take an example. I have heard of an Inspector General of Prisons whose habit was to travel without a ticket. Such people always send their luggage in advance. They are surrounded by their subordinate officials when they go to the railway platform to board a train. It is taken for granted that they must have purchased tickets. They arrive just in time and get in. Who will dare to ask for tickets from such persons? And when they get off at their destination, there are other subordinate officials who come and receive them. So they pass in and out without tickets. At last this character of my story was caught.

An Honourable Member : How?

Mr. Sri Prakasa : I do not know how he happened to be caught; somebody, I believe, had the gumption to go and demand a ticket. He did what almost all the gentlemen opposite do—and I have dealt with a large number of that variety. He put the fault on his poor assistant for his own crimes and misdemeanours. "Oh, it is that fellow's mistake. He did not buy the ticket." And this man was murdered for no fault.

An Honourable Member : Murdered?

Mr. Sri Prakasa : I think a little bit of exaggerated language is permissible on such occasions. (Laughter.) What I propose is that first class passengers should be carefully examined. Among them you will find many a ticketless traveller. While the third class ticketless traveller is a brave individual as he faces risk with open eyes for he is almost sure to be caught because he knows that even at the midnight hour he will be asked to show his tickets; the ticketless first class passenger is really a coward for he knows very well that nobody will wake him at night, and demand his ticket. So I suggest that if Government are really in earnest they should make a law that as the clock strikes the midnight hour all first class passengers, all persons lying or

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rolling about on first class berths, are examined. I assure my Honourable friend that he would make a lot of money if he could only do this.

Well, Sir, I have dealt with all the three classes of ticketless travellers. First is that of the genuinely poor ; the second is the *bona fide* passenger who has the capacity to pay, who has the will to pay, but who, for some reason or other, is not able to get a ticket in time ; and there is the third class of *mala fide* ticketless passenger who, if caught, should not only be sent to prison for six months but may well be hanged, namely, the first class ticketless passenger by night. Now, Sir, I am informed the railway is a commercial department of Government. If that is true, let it behave like honest commercial men. Is there any special law on the Statute-book which makes it incumbent on persons dealing with commercial men and commercial companies, to pay up their dues in time on pain of fine and imprisonment ? Is there any law by which we are bound to pay our grocers, stationers, and various other folk with whom we deal in life on pain of such penalties ? If they go and complain to you, they are informed by you that they should go to the ordinary Courts of law. There is no special law made under which their customers are bound to pay up their dues in time. Then why this exception in the case of railways ? Is not the ordinary law of the land quite enough ? On principle I am against overcrowding the Statute-book ; and if the Honourable Member will only consult me, if he will condescend to do that, because he is a big lawyer and I am only a briefless one—I could point out to him numerous sections of the Indian Penal Code under which he can take action. On the spur of the moment, the comprehensive section on cheating occurs to me. Cannot he go and avail himself of that all-inclusive section ? You see there the definition of cheating at its best. The marvellous brain of Macaulay has given a wonderful definition of cheating in his Penal Code. All railway offences can be made to come under that. You can easily prosecute the man under that section. If my Honourable friend would only have the patience, I could find out other sections of the Penal Code which could help him in this matter. So, instead of burdening the Statute-book, instead of complicating his own work, instead of confusing the mind of the general public, he can notify that action will be taken under the Indian Penal Code. It is surprising how lawyers, whether on this side or on that side, are anxious to complicate the law. They are so fond of law that they think that they are solving the problem of unemployment by complicating the law and creating larger and larger numbers of the unfortunate and useless class of people called lawyers.

An Honourable Member : Useless ?

Mr. Sri Prakasa : Absolutely useless and even harmful, like the present system of Government of which they are a product and a part. So it is no use complicating matters further, for the ordinary law of the land seems to me quite sufficient for this purpose.

Pandit Lakshmi Kanta Maitra : If you are found travelling without a ticket, who will defend you ?

Mr. Sri Prakasa : I will defend myself. I try my best to avoid going to a lawyer, whether it is a political case or any other. I am very nervous of lawyers. Now, Sir, the Honourable Member will probe

say : How are we to make both ends meet ? It is not by bullying men and women passengers that you can make both ends meet. I have so far dealt with only how men are treated. You would be surprised if I were to relate stories of how women are treated, or have been treated, specially at Allahabad during the last few years when there was a famous Railway Magistrate functioning there. I am glad that he has resigned, and he has resigned on very good grounds. He was the super-ticketless passenger. So pleased was the railway administration with the way this man worked, that they gave him a free pass to travel all over the line, not only in his jurisdiction, mind, but all over the line. This man became the favourite of Government because he was particularly adept at extorting money from ticketless passengers. Many stories have come to me of how women have been stripped so that he might get hold of money from parts of the body which are not generally exposed. And this Magistrate has now resigned because owing to some questions of mine, the Honourable Member opposite forfeited his pass and reduced his free travelling to only his circle. He got so angry at this that he resigned, and so far as I can recollect at the moment, he has also been writing to the public press telling the world of his own exploits in the matter ; how he found money secreted in the private parts of women ; and how he was able to compensate the railway for the ticketlessness of such passengers. Well, it may be a very fine thing for a magistrate to do ; but it is certainly revolting to the good feeling of ordinary human beings. The women may have been dishonest, I do not say that all women in the world are honest. If they deliberately travelled without tickets, these women, I admit, were certainly dishonest ; but is this the way in which Government wants to proceed in such matters ?

Pandit Lakshmi Kanta Maitra : Was he an honorary magistrate ?

Mr. Sri Prakasa : Yes, he was an honorary magistrate ; but he has since resigned because he was very angry that his services in the cause of rooting out ticketlessness were thrown to the four winds, and Government deprived him of a free pass to travel all over the line. I had a visit from another railway magistrate ; and he told me : " Well, you see we are not now given free passes which we used to get before ". He was a railway magistrate in the district of Moradabad ; and some of his relatives lived in Benares. He told me he used to have a free pass up to Lucknow ; and from Lucknow he used to buy a ticket to Benares. He wanted to travel free all the distance ; and he asked me if I could help in the matter, being a member of this Assembly. I said : " I fear, you have come to the wrong man. You had better pay your fare for your tickets from Moradabad to Benares, instead of taking advantage of your position as a railway magistrate and travel three-fourths of the distance free. " This is the type of magistrate you have, whoever may be the appointing authority. I do not know whether Dr. Ziauddin is correct or Sir Muhammad Zafrullah is correct, but this is the type of magistrate who comes into power : and this is the way a magistrate's position is abused.

So Sir, instead of having this vicious system of doing things, I propose that you should overhaul the whole machinery ; and if you start at the top you will be able to save sufficient money for improvements at the bottom. You have got a number of useless officers in the

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railways. I am very sorry to find that my friend Sir Henry Gidney is not in his seat today. He could tell you stories of these high officers who do nothing and draw large salaries; and who have got large numbers of saloons for free travelling. Not even the Prime Minister of England has a saloon to travel in. Very often you see him travelling in a third class carriage. Here every small railway Engineer must have a saloon; every D. T. S. must have a saloon; and sometimes a whole special train is run for some bigwig. If you apply the axe at such places instead of applying the axe at the poor beggar, you will be able to earn a real good name as well as have sufficient money to carry on the work. If the Honourable Member would only seek my assistance—I am sure he will not; if he would only come to me, I could point out to him a thousand and one ways by which he could improve matters.

Secondly, I say: have better railway stations and be strict. Do not allow even an Emperor to enter a railway station unless he is armed with a proper ticket. That will be setting a good example. If high Government servants are allowed to hector their way inside a railway platform, then you should not trouble other folk if they imitate them. Imitating of men in authority is a common weakness of ordinary human nature. You know, Sir, that everybody starts doing what a man in authority does. If the queen limps, then all the court ladies begin to limp, thinking that that is the proper thing to do. Matters may go even further. Once a Spanish King got operated for fistula. All members of his court underwent that serious operation, thinking that to be the right thing to do, even when they had no trace of that dangerous malady in them. When the District Magistrate behaves in a certain way, other people, who are his satellites, also think that that is the proper thing to do; and they also behave in the same way. The vicious circle goes round and round, and you do not know where you stand. Have a strict rule. Here is a passage from which alone men must enter the platform. Here is another passage from which alone men can go out. There is a stile and there is a man. Whoever the incomer or outgoer may be, he has to show his ticket; and then you will have no trouble at all. If you feel that that is not possible, then properly fortify all railway stations.

If you think, however, that that will cost a mint of money and you dare not embark on such an expensive undertaking, then I ask you to make a virtue of necessity and take shelter under the mantle of charity. Charity is a great Christian virtue; and whether Christians practise it or not, many Indian commercial concerns have a regular rule that a certain percentage of their income goes for charity. After all, all the temples, *maths*, mosques, *maktabs*, *pathshalas* and other religious and semi-religious institutions you see around, whether you like them or not, are all maintained by charities given by commercial men out of their profits. Almost every commercial man worth his name has a fixed voluntary tax; from one upto ten per cent. of his income goes for charity. If this is a commercial department of Government, let its charity to the world be so many ticketless passengers per year. Let that be its contribution to the great spiritual fund of human charity, which alone, I am solemnly assured, maintains the moral equilibrium of this otherwise wicked world. I do not know whether that appeals to

persons opposite. Their ironical smiles almost make me feel that their idea of charity is all money coming to them and nothing going out to anyone else. That is certainly not my idea of charity, and not the idea of charity of persons who inhabit this land in a non-official capacity. Now, the very fact that this commercial department of Government is seeking the assistance of the Legislature, shows that it is really not a commercial department. It is a 16-anna political department of Government. Among the many characteristics of this Government, the one great characteristic is to describe the same thing by different names, as suits it best, on different occasions. When the fiscal side of the railways is being discussed, they say that it is a commercial department and must be made to pay its way. When we complain of harassment by the C. I. D. on the railways, they say: "Well, section so and so of a particular Act permits this harassment of men clad in Khadi, having a Gandhi cap on their heads!"

Today on the table has been placed an answer to an old question of mine as to whether certain railway advertisements in certain U. P. papers were withheld at the instance of the U. P. Government. The answer says they were so withheld. Such is the commercial department of Government! Papers widely circulating in the U. P., through whom alone large numbers of people could be reached, who would thus know and should be told the latest changes in the time table and the latest rules relating to the railways, are deprived of advertisements simply because the U. P. Government says that they are not desirable papers from its standpoint. Whenever any question is asked of local importance, all the Members opposite, from the Law Member down to the Home Member, say that it is a matter for the provincial Government; that it is not the concern primarily of the Governor General in Council, whatever the word 'primarily' may mean. Railways, which are no department of the U. P. Government, are bullied into submission by the Local Government about a simple matter like advertisements, and the Member sitting opposite—the Honourable Member of India's Executive Council in charge of Railways—is evidently helpless in the matter and submits to this impertinent dictation of a provincial Government. Is the Railway really a commercial department of Government? I do not find anything that distinguishes a commercial concern, distinguishing this department, namely, the Indian Railways. No commercial man or concern will spend so much money on outward show as this department does, making its administration top-heavy. No commercial man or concern will refuse to give charity, as this Department refuses to give. No commercial man or concern will seek the assistance of a special penal law in order to enforce his dues, as this Department is seeking to do. They will depend upon the ordinary law which this Department refuses to do. This is not a commercial department of the Government; it is out and out a political department; and as such, instead of being a health-giving and life-giving department, instead of enhancing the prosperity and increasing the amenities of the people, it is crippling the life of the nation and suffocating us all.

Sir, I have already taken more time than I had originally intended or what was proper for me to do; but I hope I have said enough to convince all sides of the House that this is a nefarious measure: it is an undesirable measure and that it must be killed before it has time to

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grow. Before I close, I wish only to make one appeal. It is this. Whenever we are legislating, let us not forget that we are legislating for India and the Indian people; and let us not leave out of consideration the traditions and the temperaments, the ideals and the aspirations, the needs and the requirements, the social conditions and the economic distress of the Indian people as such. Let us not sit here as foreigners legislating for persons with whom we have nothing to do; persons who are not our own kith and kin, persons from whom we have only to extract money and do nothing in return. Let us legislate for men and women who are our own brothers and sisters. Let us not forget that today we may have contempt for the humble in the land who tries to do a little journey on a railway without paying his fare, for tomorrow it may be that our own brother and our own sister may be in a similar plight, and may be forced to resort to methods which we disapprove of from comfortable seats of pelf and power. If you will only remember that we must do unto others as we wish that others should do unto us, much of the trouble would be avoided. If we do not leave out of our ken the poverty and ignorance, the apathy and helplessness of our people; if we seek honestly to help them to stand upon their feet and to learn better ways; then this is not the sort of legislation that is going to help.

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

I am one of those who are convinced from sad and bitter experience that there is a great lack of civic sense in our country; and that if only ordinary citizens, men and women alike, knew their ordinary civic rights and duties, India would be a much better land to live in; and we should all be more accommodating to each other and more happy in our relations with each other. Railways, I think, are the great instruments through which proper civic education can be carried on, if only we have the will to do so. Even the busiest of men have plenty of time inside the railway compartments to read what is written there; and if railways would put on the walls of the railway compartments simple lessons in civic virtues, teach persons how to carry their umbrellas and sticks; tell them how to accommodate fellow passengers; exhort them to help each other to sit comfortably;—if they take upon themselves the great duty of adult education, they would be doing far more good to themselves and to the general public than this legislation or a thousand other penal laws of this sort can ever do.

Mr. V. V. Giri (Ganjam *cum* Vizagapatam : Non-Muhammadian Rural) : Sir, I rise to support the motion for circulation, but I oppose the motion for a Select Committee. Unless the Honourable Member in charge of Commerce and Railways proves to this House that all remedial measures have been taken to prevent the ticketless traveller running about the trains, he is out of court here. I submit that all remedial measures have not been persistently put into practice. If they had been undertaken, they would have prevented many a ticketless traveller and would have enhanced the revenues of the Government so far as the railway revenues are concerned. My submission is that the Government of India should have created a public opinion in the country, in the villages, against this ticketless travelling. They have not done so. They should have

used the village panchayats, the village munsifs and the village officers to educate the people of the villages against the evil of ticketless travelling. They should have gone a step further and appealed to bodies like the Congress and other public bodies to educate public opinion against the ticketless travelling. They have not done so. On the other hand, there are other remedies such as insisting on everybody that would come to a railway platform to buy a platform ticket. There are other measures that can be taken. As we see from our experience, tickets are sold just 10 or 15 minutes before a train arrives. Certainly if tickets are sold an hour before the coming of a train, many a ticketless traveller would not be found in the trains, because some of the travellers come to the station just at the time when the train arrives and this could be prevented. Not only that, I am one of those who desire that the railway revenues should be increased for the reason that I often demand on the floor of the House that the conditions of the railway workers should be improved. Therefore, if sufficient steps are taken otherwise than by merely asking for these penalties and measures of a very drastic character, certainly railway revenues would improve and this amending Bill would not be necessary. So far as I am concerned, I can assure the Honourable Member from the point of view of railway workers that we, who belong to the All-India Railwaymen's Federation, are prepared to do propaganda amongst the railway workers and tell them that stringent measures and punishments will be levied against them if they do not know how to behave themselves towards passengers or if they do not do and perform their duty in collecting tickets properly. It may be that in certain special areas ticketless travelling is more prevalent. I have been informed of that by some of the railway authorities. Those special areas should be marked out and stringent measures should be taken to have a greater check over the passengers, whether they bought tickets or not. The present measure demands very drastic remedies. It intends to put the onus on the alleged offender or the accused to prove his innocence. All canons of jurisprudence tell us that a prisoner should be presumed to be innocent till the guilt is proved, but here it is the reverse. Unless the railway administration wants to rule the country by Ordinances and Regulations, this is against all canons of criminal jurisprudence, and an amendment of this character cannot be tolerated. On the other hand, it seeks to give power to officials, such as ticket collectors, even to arrest a person. It is not at all a desirable proposition to give such wide powers to the railway officials, when all these could be avoided by the remedial measures that I have put forward on the floor of the House now. The opinions so far received are weighty and some of the officials of the Government have stated it is a dangerous thing to put the onus on the alleged offender to prove his innocence. I would only like to refer to one or two of the opinions that are before us. At page 29 of Volume I of the Opinions, the Advocate-General of Madras has stated as follows :

"I am afraid the present Bill is too drastic and may result in punishing innocent persons. A passenger might lose his ticket by inadvertence or mislay it. It might not be possible for him to affirmatively establish the purchase of the ticket; and though it might be open to the Railway Company to demand excess fare from him, it would not be in the interests of justice to visit him with imprisonment. Or again take the case of a person who happens to come to the station just when the train is about to steam off and who rushes into the carriage without having purchased a ticket. To cast the onus of proof on the passenger in the cases above referred to might practically be tantamount to a denial of defence to him."

[Mr. G. Morgan.]

what the object of this Bill is. This, Sir, is an extract from the memorandum that was given to the Central Advisory Council for Railways :

" Review of the position indicates the desirability of amending the following sections of the Act :

Section 68, to permit the removal from a railway carriage of a person without a proper ticket ; section 112, to provide for a more deterrent punishment for a person found without a proper ticket and to place upon him the onus of showing that he had no intention to defraud ; section 113, to make it clear that a magistrate dealing with a case in which a passenger refuses to pay the excess charge and fare due has no authority to enter into the merits of the matter and to provide for a more deterrent punishment in such cases."

etc.

The question for the Select Committee to decide is whether the punishment provided for in the Bill as a deterrent punishment is the proper one or not. We all have our opinion about that and shall be very glad to state it in Select Committee. With regard to the onus to prove intention to defraud :—There are a great many against the onus being on the ticketless traveller and a great many in favour of it. I should just like to read, if I may, Sir, what the High Court of Calcutta, in its appellate jurisdiction, have to say on this particular matter. They say on page 46 of Opinions received :

" They see no objection to the provision that the passenger should be called upon to satisfy the court that he had no intention to defraud, rather than that the railway authorities should have in each case to prove intent to defraud, which is always a difficult matter for the prosecution to establish."

And I think everybody in this House must be definitely of opinion that it is the most difficult thing on earth to prove that a man without a ticket had intention to defraud.

The question of imprisonment will raise a great deal of discussion in Select Committee. But will the Bill, whatever form it takes, do what it evidently is the desire of Government that it should do, which is to bring in more money to the railways ? The question is, will these ticketless travellers who are said to lose to the railways 50 lakhs of rupees a year, buy tickets and travel ? They seem to be mostly beggars and sadhus, mendicants and people like that. If they find that they cannot get through a barrier or jump on from the off side of a train or bribe a subordinate officer with a pice or something of that description, they can get along without paying anything. If they travel at all the railways are not going to get anything more.

Another thing is that, leaving aside that class of ticketless travel, it is quite possible,—and the Honourable Member himself has said that harassment must be guarded against,—it is quite possible and more than possible that there will be considerable harassment in the administration of a Bill of this description, and you may drive bona-fide travellers from the railways to that fearful competitor called "the road," which position we are now busy in legislating against. My Honourable friend, Mr. Sri Prakasa, covered such a wide ground that I had almost forgotten what the Bill was about. His stories were interesting and a great deal of them, I am perfectly aware, correct. But I want my Honourable friend to remember that he cannot make people honest by legislation. There is no legislation in the world which can make people honest, and all we can hope is that there will be some honest people among

the lot and the administration of the Bill will somehow rather be fairly good ; you cannot expect it to be good in every respect.

On the question of circulation, my Honourable friend, Mr. Giri, has supported it. But it seems to me that we will simply waste a lot of time and will come back to exactly the same position as we are in today, with no new advice from anybody, and my Honourable friend, the Commerce Member, will put the same Bill on the table after all the opinions have been received. I, therefore, support the motion for sending it to Select Committee, and then we can thresh out all the details there. Whether the Bill will be so altered as to necessitate re-circulation is impossible to say at present. Sir, I oppose the motion for circulation, and support the original motion for a Select Committee.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I am not in favour of this Bill being sent to Select Committee ; I will ask the House to reject it and nip it in the bud rather than accept the principle of the Bill. Before I deal with the merits, I should like to say a few words with regard to the remarks of the last speaker. Mr. Morgan says that he opposes the circulation motion because much of the available opinion of the public is already before us. That is not so. It is only the official reports that we have got. Provincial Governments were asked to give certain opinions on this Bill. Of course, the respective Provincial Governments asked for the opinions of some of the non-official associations which have been incorporated in the reports but that does not mean that the public opinion or the full opinion or careful opinion or considered opinion has by this time been made available. Therefore, I do not think that Dr. Ziauddin was wrong in making the suggestion, when he found that public opinion has not yet been secured. But in my own opinion we should not agree to this Bill going to the Select Committee. It is being said that if it goes to the Select Committee certain amendments will be made and that will soften the Bill. But it is not so. I object to the very principle of the Bill which is to make it more drastic, in other words, to have more onerous legislation for the purpose of stopping this ticketless travelling. But I submit that the remedy is wrong and, therefore, we should not accept the principle of sending it to Select Committee. The only necessary amendment required is not to accept these two provisions that are being sought to be enacted. The only proper remedy for the railway to follow is to keep their own house in order rather than ask us to send people to jail and fill up the jails by at least 25 lakhs of people every year. In short, my objections to this Bill are these : first is that it is too drastic. On this point I think there can be no two opinions. Under the present law the ticketless traveller has to pay a penalty : if it is proved that he has travelled without a ticket in a fraudulent and dishonest manner, then only he can be punished with a fine which has been provided for. But under the present Bill—and that is why I call it drastic—a man who travels without a ticket will be presumed to have travelled dishonestly and fraudulently. Is that right ? There are many men who travel without a ticket and they have various explanations for doing so. But to raise a presumption against them is absolutely wrong. It will be to condemn a man then and there and then ask him to go before a Court to clear himself. Another amendment is this : any railway man, even if he is drawing 15 or 20 rupees, if he finds that a man is without a ticket, can hold up that man. It is giving a handle to such persons to indiscriminately

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sending to Court travellers on the pretext of intent to defraud. I say that is very drastic. I do not think that there is such a drastic provision in any country. You are giving these small subordinates, drawing a few rupees, power to arrest without warrant. Do you think it is just? They have already been abusing it—and we have had already instances of it. To make a law throwing the burden actually upon the man who is without a ticket is absolutely unwarranted. The present section 112 says :

If a person with intent to defraud the railway administration enters in contravention of section 68 any carriage on a railway, that is to say, without a ticket, he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance."

Now, what is going to be done? If a higher punishment merely had been proposed, it would have been different. But to say that you must presume that he has travelled fraudulently and then punish him in the way you have proposed is not right. The present amendment asked for is this :

"For section 112 of the said Act the following section shall be substituted, namely :

'112. (1) If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment which may extend to two months, or with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance he may have travelled'."

Now, Sir, the basic law says always that a man should not be presumed to be guilty unless you bring the guilt home to him. I cannot understand why merely because the railways say that here is a decrease in their income on account of these ticketless travellers, they should now have a law providing that such men should be arrested there and then, no matter who they may be : They will be at the mercy of these people arresting them. It is not the magistrate who is going to decide.

I was very sorry to see the Honourable Mr. Morgan saying that there was no harm in putting the burden on the accused by leaning on the side of the opinion of the Calcutta High Court. But he forgot to read the other High Courts opinions which we find at page 39

Mr. G. Morgan : On a point of personal explanation. I did not forget at all. I had no object in quoting an opinion which was against what I was suggesting.

Mr. Lalchand Navalrai : The Bombay High Court say :

"But they think it undesirable to enact a presumption sought to be created in clause 3 [proposed clause 112 (1)] which in their opinion is too drastic."

Are we going to be a party to this too drastic provision for sending it to the Select Committee? I submit that every attempt should be made to put it clear to the House that this is a Bill which will be a precedent for many unprecedented acts and laws. Therefore we should try to see that this Bill does not go to the Select Committee : for if you once admit the principle, the Select Committee may, by a majority or some other means, soften the Bill to a little extent ; but the rigour of it cannot be taken away by the Select Committee.

The next thing is that it is too harmful to the *bonâ fide* travellers. No one will deny that it is not all fraudulent people who travel by train and only fraudulent people are ticketless.

Then, there are several cases of *bonâ fide* travellers who, if they have got no tickets, pay for the tickets and also the penalty, but if, for any conscientious reasons, these passengers refuse to give the tickets, then these passengers are not now arrested, but the Honourable Member in charge of the Bill wants them to be arrested. What do they do at present? The names of the passengers are taken down, a complaint is lodged before the Magistrate, the whole thing is sifted in the Court, and if the Magistrate decides that the passenger has to pay a penalty, the money is paid. Why should you make a general law that these passengers should be arrested on the spot? Why should you make ticketless travel a cognisable offence? Sir, I will give you an instance of the harassment that is going on nowadays, and you will see that if you give more power into the hands of the smaller railway people, you will be passing a legislation which will prove extremely harmful to the public at large. Sir, recently a party of respectable people were travelling by second class and were proceeding to a place for picnic. They purchased second class return tickets. When they reached the station where they wanted to halt, they gave half tickets to the man at the gate and passed out. On the return when they were asked to produce their tickets, three of them saw that they had misplaced their tickets, and when they pointed out that they had misplaced their tickets, the railway official concerned asked them to pay a penalty. Then they said : "we had travelled in a party, we purchased tickets from this station to which we have now returned. It will be very easy for you to find out from your books and registers whether we had really purchased our tickets or not, and also from the station to which we had been and where we gave halves of our tickets. Please make inquiries and you will see that we had bought our tickets". But the railway subordinate said : "No, you must pay the penalty then and there, you must have tickets on your person ; if you have misplaced your tickets, then you are yourself responsible." Then, what happened? They were threatened with prosecution. Fortunately it was discovered that some of their companions had those tickets with them and had passed out of the gate ; those tickets which were regarded as misplaced were really with some of the members of the party. Then these three people came back to the station staff and explained that the tickets were found ; yet they were not satisfied, and these three people were put up before a Magistrate ! What will happen if the proposed legislation is passed? At once this *bonâ fide* ticketless traveller may be arrested and brought up before a Magistrate. So, such things do happen even now. But after this legislation is passed, these officials will be armed with much more power to harass passengers. The railway subordinate will then say : "I am the Judge, I feel that you have travelled fraudulently, and I will arrest you and put you up before a Magistrate". Of course, I know those who desire to enact this legislation feel in their mind of minds that they are making the Act too drastic and too harmful.

Then, my third point is that the remedy you propose to apply is not the right remedy,—the remedy to make the law harsher for bringing in more revenue to the railways, is not the right remedy. On that point, I submit that the people who travel without ticket are mostly beggars or

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people who are not able to purchase tickets because of their poverty. Now, if you arrest such people, will you be able to get more revenue to the railways? I say you will not be able to get more revenue. On the contrary, the present practice is,—and I have seen it in many places,—when these poor ticketless travellers are put up before Magistrates, the Magistrates feeling pity on these poor people ask the members of the bar and others present in the Court to subscribe among themselves and pay up the fare and the penalty. Now, will such methods bring in more revenue to the railways or the arrests of needy people will? I submit, Sir, these ticketless travellers, who are poor people, cannot pay for their tickets, and will be more ready to go to jail than to pay up the fare and penalty even if they could. The result will be that the jails will be full up in a short time and there will be no room for other prisoners to be lodged in them. Of course, the Railway Department does not care if the Home Department pays for the upkeep of these prisoners.....

The Honourable Sir Muhammad Zafrullah Khan : You might leave that to be settled between the Home Department and the Railway Department.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : We have got to pay.

The Honourable Sir Muhammad Zafrullah Khan : They go to jail in default of payment of fines, and Government have to pay.

Mr. S. Satyamurti : We are paying, and not you.

The Honourable Sir Muhammad Zafrullah Khan : “ We ” should equally include you and us.

Mr. Lalchand Navalrai : I at least thought that with the tender mercies that the Honourable Member in charge has for the poor, he would admit that this Bill is too drastic and that it would not bring in additional revenue to the railways. However, it is a matter entirely left to him. My Honourable friend will admit that these people who are now caught for ticketless travelling are really poor and cannot afford to pay. I am sure there must be many other countries also where ticketless travel is common, and India cannot be the only country, and the extent of loss that is estimated is rebutted by my friend, Dr. Ziauddin Ahmad, when he pointed out that the number of persons who travel without tickets does not come to even half per cent. Therefore, what will happen if this Bill is passed? You will not be able to recover any money from these poor people, because they are not in a position to pay; on the contrary, the Government will have to lodge these poor people in jails and feed them. On that point Sir, I would like to quote the opinion.....

(It being Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. Mr. Satyamurti.

MOTION FOR ADJOURNMENT.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Mr. President, I rise to move that the House do now adjourn. The specific matter of urgent public importance, which I want to raise on this motion,

is the attitude and action of the Government of India in respect of the new rules for recruitment to the Indian Civil Service in London and in India. Sir, I raise this motion, not as a partisan or as any individual motion. I seek to raise by this motion, the question of India for Indians, and I seek not to cloud the issue by any other matter. I want to give a most categorical assurance, Mr. President, to every Honourable Member of this House that I am not raising directly or indirectly the question of communal representation in the public services of this country. That is neither here nor there; it is a matter to which this country has to reconcile itself, until the communities themselves agree to do without it. I, therefore, hope that that red herring will not be drawn across the line. The point I want to raise is this. In the Government of India Act, 1919, now under sentence of death, there is a provision, section 97 of the Act, which lays down categorically that appointments to the Indian Civil Service shall be made solely and only on the ground of merit, as testified to by examiners in open competitive examination. There is no ambiguity at all about it, and my Honourable friend, the Home Member, and many other distinguished members of that service are here, because they have passed one of the stiffest examinations in the world. And they want now to leave as their successors men who dare not compete with our sons in their own country, in an examination conducted in their own language, and in subjects prescribed by their own examiners. I want to put it to every Indian sitting in this House, whether on that side of the House, or on this side, including the Honourable the Law Member and the Honourable the Railways Member, this question. Your son, his son, and anybody else's son or brother may go to England, defeat the Englishman in the examination, come out first, but he shall not be selected, because his skin is brown or black, but a Tom, Dick or Harry, who cannot hold his own with the sons of my country, will be selected because, forsooth, they must have so many Europeans whether they are qualified for this post by examination or not. That raises a fundamental question. I can understand the Government turning round and saying, “ We have conquered this country by the sword. You are not able to drive us out today. Therefore, we propose to have some spoils of war and give them to our sons ”. That, I can understand, but the civil service have claimed, and so far, in my opinion, rightly, that they are here, because of their superior efficiency, and that this country needs the services of an efficient civil service. Very good. Apart from the racial argument involved in that, granting that you want efficient men, how are you to secure that efficiency by appointing to these places, men who admittedly cannot compete successfully with Indians, in common open examination and want to be nominated?

Now, Sir, the communiqué is very significant. I want to raise one general point, if I may; Government may answer it, or may not answer it. They have a funny habit of publishing important communiqués a few days after this House rises, finishing its Session, and passing final orders thereon, before we meet again. That probably is the reason why myself and my Honourable friends have to apologise to you and the House for the large number of adjournment motions. If, normally, they discharge their functions from time to time, we will deal with them, while we are in Session, but this was published on the 27th April, and this is the first time we meet after that. The communiqué explaining that says, “ Experience has shown that the system has been defective in two respects. Too few vacancies have been available for competition at the Delhi examination ”.

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Who complained of that? Our boys are willing to go to London, spend their money, compete with you in your own soil, pass your examination and defeat you. And you shed crocodile tears that the Delhi examination is not large enough for vacancies in this country! And then they say, "It has not been possible to obtain from the London examination the required number of European recruits". I want to know what is meant by that phrase, "required number". I agree that 50-50 per cent. was prescribed in the belief that the sons of England will be able to compete with us, and get at least this fifty per cent. seats. But these gentlemen who have lost the art of government seem also to have lost the art of passing competitive examinations. You will notice from the figures given in a recent issue of the *Manchester Guardian* that in 1925 there were 71 Europeans and 62 Indians—that is, for the London Examination—in 1926 it was 93 Europeans and 90 Indians. Then the Europeans went on increasing for some time, but the Indians went on much more rapidly increasing, and naturally in 1933 there were 99 Europeans and 229 Indians, in 1934, 85 Europeans and 262 Indians, and in 1935, 83 Europeans and 251 Indians. Fair field and no favour. We go and beat you, and you turn round and say, "Because you are cleverer than we, we shall appoint men who are dullards in our homes and who cannot compete at the open examination". I may be told that they are Honours Graduates of certain universities. Granted that, but if my men are not only Honours Graduates, but also beat them at an examination, *ex hypothesi* they are better, and why do you then recruit these people?

Then they take advantage of the new Government of India Act, section 244. I want to tell those of my Honourable friends who say to us constantly that this Act means a new heaven and a new earth, and that we should work this Act for all it is worth, lest we should lose the benefits thereof—I want to tell them that the first fruit of passing an Act of this kind is that they can do what they cannot do, under the Act of 1919. Section 244 gives this power to the Secretary of State.

But the narrow issue I want to raise on this question particularly is what is the part which the Government of India had played in this matter. Were they consulted about it? Did they protest against it? Did they agree with this? If they agreed, what are their reasons? I cannot, I dare not pierce through the Cabinet secrets of the Viceroy's Executive Council, but I think that the House would very much like to know what the Law Member and the Commerce Member,—both of them Indians, and I sincerely hope, patriotic Indians,—thought of these nefarious attempts to deprive Indians of their hard-earned rights of filling fifty per cent. of a service in their own country, not as a favour but as a result of passing a highly difficult competitive examination. The next point I want to make is this. You may go round and round, and I know there are difficulties in examinations. They do not always yield satisfactory results, but the experience of all civilised countries has shown, and I would ask my Honourable friends to read this book, *Civil Service in the Modern State*, by Leonard de White, who, giving the conditions of recruitment to the civil service and others in all countries, European countries and in Japan, comes to the conclusion that "universal agreement is in favour of open competitive examination as the safest mode of recruitment". If you are going to dispense with it in England, may I know the reason why

you want to keep up this number, in spite of the fact that they do not come up to the standard? Moreover, I should like to know why, if the Government thought this was a proper system, they did not consult this Honourable House and get their opinion on this matter. We are told frequently that we are non-co-operating, that they are dying for co-operation, that they only want to know our opinions, and that they will oblige us in all matters which commend themselves to them. I should like to know why the Government did not consult this House on this matter and convey our opinion to the Secretary of State. I want to tell the Government that, if they acquiesce in this and if this goes on your standards will go down. There will be a new caste system in the Indian Civil Service—(An Honourable Member: "There is already one.")—yes, Indian *versus* European, there will be a new caste system, namely, the nominated element, and the element which comes in by competition and examination. And do you think it will tend to the solidarity or efficiency of the service that you should have a class of superior men who rather think of themselves as superiors because they have gone through a stiff competitive examination, as against those who have come in by the backdoor of nomination? But why is this 50 per cent. sacrosanct? I agree, they have recommended that and they have accepted it, but surely in a country like India, as our Leader explained some time ago, there is no such thing as Indianisation of services. The service belongs to us, and we pay, and if Indians can get in through the open door of competition, why should they not? But, Sir, the reason is given by two men, who, though no longer with us, have a great deal to do with us. Lord Willingdon, although he has left our shores, has not left us yet; and he goes to London and tells the admiring boys who are to be recruited for the Indian Civil Service, "I can say with some knowledge of India that this service will go on for a great many years, because the Indian people want you to stay". May I know who are these Indian people? I should like to know why Government did not consult this House, and find out what the Indian people want. Another gentleman who occupied the Home Member's place, Sir James Crerar, was still more explicit. In a very expansive mood he said, "Of course the Government of India Act is there but in every country the civil service dominates the execution of policy and also the laying down of policy and I know that the Indian Civil Service will have a great deal to do with the laying down of policy". Therefore, they are anxious that, whatever the form of this Government of India Act may be—it is bad enough in all conscience,—even the little transference of power shall be made nugatory by these gentlemen. They are not to carry out the policy of popular ministers, but to seek to impose their policy upon them. That is why they want to keep this European element. I submit that this is an attempt to force down on India a number of less competent Englishmen as against more competent Indians, and it ought to be resented by every self-respecting Indian in this House. I am not raising the question from any communal point of view at all. We have our own difficulties. We shall have to accept the system in India, so long as we do not agree to give it up; but I beg of my friends not to walk into this parlour. In the All-India Examination in London, there is no communal barrier. All Indians go there, Hindus, Mussalmans and Christians, have gone there, and have distinguished themselves.

There is another aspect of this communiqué, I want to say a word on. Till now, Indians can go to London and sit for the examination, straight-

[Mr. S. Satyamurti.]

away, but, hereafter, an Indian can sit for the examination—they make an exception of one or two years, on account of the transitory provisions—only after spending two years in a British University. That is to say, the privilege which our sons and brothers enjoy today of walking straight up to London and sitting for the examination is taken away, and, they have got to spend two years in a British University. They not only want to recruit Europeans who do not compete successfully in the examination, but they also want to make it difficult for the few Indians who may come, by insisting on this qualification. For these two reasons, I think this communiqué ought not to be supported by this House, and I am bringing it up as a friendly motion. I want the Government to support it. If it was an honest Government, a responsible Government, and an Indian Government and not the Secretary of State's foot-stool, they ought to get up and support this motion. I was agreeably surprised this morning by the Honourable the Home Member saying "I do not object". I want him to complete the good work by getting up and accepting this motion, because that is the only way to prove that he represents a genuine, honest and honourable Government of India. This communiqué raises the question of Indian *versus* non-Indian, of merit *versus* nepotism, of qualifications *versus* race. There is no need for it, and it will have disastrous consequences, not the least of which will be that Great Britain which boasted that she sends her best till now to govern this country is now compelled to send her the second best (*An Honourable Member* : "Not even the second best."). I give her the benefit of the doubt.

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

Mr. S. Satyamurti : I will finish with one or two sentences. I hope all sections of this House will help us to pass this motion, and strengthen the feeling which exists among all Indian parties and communities that, on this question of India *versus* non-India, we are all united. This morning we mourned the death of Sir Fazl-i-Hussain. As one who knowing something about him from his most intimate associates, I can say that in this matter of Indian *versus* non-Indian, Sir Fazl-i-Hussain was the tallest of us all. Let us all honour his memory by supporting this motion. Sir, I move.

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

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural) : The motion of adjournment moved by my Honourable friend, Mr. Satyamurti, this afternoon, no doubt, gives him the coveted first position in the long list of motions of adjournment tabled this Session. But if we go carefully through the subject matter of the motion, we will find that it is much ado over nothing. Sir, the circular of the Secretary of State which is sought to be condemned by this motion is before me, as it is before my honourable friend, and on going carefully through the circular I find that there is nothing objectionable in it. I shall explain just now how it is not objectionable. The only important change which it seems to introduce is that the deficiency in the recruitment of European candidates for the I. C. S. should be remedied, or supplemented, by means of a selection through a properly constituted

selection board. (*An Honourable Member* : "Jobbery.") I do not think that competition is a very proper method for selecting persons for the services.

Mr. S. Satyamurti : Nor election. You only want nominations ?

Sir Muhammad Yakub : You can in every case get an equally qualified man by nomination. (Interruptions.) I cannot be bullied in this way. You know that I do not care for these interruptions and I cannot be disturbed at all.

Now, Sir, the question that the number of Europeans and Indians in the I. C. S. should be 50-50 was decided ten years ago and my friend, Mr. Satyamurti, cannot condemn the Government for that decision today by moving a motion of adjournment.

Mr. S. Satyamurti : Why not ?

Sir Muhammad Yakub : Because it is not a matter of recent occurrence. That decision was arrived at ten years ago. Sir, even if we go into the merits of the case, what do we find. If we examine the large number of applications which are made every day in our Courts for the transfer of cases, we find that in almost all applications, in cases relating to communal riots, and of religious character the parties, whether they are Hindus or Mussalmans, want that their case should be tried by an European officer. (*Cries of "Shame."*) Of course we ought to be ashamed of it, but facts are facts, and they cannot be denied. Whether it is a case of a mosque or a burial ground, in 99 per cent. of the cases, the parties want their case to be tried by an European officer. This is a matter for shame and we must hang our heads down but it cannot be helped. As long as religious feelings are so high in this country, as long as there are communal riots, as long as there is Shahidgunj and Ajodhia, so long we must have a sufficiently large number of European officers in the cadre of the I. C. S. (*Cries of "Shame."*)

Not only that but even in the case of police investigations, the parties always say that we must have a European officer to investigate their case because the Sub-Inspector is a Hindu and the Inspector is a Mussalman, the one is siding with the Hindus and the other with the Muhammadans. It is a great shame that it is so, but the facts are there and must be faced. Every year, on the occasion of the Id-uz-Zuha, cases of sacrifice are brought before the Courts and every time applications are made that they should not be tried by a Mussalman or by a Hindu, therefore, we must have a sufficiently large number of European officers in the cadre of the I. C. S. (*Mr. D. K. Lahiri Chaudhury* : "Do you think that is the only remedy ?") Of course, that is the only remedy. The other remedy would be that we, who belong to the minorities in India, should go bag and baggage out of this country and leave you alone to bathe on the banks of the Ganges.

Now, the question is that if we cannot get an equal number of European officers to fill the vacancies in the I. C. S., how is this deficiency to be made up ? The method of selection is not new or a novelty in this country. We have already got the Public Service Commission and we see that a very large number of candidates for important and responsible posts is recruited through selection which is made by the Public Service Commission and no objection has ever been raised that the candidates who are selected by the Public Service Commission are in any way inferior.

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to the candidates who pass through a competitive examination. On the other hand, there is a big volume of opinion in this country, and the majority of Mussalmans in India, I can say from the floor of this House, are of opinion that the machinery of open competitive examinations for selecting candidates for responsible public services is not very efficient and very desirable, and the results have shown that the candidates who were selected by the Public Service Commission have not in any way proved to be inferior. Even in the case of the I. C. S. candidates we see that the minority candidates—the Mussalmans, the Sikhs and the Parsis—if their number is not sufficient through the competitive examination, they are, even today, selected by the Public Service Commission. That is a selection and I make bold to say that the young men who were selected by the Selection Board have not proved themselves an inch inferior to those who passed the open competitive examination. Sir, what is a competitive examination? What does it show? Of course, it shows that a young man is a very good book crammer, that he has got some knowledge of mathematics and a certain knowledge of history. I must say that all this knowledge in the case of certain branches of public services is of the least importance. We know that many Indians who were in the services of the country before this wretched system of competitive examination was introduced in India were much superior in intellect, in their capacity for administrative work and in every other way to some of the officers who are now recruited through the competitive examination. Here is my friend, Mr. Shaukat Ali, if we had recruitment through competitive examination in those days, how could he get his post? (*Maulana Shaukat Ali*: "I would have passed the examination.") We all know that he proved himself an efficient opium officer. If the system of selection has proved efficient in India, if the system of selection by a competent Board has proved successful in the case of Indian recruits to the I. C. S. in this country, I do not think how you can object to the adoption of the same system in the case of European candidates in England. Again, Sir, my friend, Mr. Satyamurti, objected to our students not being eligible to appear for the I. C. S. examination in London. Well, Sir, I should like to remind him that it was the Congress which at first complained about the Civil Service Examination being held only in London and not in India. It was the Congress which was crying for years and years that we should have simultaneous civil service examination in this country because they said that our country was poor and could not afford to send her sons to England. They also said that when our youths stay unprotected in England, they sometimes go astray. Many objections were raised by the Congress to the Indians going to England for appearing in the Public Services Examinations. The Congress advocated that the Indians should be made to appear for the Civil Services Examination in their own country. Now, Sir, when this request is acceded to and when the Government have adopted the same course which the Congress advocated 20 years ago, here comes my friend, the great champion of the Congress cause, and he condemns the Congress Resolution and he condemns the old stalwart leaders of the Congress and says: "We want our boys to go to England". What a pity! What a paradox! He also complained why people are compelled to stay in England for two years. Now, if we want to send our sons to England, it is because they should get into the English life; they must broaden

their vision. They should polish their manners. If they are not allowed to stay there even for two years, what will they learn? What is the use of sending them to England at all? Give them sufficient time to stay there and to imbibe what is best in the English education, in the English universities and in the English life. We do not want them to come back as they went. In the language of a Persian poet:

"Khare isa agar be Mecca rawad

Chun biayad hinoz khar bashad."

If you want an Indian boy to come back as uncultured, as rough, as full of prejudices as he was before he left the country, then what is the use of spending money and sending him to England?

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

Sir Muhammad Yakub : With these words, I oppose the motion.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, I do not think that there is any necessity to create any heat on a question like this. There is absolutely no reason to lose one's temper and there is no necessity for any excitement. Here we have to see whether India stands to gain by this settlement or whether she is going to lose thereby. If India loses by this settlement, then it is up to every Indian Member in this House to support the motion of my Honourable friend, Mr. Satyamurti. If, on the other hand, India has gained by this settlement, then every patriotic Indian should oppose this motion for adjournment. It is only from this aspect that we have to look into the settlement arrived at. As my Honourable friends are aware, up till 1920, there was no ratio fixed for Indians to get into the Indian Civil Service. Practically this office was reserved for the English people except the few Indians who could afford to go to England and sit for the competitive examination held in London. The result was that very few Indians used to go to England to sit for the competitive examination. The number of Indians in the Indian Civil Service was therefore very poor. This question was raised and the Assembly which had come into being in 1921 began to exert its influence on the Government that the arrangement for holding the examination only in England was not desirable and on account of pressure of public opinion and on account of pressure from the Legislature, the Government entered into a new settlement. A Committee was appointed which drafted a report that fifty per cent. Indians should be recruited. How can you possibly have fifty per cent. Indians if you only hold the examination in London? So there must be a device by means of which we should have the desirable effect, that is of having fifty per cent. Indians. Therefore, a settlement was arrived at, by which there was to be a competitive examination in London in which Indians and Englishmen could both compete and if any Indians did not get through to fulfil their proper quota of fifty per cent., then an examination was to be held in Delhi in order to give facility to Indian boys who are brilliant but cannot afford to go to London to sit for the competitive examination, to come in in the Delhi competitive examination. It was only in order to provide facilities for middle class Indian boys who could not afford to go to England that the Delhi examination was instituted. Up to the present time the system in vogue is this. After the competitive examination in England, whatever quota

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remained for Indians to fulfill the fifty per cent. basis was recruited through the competitive examination in Delhi. This gave a loophole for those Indian boys who did not succeed in the Delhi examination to go to London and try their chance. For the Delhi examination, the age limit for the Indian boys is that they should not have attained more than 23 years on 1st January, while for the London examination, it was 24 years on 1st August. This was a great handicap for the Indian boys sitting at the Delhi competitive examination. Most of the boys who do not succeed in the Delhi examination or who have just exceeded their age limit for the Delhi examination had to go to London to compete for the examination there. This acted as a great disadvantage to many Indian boys competing in the Delhi examination, because those who could afford to go to London had a chance till they were 24 years of age, while those boys who could not afford to go to England had no opportunity to compete for the examination beyond 23 years of age. It was thought that for the sake of uniformity, the age limit should be fixed at 24 both for the London examination and for the Delhi examination. Now the same facilities are intended to be given to Indian boys and English boys up to 24 years of age. By the settlement already arrived at, you have got the fifty per cent. quota for Indians by examination in Delhi. Therefore we must stick to the promise we gave at that time. But we are not bound by that promise for ever. As you find Indian boys are coming in larger numbers and that they are quite efficient, then that settlement could be revised. But as long as that settlement stands you have to abide by it. Now that settlement gives you fifty per cent. and it is for you to devise ways and means of getting it, either through competitive examination in Delhi as well as in London or largely through competitive examination in Delhi and in less number through the London examination. The balance of fifty per cent. quota is left for English boys and you must leave it to the authorities in England to make up this quota in whatever way they like. You must leave it to their choice to select either by competitive examination or by nomination. As long as the boy selected is quite efficient and able to discharge his duties as an administrator, it does not matter by what door he comes, either by competitive examination or by nomination. I want to be quite frank about this. I do not think that mere examination makes a man an efficient administrator. Here we do not want clerks, we do not want university professors, we want administrators. The people who are selected for this Indian Civil Service have to administer districts. I do not care whether they pass any competitive examination or not. I only want them to be tactful and be able to handle situations properly in the district. I am wholeheartedly for the principle that proper ratio should be fixed for the nomination, for it is very seldom you get suitable candidates through competitive examinations. (Laughter.) I have seen difficult situations in the districts and he is least fit person to be entrusted with administrative duties. I think on account of this position India is benefiting and everything will be lost if the compromise that was entered into in 1925 be done away with. If my Honourable friends want that the examination in London should be open to Indians as well as to Englishmen, the necessary corollary will be that the examination in Delhi will be open to Englishmen as well as to Indians which we do not

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want. Therefore you cannot have a "Heads, I win, tails, you lose" policy. India is gaining by this arrangement rather than losing anything. So I oppose this motion.

Sardar Sant Singh (West Punjab : Sikh) : Sir, when I heard the two Knights from Moradabad and Meerut, advancing the argument that competitive examination only produces persons who know how to speak and do not know how to administer the country, I was looking at the products of the competitive examination on the front benches,—the Honourable the Home Member, the Defence Secretary, and other Honourable I. C. S.'s sitting there. I should like to know from them how they felt then. I happen to agree with my Honourable friend, Sir Muhammad Yamin Khan, on this point that the way in which the products of this competitive examination from England have behaved towards India goes to show that they are absolutely bad administrators. If a Mussolini is to be born on the borders of India and begins to search for a pretext to come and conquer India on the ground that the Indian administration is a barbarous one, nothing can give him a better excuse than this fact that they are substituting a system of nomination for competition in their services. If the whole of the civilised countries of the world agree that the best administrators can be had by the system of competitive examination, it is left to India alone to change the system from competition to nomination. I am rather glad at this communiqué which has been issued from Whitehall. After all, England has learnt a lesson from India, and that lesson is that nominations are better than this competition. If nominations were not better, our friend, Sir Muhammad Yamin Khan, would never have been nominated to the Council of State. (Laughter.) If it were not better than competition, many of our Honourable friends on those Benches would not find seats there. If nomination is not supported by these Honourable Knights, who will support it? Nobody is going to take my son in any service; the system of nomination makes it possible for the sons of Sir Muhammad Yakub and Sir Muhammad Yamin Khan to enter into Imperial Services, and so they will prefer nomination to competition.

Major Nawab Sir Ahmad Nawaz Khan (Nominated Non-Official) : May I ask a question? Are the Governors and the Viceroys taken by competition or by nomination?

Sardar Sant Singh : The question is quite relevant. At a certain stage after passing the competitive examination the principle of selection does enter and a kind of nomination does take place. But at what stage? After the product of competition has come to a stage where his capabilities have been tested and proved. All Indian Civil Service men have not attained the position of Home Member. Of course, there is a difference in capabilities, and selection does occur. But to say that from the very beginning selection should be preferable to competitive examination is to say something which no man of decency will ever support. My Honourable friend, Mr. Satyamurti, made the mistake of his life when he appealed to this side of the House on the ground that after all it is a question between Indians and non-Indians in which we should all join. May be; but once this principle of selection is introduced in the Indian Civil Service, the door will be open to some Indians to be nominated. How dare they forego their personal interests in the interests of India as a whole? That they have never done in the past and they are not going

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to do that in the future. Therefore he need not appeal to them on that ground.

Mr. S. Satyamurti : I will still appeal to them. I have still sufficient faith in human nature, and particularly in Indian human nature.

Sardar Sant Singh : My friend, Sir Muhammad Yakub, talked very eloquently on the point that in the case of communal riots all communities without exception demand trial or investigation by a European Officer in preference to their Indian brother. Why do they do so? The reason is obvious, and that is that a European, in whatever position of life he may be, will not stoop to such degradation as the Indian would. So what he does is that he makes his Indian subordinate do that which he would not do himself, in order to keep up the superiority complex of his community. The same speech which Sir Muhammad Yakub or Sir Yamin Khan has made would not have been made by any member of the European Group, not to talk of any European. The European District Magistrate will discharge the accused on the same evidence on which he will tell the subordinate Indian magistrate to convict the man. Therefore, I will submit that this principle is so vicious and so bad that no decent man can subscribe to it.

Some Honourable Members : The question may now be put.

Dr. R. D. Dalal (Nominated Non-Official) : Mr. President, in 1924, the Lee Commission laid down that recruitment for the Indian Civil Service should be on a 50 : 50 basis, that is, 50 Britishers and 50 Indians. But during recent years this proportion has not been maintained, and the Secretary of State has found it increasingly difficult to secure the full complement of British recruits. In order to remedy the under-recruitment, the Secretary of State has proposed to appoint a certain number of British candidates for the Indian Civil Service by selection. What has deterred British recruits has been an apprehension that future political developments in India might bring their careers to a premature end.

An Honourable Member : Then why are you so anxious to have them?

Dr. R. D. Dalal : Of course no absolute guarantee can be given against this contingency. But I am convinced that India will need the services of capable and broad-minded Englishmen, and will long continue to need them. The new conditions in India require that members of the Indian Civil Service should possess special gifts of character and adaptability besides purely intellectual attainment, and they should be men of outstanding personality. Against this it may be urged that competitive examination should be preceded by selection; but good candidates fight shy of exposing themselves to the possibility of rejection by a selection board on other than purely intellectual grounds. This selection method is not a permanent measure. So far as I know it is adopted only as a temporary measure, and it is subject to review five years after provincial autonomy has been inaugurated. In this connection may I be allowed to strike a personal chord. I am not a member of the Indian Civil Service; but I was appointed in England by the Secretary of State for duty in India by selection, and I say this, not as a boast, but as a fact, that I have earned approval in all posts that I have held. In the light of all these considerations I see no objection to the recruitment for the Indian Civil Service by the selection method.

Mr. M. Asaf Ali (Delhi : General) : Sir, I move that the question be now put.

The Honourable Sir Henry Craik (Home Member) : Sir, this is an intricate and somewhat complicated matter and I think it is clear from some of the speeches that have been made that certain Honourable Members do not quite understand the system under which the Indian Civil Service is recruited at present and do not quite follow the reasons that have necessitated the change. I hope in the short time at my disposal to do my best to make the position clear, but of course in a matter like this it is a handicap to be limited to fifteen minutes and I can only attempt to deal with the question in the very broadest outline.

The examination in India for the Indian Civil Service was instituted in 1922. It was instituted in response to a very general and I think very reasonable demand that Indians who could not afford to go to England for their education should be allowed to compete in their own country, and that preference should not continue to be given to those candidates whose parents are rich enough to afford to send them to England. It was intended (and this was very definitely laid down when the examination in Delhi was instituted) that it should be the principal door for Indian recruitment—and I would like the House to keep that in mind—though the London examination was not closed to Indians so as to allow those who preferred and could afford an English education to enter the service. Now, what has been the result? As a matter of fact, owing to circumstances which I will explain, the result has been that the Delhi examination has only been a very subsidiary and not the main source of recruitment for Indians. Since 1922, 94 Indians have entered the service through Delhi, whereas the number entering through London has been 194—more than double. Thus, less than a third of the total number of Indians recruited to the Indian Civil Service since 1922 have been recruited through Delhi and two-thirds through London. It is much easier for an Indian to get in through the London examination if they can afford the cost of going to England; and every year several hundred young Indians go to England to compete in the London examination, of whom of course only a very small proportion have the faintest hope of success; and that involves a great waste of money and is a great source of anxiety to their parents. The figures of the average of the last five years are rather striking. They show that 190 to 200 Indians compete in Delhi for three or four vacancies; whereas in London about 240 Indian candidates compete for fifteen vacancies. Obviously the scales are weighted very heavily in favour of the London examination. This is one and perhaps the most important matter in which the present system has failed to achieve its object.

Now, the second way in which the present system has broken down is in regard to the European recruitment. As various speakers have pointed out, it was arranged in 1924 on the recommendation of the Lee Commission that recruitment should proceed at the rate of 50-50—50 Britishers to 50 Indians; and that scheme was designed to bring about a service composed equally of Indians and Europeans by the year 1939—and I may say that there is every prospect that that expectation will be realised—that is that three years from now the service will be composed half of Indians and half of Britishers. Now, this recommendation of the Lee Commission was accepted by the Government of the day; it was endorsed

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by the statutory commission on India; it was discussed at the Round Table Conference and again endorsed by His Majesty's Government. It was embodied in the White Paper and it met with the approval of the Joint Select Committee. It may be taken that that fifty-fifty recruitment is the settled policy of His Majesty's Government and it is not in the least likely to be revised till the general inquiry into the problem of recruitment that is to take place at a date not less than five years after the institution of provincial autonomy. I admit that that system may not be in all respects acceptable to all shades of opinion in this House; but there it is; you have got to accept it and it is not open to revision as I have said till the statutory inquiry takes place. I do not propose in those circumstances to discuss its merits. We must start with that as a settled fact. I only propose to show how the present system of recruitment has broken down and has made it impossible to give full effect to that decision.

I am not going to delve into ancient history but I will take only the results of the last five years. In the last five years, we should have recruited to the service in all 350 recruits, of whom 175 or half should have been Indians and 175 or the other half should have been Britishers. What are the actual figures? We have succeeded in recruiting, as against the 350 that we ought to have had, only 258, that is to say, there is a total shortage of 92 recruits in five years—a very serious shortage indeed. Of these 258, only 96 are English and 162 are Indians.....

Mr. S. Satyamurti : What is wrong with that?

The Honourable Sir Henry Craik : It is wrong in this respect that we are short of our theoretical requirements by a total number of 92 candidates : we are short of our British element, according to the standards laid down, by a total number of 79, and we are short of our Indian element by a total number of 13. That is what is wrong with it.

Now, obviously that is, as the House will admit, a very serious state of affairs. It means that we are recruiting, and have been recruiting, for 5 or 6 years, 25 or 30 per cent. below our requirements,—I am speaking of the total requirements now,—and that means that the service as a whole is very seriously undermanned. Practically every Local Government is complaining of the shortage of recruits, they say that it makes it difficult for them to find sufficiently qualified senior officers to hold what are called superior posts. It is found that even for the Centre it is now extremely difficult to get incumbents, because the provinces are so hard up that they won't let their men go. Some of the provinces have pointed out that the shortage of British recruits makes it impossible for them to provide for either branch of the service the British element that is required. The shortage,—and I am speaking now of the shortage that already accrued, not of possible future shortages,—most clearly must be made good as soon as possible if we are to avoid a serious administrative breakdown. That is why the Secretary of State has decided that the already existing shortage is to be made good as soon as possible by means of a careful system of selection. Now, apart from the serious administrative difficulties caused by the shortage of recruits, the failure of the London examination to produce the theoretical number of British recruits has had this reaction that it has in itself caused automatically a reduction in the number of vacancies available for the Delhi examination. I will explain how this comes about. Assuming

that our theoretical requirements are 40 Britishers and 40 Indians for a year but we find that we can only recruit 15 Britishers, which is a large figure in these days, then it follows that only roughly 15 Indians are taken from the London examination. That means that only very few vacancies can be offered for the Delhi examination. As a matter of fact,—even although the 50-50 ratio has not been maintained in the last few years and in fact the actual ratio has been more like one-third to two-thirds—the number of vacancies available at the Delhi examination in one year of the five fell as low as 3, and has never exceeded 5; that is to say, the Delhi examination has failed completely in its primary object of being the main door to Indian recruitment and of giving Indians, except those that are of the richer class, a reasonable chance of entering the service.

Now, this last result, that is to say, the breakdown of the Delhi examination, is the reason why it has been decided, as is explained in the communiqué, to limit the number of vacancies offered for competition by Indians in the London examination. It would not, for obvious reasons, be fair to close down the London examination altogether for Indians, though of course logic might suggest that course, because the Indian examination has always been entirely closed to Europeans, but it is not proposed to do that, because it would be unfair to those who can afford and who prefer to take advantage of the educational facilities available in the United Kingdom. Therefore although the number has been limited, the door has not been closed altogether.

Now, it is often asserted that the shortage of British candidates in the last few years is due to their apprehension that they would not be able to compete in a competitive examination with the better brains from India. I do not accept that as the sole or even the main reason. An inquiry has been made quite recently by the Secretary of State and by a number of gentlemen well acquainted with conditions in India in consultation with the leading University authorities at Home, and the reasons they give as having put Britishers off the competitive examination are quite different. I need not detail them, but I will mention them very briefly, first of all the uncertainty as to the future of the service in India; secondly, the counter attractions of other services, notably the Colonial Service, and the very much larger number of appointments offered in the Home Civil Service in recent years; thirdly, the fact that appointments to other services are generally made and filled earlier in the year than the Indian Civil Service examination. Then there is the very natural disinclination of a boy who has probably passed a very stiff final Honours examination to sit for another severe examination shortly afterwards; and finally, there is the fact that the results of the London examinations are not announced till very late in the year, at the end of September.

As regards the comparative merits of selection and competition, that is of course a debatable question, but I may say there is no doubt that educational opinion in England is veering steadily away from competition and towards selection as the best method of recruitment. For certain branches of the Colonial Service selection has for some years been the sole test, notably in the Sudan Civil Service, which is certainly as competent and as well staffed as the Indian Civil Service. For many of the Indian services too selection has been the sole test, and I was amused, when the Mover of this Resolution invoked the shade of the mighty dead, notably of Sir Fazl-i-Husain to support this Resolution, as it was only this year

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that Sir Fazl-i-Husain's own son has entered the Indian Civil Service by selection, and not by competition.....

Mr. S. Satyamurti : It proves nothing.

The Honourable Sir Henry Craik : Nor does your assertion prove anything.

Mr. S. Satyamurti : But that is another matter.

The Honourable Sir Henry Craik : Every year certain number of Indians are nominated to the Indian Civil Service to redress communal inequalities. At one time after the war there was an extensive appointment of Britishers by selection, and in my experience those who were selected on that occasion, of whom many have worked immediately under me, are better than the competitioners of any years since the war.....

Mr. S. Satyamurti : Then you had better go Home first !

The Honourable Sir Henry Craik : However, I admit that that is really by the way. The reason for the shortage of European candidates is largely a matter of speculation, but the result of that shortage is clear,—not only is the service seriously undermanned, but there is also the very unfortunate result that the more Indians recruited in London the smaller is the number that can be recruited in Delhi. Now, obviously it is quite impossible to contemplate with equanimity a continuous process of further deterioration in these two respects, that is to say, a constantly progressive shortage in recruitment and a progressive diminution in the number of vacancies available for Delhi examination. The conditions required for a complete solution are, of course, that we should secure the total number of recruits of both classes required, secondly, that the proportion of European recruitment should be maintained as laid down by His Majesty's Government, thirdly, that the maintenance of the proportion of minority communities should be maintained, and lastly, that there should be recruitment by open competition in Delhi of a reasonable number of Indians. Various solutions were suggested and considered but there were pretty obvious objections to most of them, such as, for instance, of excluding Indians altogether from the London examination.

Some Honourable Members : The time is up.

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

The Honourable Sir Henry Craik : I would only take two minutes to conclude.

Some Honourable Members : No, that is not permissible.

Mr. S. Satyamurti : On a point of order, Sir. No speech shall exceed 15 minutes.—that is the rule.

Mr. President (The Honourable Sir Abdur Rahim) : The time limit of 15 minutes is peremptory.

The Honourable Sir Henry Craik : Is it completely up, Sir ?

An Honourable Member : He has already taken 17 minutes.

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

(The Honourable Sir Henry Craik then resumed his seat.)

Pandit Govind Ballabh Pant (Rohilkhand and Kumaon Divisions : Non-Muhammadan Rural) : I listened to the speech of the Honourable the Home Member.....

The Honourable Sir Henry Craik : You have only heard half of it.

Pandit Govind Ballabh Pant : I listened to the speech of the Honourable the Home Member with deep interest and a certain degree of curiosity in spite of the warning that had been given to us by Sir Muhammad Yamin Khan and Sir Muhammad Yakub. I know that he holds his position here by virtue of his success in the competitive examination, and I am still orthodox enough to believe that competition has some merit. So, I heard his speech with a certain degree of curiosity, as I said, mainly because I felt that the issue was so plain that nobody could ever controvert it. Therefore, I wanted to see what amount of resource and ingenuity the Honourable the Home Member could press into service in order to make out some case. I feel, Sir, that I am rather disappointed as nothing plausible even has come forward. All the same, I was struck by the revelation of wisdom which seems to have dawned on the Government of India. You, Sir, in your capacity as one of the members of the Islington Commission, are fully acquainted with the history of Services in India and the co-operation and support that the demand in this country for simultaneous examinations or for the recruitment of a larger number of Indians for superior services had received, as well as the opposition that it met with from the civil service and the bureaucracy. Knowing the stiff opposition that they had offered at every stage to the extension of the principle of simultaneous examinations, I was perplexed when I heard the Honourable the Home Member say that he was really very anxious that Delhi should be the main channel of recruitment for the superior services in India. Formerly it was argued, and I remember, you must remember it,—the evidence that was given before you by Sir William Marris, Sir John Campbell and a number of other important persons who held very honourable positions in the Indian Civil Service as to the disaster that was sure to follow if Indians were allowed to compete for the Indian Civil Service or to be recruited here for those services. So, I was rather disillusioned when I heard that now it is the wish of the Government of India that Delhi should be the main channel of recruitment.

The Honourable Sir Henry Craik : It was the wish of the Congress Party some years ago.

Pandit Govind Ballabh Pant : That channel, according to him, was meant for the children of the poor in this country. That implies that so far as the rich are concerned, those who can afford, even when Delhi was adopted as one of the centres for recruitment, it was expected and it was implicit in the arrangement that a large element of such Indians would still continue to be returned through the London channel. Sir, the argument has been put forward that 50-50 ratio of the Lee Commission should hold. I do not know what is exactly meant thereby. I remember that the Lee Commission offered passage allowances, special allowances and several other things, and it was thought that in the new dispensation in order to attract Britishers to the services here they should be given everything that could be exacted out of the toiling millions in this country. But still it seems that the wishes of those who want to dominate and carry on the exploitation of this country without any sort of restriction or

[Pandit Govind Ballabh Pant.]

restraint have not been fulfilled. May I remind the Honourable the Home Member that even when the 50-50 arrangement was made there was a provision in the Act itself that all members of the Indian Civil Service in England would be recruited by means of a competitive examination. So, what is to hold the field? The Act or the executive order? What was to be the domineering factor? In fact, what was arranged was this that subject to the provisions of the statute 50 per cent. would be allowed entry into the services here. Of course, that arrangement was never expected or intended to over-ride the express provisions of the Government of India Act, 1919. And when the British recruits cannot fulfil the condition laid down in this statute, we should not be punished on that account. When you fail to fulfil your part of the bargain the 50 per cent. arrangement falls through and it does not hold water. Who is to blame for it? You are unable to fulfil your condition, the condition laid down in the statute book and you must bear the consequences. If a man were to enter into an agreement with me, that he puts in Rs. 50 and I put in Rs. 50 and we are to carry on as partners, if the other partner is unable to fulfil his part of the agreement, am I to blame for it? Who is responsible for it? I submit that if the 50 per cent. arrangement has not been fulfilled and has broken down, then the responsibility rests on their shoulders, and there is no reason why India should suffer on account of their inability and incompetence to supply the proper kind of men for the administration of this land.

The other day I was reading the Round Table Conference Report, and this is what the Chairman of the Services Committee said :

"If you consider that it is desirable to retain a European element in the Services, at any rate for a limited time, you will probably all agree that you must get the right type of European element. It is no good unless you get them 'out of the top drawer'. Therefore you will have to consider what steps must be taken to ensure this. The principle applies not only to the European recruitment, but to the Indian recruitment too; you want to get that 'out of the top drawer'."

Instead of the top drawer you are getting them out of the gutter drain, so we do not want them. If you want to have Europeans here then you may carry on in your own way, but why try and deceive us by saying that we are bound by an agreement when you are unable to carry out your part? The Honourable the Home Member told us that it was in the interests of India that this new arrangement had been made. I will read what his master the Secretary of State said as to why this change had been made. He said :

"In order to remedy the under-recruitment of Europeans for the Indian Civil Service which has occurred in recent years, the Secretary of State proposes to begin selecting this year a certain number of candidates for admission to the Service otherwise than by written competitive examination."

It is no good telling us that this change has been made in our interest. In fact, Mr. Churchill welcomed this innovation and congratulated the Secretary of State for this change. You are all aware that for several years Sir Samuel Hoare and other British statesmen had been bemoaning the circumstance that British recruits were not available for service in this country in adequate number. Even according to the figures given by the Honourable the Home Member, we find that 50 per cent. of the total

number, that could have been recruited, is actually held by Indians. So, the change is not needed for our benefit. It is in the interest of Britishers. I will remind the Honourable the Home Member of what one of his countrymen said on an occasion like this. As Honourable Members are aware the age limit for entry into the Civil Service was reduced on several occasions with a view to keep out Indians. Once this question was being argued in the House of Commons when Lord Salisbury remarked 'What is the use of all this political hypocrisy'. I would remind the Honourable the Home Member of what Lord Salisbury said. So long as you have got the power you will continue to exact the last pie from us and as you cannot get men through the competition, you want to have the backdoor in order to enable the dunce to get in. The issue is plain enough and I put it before the House. The issue is this. These people who are being recruited are to serve in our country. They are to receive as salary the money raised by way of taxation from our people. Now, Sir, the Indians had the natural and inherent right to be recruited to this Indian service to the exclusion of every other stranger, including the Britisher. We were always told that competition was the best method and that the examination was open to all Indians. Now, it has come to this, that for service in our country, where payment is to be made out of money raised from our people, when Britishers of the required standard are not available, then in order to shut out Indians, incompetent Europeans should be recruited so that they may have....

The Honourable Sir Henry Craik : Why incompetent?

Pandit Govind Ballabh Pant : Why incompetent, because I believe the Honourable the Home Member does not consider himself incompetent and he was recruited through competition. If he says that he is incompetent, I will revise my opinion I know he will not confess that. If nomination is the best method, why does not the United Kingdom adopt it for its own people?

The Honourable Sir Henry Craik : It does.

Pandit Govind Ballabh Pant : I have got before me the manual. It says that recruitment to the British Civil Service is made only through competitive examination and not otherwise. It is so in Canada, Australia and in other countries in the world. I am a bit suspicious when people tell me that they give us the best of both worlds and that they keep for themselves the worst of both. I am aware of the Honourable Member's paradise—he holds that Andamans is a paradise. He may say that competition is worse than nomination but taking things generally, that is rather an opinion which would ordinarily be regarded as perverted. There is no question here of communal representation. We are not questioning the method of recruitment in this country. The simple question is this : whether Indians desire that incompetent Britishers who cannot compete with Indians in a common examination, in their own country, conducted in their own language, in the midst of alien and uninviting surroundings, should be allowed to oust Indians with whom they cannot compete in the examination. That is the issue and I hope the House will clearly understand its implications. Are we going to tell them that we are willing to have good, bad and indifferent (in this case, bad and indifferent) recruits to be foisted on this country. Let the

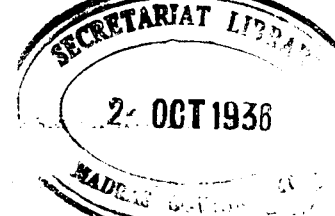
NOES—51—contd.

Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Fazli-Haq Piracha, Khan Bahadur Shaikh.
 Ghuznavi, Sir Abdul Halim.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hidayatallah, Sir Ghulam Hussain.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Khurshaid Muhammad, Khan Bahadur Shaikh.
 Lloyd, Mr. A. H.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Morgan, Mr. G.
 Mudie, Mr. R. F.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Murid Hossain Qureshi, Khan Bahadur Nawab Makhdum.

Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sharma, Mr. D.
 Sher Muhammad Khan, Captain Sardar.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Yamin Khan, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.
 Ziauddin Ahmad, Dr.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 1st September, 1936.



LEGISLATIVE ASSEMBLY.

Tuesday, 1st September, 1936.

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

QUESTIONS AND ANSWERS.

INSTRUMENTS OF ACCESSION FOR INDIAN STATES TO JOIN THE FEDERATION.

25. *Mr. S. Satyamurti : Will the Honourable the Law Member be pleased to state :

- (a) whether the Instruments of Accession for Indian States to join the Federation are now ready for being considered by the Indian Princes ;
- (b) if they are not ready, when they are expected to be ready ;
- (c) how many Princes have expressed their readiness to join the Federation ;
- (d) whether there are any negotiations going on between the Princes and the Government as to the solvency of the Federation before the Princes decide to join the Federation ;
- (e) the approximate date when the Federation is expected to function ; and
- (f) whether any definite steps are now being taken to expedite the Federation, and if so, what they are ?

The Honourable Sir Nripendra Sircar : (a) and (b). The draft general clauses of the Instruments of Accession have been transmitted to the Princes.

(c) The Government of India are not in a position to answer this question at this stage.

(d) No.

(e) It is not possible to say at this stage the date when the Federation will begin to function.

(f) Special Officers have been appointed who will visit the Indian States in order to elucidate such points of doubt or difficulty as the Rules may encounter in their consideration of the Draft Instruments of Accession, and to enable them to arrive at a decision as soon as practicable.

Mr. S. Satyamurti : May I know whether the published text of the Instruments of Accession published in some newspapers is correct ?

Sir Aubrey Metcalfe : Yes, Sir, I think it is certainly correct.

Mr. N. M. Joshi : May I ask whether the Members of the Legislature will be supplied with copies ?

Sir Aubrey Metcalfe : A press communiqué has been issued on the subject. I see no objection to a copy being laid on the table of the House. It certainly will be, if required.

Mr. M. Ananthasayanam Ayyangar : Have any of the ruling princes suggested any modifications ?

Sir Aubrey Metcalfe : That, again, is a point which cannot be answered at the present stage.

Mr. S. Satyamurti : With regard to the answer to clause (d), may I know if this matter has not yet been taken up, or whether it has been taken up but negotiations have been stopped ?

The Honourable Sir Nripendra Sircar : Does the Honourable Member mean whether the Government of India have considered this question at all or whether it has been taken up with the Princes ?

Mr. S. Satyamurti : I mean whether it has been taken up with the Princes.

The Honourable Sir Nripendra Sircar : I think my answer covers that. It is in the negative.

Mr. S. Satyamurti : My question is this. My Honourable friend knows that the Princes made it a condition of joining the Federation that they should be satisfied that the Federation would be a solvent Federation. May I know whether the Princes have been satisfied on that matter, or whether the question has not yet been taken up, and it will be taken up later on ?

The Honourable Sir James Grigg : Is it not a question of the Princes being satisfied by the existing facts and law and distribution of revenues ? There is no question of negotiations about that. The Princes have got to satisfy themselves from the known facts whether the Federation is likely to be solvent or not. And, excluding the constitution of the new Legislatures, most of the facts are before the Princes.

Mr. S. Satyamurti : But do the Princes realise, as I am sure Government do realise, that some of them want big slices of customs revenue, and they have got five crores already ? May I know what is the effect of this continual drain upon the Central finances, on the possible solvency of this Federation ?

The Honourable Sir James Grigg : As regards the first part of the question, the existence of the problem in regard to the maritime States is well known. I hope,—I will not go beyond that,—that that problem is on the way to a satisfactory solution.

Mr. S. Satyamurti : Will the House be consulted at any stage before further surrenders of Central revenues are made to the Princes ?

The Honourable Sir James Grigg : Surrenders beyond what they are now getting ?

Mr. S. Satyamurti : Yes.

The Honourable Sir James Grigg : I cannot give any pledge about that. But my personal intention is that there shall not be any further surrenders.

Mr. N. M. Joshi : May I ask whether the people in British India will be consulted about the terms on which the Instruments of Accession of these States will be accepted by the British Government ?

Sir Aubrey Metcalfe : It will not be possible to consult the people of British India on negotiations which will take place between the Crown and the States ?

Mr. N. M. Joshi : May I ask whether the people of British India will be consulted after the terms of the Instruments of Accession have been approved by the British Government ?

Sir Aubrey Metcalfe : They will certainly be informed. I do not see how they can be consulted after the terms have been settled.

Mr. S. Satyamurti : On a specific question, may I ask whether, in regard to the various reservations which these Princes are entitled to make with regard not only to Federal subjects but also the manner of the execution of the Federal laws in their States, this House will ever be given an opportunity of advising the Crown as to whether those reservations are consistent with any plausible Federation at all ?

The Honourable Sir Nripendra Sircar : I cannot make any definite promise now. That situation may never arise.

Mr. S. Satyamurti : May I know whether the Princes are not given full permission in each case to make reservations of both the kinds I mentioned, that is, subjects as well as the manner of execution of Federal laws ?

The Honourable Sir Nripendra Sircar : That is true ; they can make any reservations they like, but we are not bound to accept those reservations.

Mr. S. Satyamurti : Therefore, may I know if, before the Crown which is the authority under the Government of India Act, decides either to accept or not to accept those reservations in respect of the Princes as a class or individually, this House will ever be consulted and its opinion taken on the point, as to how far these reservations are consistent with any kind of Federation ?

The Honourable Sir Nripendra Sircar : We cannot make any promise beforehand. It will depend on what reservations they want and whether a situation will arise in which it will be necessary to consult this House. I make no promise that the House will be consulted.

Mr. S. Satyamurti : Will the Government of India get an opportunity of advising the Crown on this matter ?

The Honourable Sir Nripendra Sircar : I hope they will.

Mr. Lalchand Navalrai : With regard to clause (e), may I know whether the information in the press that the Federation will function from April, 1938, has any foundation ?

The Honourable Sir Nripendra Sircar : I said that it is not possible to say from what date it will function. The Honourable Member is at liberty to draw his inference, but there is no justification for saying that it is bound to function from the 1st April, 1938.

Mr. T. S. Avinashilingam Chettiar : May I know whether they are negotiating with the Princes as a whole in a body or with individual Princes? Will there be different Instruments of Accession for each Prince or one Instrument for all the Princes?

The Honourable Sir Nripendra Sircar : The negotiations must be with individual Princes.

Mr. T. S. Avinashilingam Chettiar : But are the negotiations with the Princes as a body or with each individual Prince?

The Honourable Sir Nripendra Sircar : As separate and distinct limbs of one body.

Mr. N. M. Joshi : How do the Government of India propose to protect the interests of British Indians in these negotiations with these Princes?

The Honourable Sir Nripendra Sircar : The Government of India will take as much care as possible to protect them.

Mr. S. Satyamurti : With reference to the answer to clause (f), may I know if these officers, who have been deputed to tour these various States, are touring on behalf of His Excellency the Viceroy, or on behalf of the Government of India?

Sir Aubrey Metcalfe : They are being deputed by the Crown.

Mr. M. Ananthasayanam Ayyangar : Are active steps being taken to make the Federation function by the 1st April, 1938?

The Honourable Sir Nripendra Sircar : Active steps are being taken to make it function as soon as possible.

Mr. S. Satyamurti : With reference to the answer just given by the Foreign Secretary, may I know whether the Crown acts through the Government of India in this case, or acts only through the Viceroy?

Sir Aubrey Metcalfe : That is rather a difficult constitutional question of which I should like to have notice.

Mr. S. Satyamurti : May I ask my Honourable friend, the Law Member, who cannot ask for notice over a constitutional question like this (Laughter), whether the negotiations, now going on through these gentlemen, who have been deputed, are carried on on behalf of the Government of India?

The Honourable Sir Nripendra Sircar : Opinion expressed off-hand is not of much value, but subject to that I should say that they are acting on behalf of the Crown.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair would like to make a suggestion, as regards questions of this character on important matters of policy which are brought to the notice of the House, that the Government might well consider whether instead of

categorically answering the question in its separate sub-divisions, they might make a comprehensive statement which might elucidate the entire position.

Mr. N. V. Gadgil : Have promises been made to various Princes for retrocession of territory in order to induce them to join the Federation?

Mr. President (The Honourable Sir Abdur Rahim) : I think the matter has been pursued enough. Next question.

COMMITTEE TO CONSIDER AMENDMENTS TO INSURANCE LEGISLATION.

26. ***Mr. S. Satyamurti :** Will the Honourable the Law Member be pleased to state :

(a) whether the Committee to consider amendments to insurance legislation in the country has been appointed ;

(b) if so, what the composition and the terms of reference of the Committee are ; and

(c) if the reply to part (a) be in the negative, when the Committee is proposed to be appointed?

The Honourable Sir Nripendra Sircar : (a) No.

(b) Does not arise.

(c) Early in November next. I may be allowed to add that if my friend will make an inquiry, whether outside the House or by a short notice question, say, in the last week of this month, I shall be able to inform the House of the composition of this Committee.

FIXATION OF TIME FOR ELECTION TO THE PROVINCIAL LEGISLATURES.

27. ***Mr. S. Satyamurti :** Will the Honourable the Law Member be pleased to state :

(a) whether certain Provincial Governments have tentatively fixed February, 1937, as the time of election for the Provincial Legislatures ;

(b) whether Government are aware that the Assembly will then be sitting in Delhi ; and

(c) whether Government propose to take steps to see that the elections are held in January and completed before the Delhi Session of the Assembly starts?

The Honourable Sir Nripendra Sircar : (a) and (b). Yes.

(c) The tentative programme for elections has been fixed by Local Governments with due regard to all the circumstances. Government therefore regret that they are unable to issue any directions to the Local Governments in the matter.

Mr. S. Satyamurti : Are Government considering, or will they consider any possible steps which may be taken to avoid the results of those elections being announced at the time when this Assembly is sitting, consequently causing inconvenience to all parties concerned?

The Honourable Sir Nripendra Sircar : I can assure my Honourable friend that this is one of the matters which the Local Governments have been asked to consider.

Prof. N. G. Ranga : Will the Government of India be pleased to postpone the assembling of this House till the last week of February in order to enable all parties concerned here to play their part in the country during the elections ?

The Honourable Sir Nripendra Sircar : Strictly speaking, that will depend on the action of the Governor General, and not of the Government of India.

Mr. T. S. Avinashilingam Chettiar : Will the Government of India so advise the Governor General ?

The Honourable Sir Nripendra Sircar : If their advice is sought or if it is necessary.

RAIL-ROAD COMPETITION.

28. ***Mr. S. Satyamurti :** Will the Honourable Member for Industries and Labour be pleased to state :

(a) whether any conclusions have been reached in the matter of dealing with the Rail-Road competition ;

(b) whether any arrangements will be made by which all communications or inland communications, waterways, rail and road, will be co-ordinated, so as to get maximum revenue to the State, and maximum comfort and ease to the users of the inland transport ; and

(c) if not, why not ?

The Honourable Sir Frank Noyce : (a) A copy of the Concise Statement of Policy embodying the various measures recommended by the Transport Advisory Council in July last for dealing with Rail-Road competition has been placed in the Library.

(b) The Transport Advisory Council and Provincial Boards of Communication have already been created with a view to securing the co-ordination of the development of various forms of transport, including waterways.

(c) Does not arise.

Mr. S. Satyamurti : In this co-ordination, are these two objects kept in mind, which are referred to in clause (b)—maximum revenue to the State and maximum comfort and ease to the users of the inland transport ?

The Honourable Sir Frank Noyce : Yes : I think it is safe to say that these considerations are being borne in mind.

Mr. S. Satyamurti : May I know whether in trying to achieve these two objects, Government are conscious of the fact that the financial interests of the provinces and of the Centre come into conflict perennially, and are they considering this question of reconciling this conflict with a view to obtaining these results ?

The Honourable Sir James Grigg : As far as the present situation is concerned, the matter is definitely regulated by the Government of India Act, 1935, and it will have to be a matter of experience to see whether any further provisions are necessary in course of time.

Mr. S. Satyamurti : Have Government examined the question that they can go round and round, and appoint as many committees as they like, but as long as the provinces have got the financial results from the use of roads and the Centre has got to depend on the railways, this clash will continue ?

The Honourable Sir James Grigg : Yes : there is that apparent clash of interests : on the other hand, the provinces are dependant on the financial stability of the Centre for a part of their revenues, and, in the course of a very few years, the conflict between the interests of the provinces and the Centre will not be so great as it might appear to be now.

Mr. M. Ananthasayanam Ayyangar : In the composition of the transport authority or board or road committees, is any representation given to bus service owners ?

The Honourable Sir Frank Noyce : I think the best answer I can give at the moment is that the House will have a full opportunity of discussing that question in connection with the Motor Vehicles (Amendment) Bill, which will probably be taken up in the course of the next day or two.

USE OF BROADCASTING STATIONS FOR POLITICAL PROPAGANDA.

29. ***Mr. S. Satyamurti :** Will the Honourable Member for Industries and Labour be pleased to state :

(a) whether any rules have been laid down for political speeches being broadcast from the Indian Broadcasting Stations ;

(b) under what rule or authority, His Excellency the Viceroy's speech was broadcast soon after his arrival in Delhi ;

(c) whether Government have under contemplation schemes by which leaders of parties will be allowed to use the broadcasting stations for political propaganda, as is done in England, especially on the eve of elections ;

(d) whether there are any rules for the kind of speeches to be broadcast, and if so, what the rules are ; and

(e) whether there is any censor or censors on these speeches ; if so, why ?

The Honourable Sir Frank Noyce : (a), (c) and (d). I invite attention to the Honourable Mr. Clow's speech in this House on September 25th last year in reply to a speech of the Honourable Member. Government adhere closely to the policy indicated therein and have recently issued orders that no election manifestoes or speeches or extracts therefrom shall be broadcast.

(b) Under the authority of His Excellency the Viceroy.

(e) Arrangements exist under which the Controller of Broadcasting satisfies himself, in consultation, if necessary, with the Governments concerned that the requirements of the Government of India are being fulfilled.

Mr. S. Satyamurti : May I ask for some elucidation of the answer to clause (b), as to what is the authority under which His Excellency's speech was broadcast? What is the section of the Government of India Act which gives him power to deliver a broadcast speech, although Government say no political speech should be broadcast?

The Honourable Sir Nripendra Sircar : May I raise a point of order? Is a discussion of this subject permissible having regard to the rule at page 20 of the Manual? This is a question as to the conduct of the Governor General in delivering a political speech—whether he had any business to broadcast the speech, and so on. The rule says: "A member while speaking shall not reflect upon the conduct of His Majesty the King or the Governor General, etc., etc."

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands it does not necessarily contain any reflection on the Governor General.

Mr. S. Satyamurti : I am not questioning the Governor General's right to speak.

Mr. President (The Honourable Sir Abdur Rahim) : So far as the question is concerned, that can, the Chair thinks, be answered without implying any reflection on the Governor General.

The Honourable Sir Nripendra Sircar : I am not objecting to that, but to the supplementary.

Mr. President (The Honourable Sir Abdur Rahim) : You need not answer the supplementary question.

Mr. S. Satyamurti : Subject to your ruling, Sir, I am not reflecting upon the conduct of the Governor General. I am simply asking for elucidation of the answer, under what authority the Government of India allowed that speech to be broadcast.

The Honourable Sir Frank Noyce : My answer is that I am not prepared to discuss the action of His Excellency the Viceroy.

Mr. S. Satyamurti : I am asking about the action of the Government of India. His Excellency is not running the Broadcasting: the Honourable Member is. We are paying for it. I am asking under what authority this speech was allowed to be broadcast.

The Honourable Sir Frank Noyce : I have nothing to add to the answer I have already given.

Pandit Sri Krishna Dutta Paliwal : As regards part (d) of the question, may I know if the speeches have been classified into friendly and unfriendly speeches?

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be allowed.

Mr. M. Ananthasayanam Ayyangar : Have Government considered the desirability of making this a commercial service—that whoever pays may be allowed to broadcast, provided it is not seditious?

Honourable Sir Frank Noyce : I can assure my Honourable that, as long as I am in charge of broadcasting, his suggestion will not be accepted.

Mr. M. Asaf Ali : With reference to part (e), may I know if it is not a fact that there is a system of censoring, first by the Controller or Station Director, and then by the Home Department—in fact by the Central Intelligence Bureau?

The Honourable Sir Frank Noyce : It is not a fact.

Mr. M. Asaf Ali : May I know why manuscripts are required to be submitted a week before they are actually spoken through the microphone?

The Honourable Sir Frank Noyce : That obviously is a desirable procedure: and it applies not only to talks delivered by non-officials, but also to talks delivered by officials.

Mr. M. Asaf Ali : Is it a fact or is it not, that certain speeches broadcast from the Delhi station have actually been sent for by the C. I. B. or the Home Department?

The Honourable Sir Henry Craik : No; it is not.

Mr. Lalchand Navalrai : May I know if these political speeches are broadcast in the United Kingdom?

The Honourable Sir Frank Noyce : I believe there is a relaxation of the strict rule in regard to political speeches at election time in the United Kingdom.

Mr. Lalchand Navalrai : May I know why there should be any difference in India?

The Honourable Sir Frank Noyce : Because the conditions in this country are not similar to those in the United Kingdom.

Mr. S. Satyamurti : With reference to the answer to clause (e) of the question, may I know what was the test that was usually applied by the Department in dealing with these speeches?

The Honourable Sir Frank Noyce : Commonsense, I think, Sir.

Mr. S. Satyamurti : Is my friend so sure of possessing it in his Department?

(No answer.)

MAKING OF THE POSTAL DEPARTMENT PARTLY A COMMERCIAL AND PARTLY A SERVICE DEPARTMENT.

30. ***Mr. S. Satyamurti :** Will the Honourable Member for Industries and Labour be pleased to state :

(a) whether Government have considered or are considering the question of making the Indian Postal Department partly a commercial and partly a service department;

(b) if not, when they propose to consider the same;

(c) whether they have come to a final conclusion on the contribution for repairs and renewals, and whether they propose to reduce it; and

- (d) whether they are considering the question of reducing the post-card to half anna in view of the great demand both in the House and in the country ?

The Honourable Sir Frank Noyce : (a) and (b). I am not quite sure what the Honourable Member means by 'partly a commercial and partly a service Department', but if the suggestion is that the Posts and Telegraphs Department should get a subsidy from general revenues, Government are not contemplating any such step.

(c) I would refer the Honourable Member to paragraph 25 of the speech made by the Honourable the Finance Member in introducing the budget proposals for 1936-37, and to my own speech in this House on the 20th March, 1936.

(d) I would refer the Honourable Member to my speech in this House made on the 20th March, 1936, and would add that the question cannot be taken up until there is a substantial improvement in the financial position of the Department.

Mr. S. Satyamurti : Have Government considered or will they consider that the Posts and Telegraphs Department, apart from doing service to the people for which they get remuneration, helps in the spreading of enlightenment and knowledge in this country, and to that extent will Government consider the question of turning a part of the Posts and Telegraphs Department into a service department, not paying its way, but that the general taxpayer may subsidise it till the finances improve ?

The Honourable Sir Frank Noyce : I think, Sir, that consideration has already been borne in mind. If my Honourable friend will examine the rates in regard to newspapers, he will see that we lose on every newspaper that we carry. The rates for newspapers have been fixed with the consideration which he has mentioned in mind and we are disseminating knowledge—at least, I hope so.

Mr. S. Satyamurti : Will Government lose on the half-anna post-card also ?

Prof. N. G. Ranga : Will Government consider the advisability of asking for a subsidy from the general revenues for extending rural postal service ?

The Honourable Sir James Grigg : That is provided for each year. In the budget presented by my Honourable colleague, a certain amount is provided for the extension of postal facilities in rural areas. In other words, although certain parts of the postal service are not remunerative, there is no question whatever of Government subsidising the service as a whole.

REPORT OF SIR OTTO NEIMEYER.

31. ***Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

- (a) when copies of Sir Otto Neimeyer's report were made available to the Press and the people of this country ;
(b) whether the evidence before Sir Otto Neimeyer will be published ;

- (c) whether public opinion was sought upon this matter at any stage ;
(d) whether opinions of the Local Governments and of the Government of India were forwarded to the India Office ;
(e) whether any Legislature, Provincial or Central, was consulted ;
(f) if not, why not ;
(g) whether final orders on the Report have been passed ;
(h) whether it is intended to make the Revenue Reserve Fund a permanent feature of the Government of India finance ;
(i) whether it is intended that there should be no reduction in the military expenditure ;
(j) whether they propose to keep the surcharges on income-tax and super-tax, if so, whether they will be at the present level or at a higher level ;
(k) whether they propose to keep the other surcharges also ; and
(l) when, in the expectation of the Government of India, the Provinces will begin to get their share of the income-tax ?

The Honourable Sir James Grigg : (a) 1st May.

(b) No.

(c) By the Provincial Governments yes and in any case a good deal of public advice was proffered voluntarily.

(d) and (g). I would refer the Honourable Member to the White Paper containing the views of the Provincial Governments, the Government of India and the Secretary of State.

(e) and (f). Some of the Provincial Governments certainly did consult their Legislatures.

(h), (i), (j), (k) and (l). I cannot anticipate the next Budget, and still less subsequent Budgets.

Prof. N. G. Ranga : Are Government aware of the considerable public opinion in the country against the withdrawal of surcharges on income-tax and super-tax before the other surcharges are withdrawn or remitted ?

The Honourable Sir James Grigg : I have heard the Honourable Member himself expressing that opinion, and if he represents considerable public opinion, then we are aware of it.

Mr. S. Satyamurti : With reference to the reply to clause (b) of the question, may I know the reason why the monosyllabic "No" is given to it ?

The Honourable Sir James Grigg : To the best of my belief, a large part of the evidence was oral. The discussions took place on the basis of their being private, and I think that in any case, it would be misleading, if only the written memoranda were to be published, of the rest no record whatever was kept.

Mr. S. Satyamurti : Will the written memoranda be published ?

The Honourable Sir James Grigg : No, Sir.

Mr. S. Satyamurti : With reference to the answer to clause (h) of the question,—I am not asking for any budget secrets,—I am simply asking whether the Honourable the Finance Member has considered, whatever the contributions may be annually, whether they propose to make the Revenue Reserve Fund a permanent feature of the Government of India finance ?

The Honourable Sir James Grigg : I cannot say. You cannot make a Revenue Reserve Fund without money. I have devoted some money to it from last year's surplus, but one swallow does not make a summer, and one Finance Member cannot make a permanent feature.

Mr. S. Satyamurti : Have the Government of India considered that among the many recommendations of Sir Otto Neimeyer, there is one which says that the rich people in this country do not pay as much as they should ?

Mr. M. Ananthasayanam Ayyangar : Is it not a fact, Sir, that on the 23rd of April last, that is on the very day on which the last Session of the Assembly came to a close, Sir Otto Neimeyer's Report was printed ?

The Honourable Sir James Grigg : Yes, but that is a very common method employed when these large distances are involved. When there is a question of simultaneous publication in England and India, the Indian copy is almost invariably set up on the basis of a provisional copy in which subsequent corrections can be made. There is nothing very surprising in that.

Mr. M. Ananthasayanam Ayyangar : If that was so, why was it not made available for discussion ?

The Honourable Sir James Grigg : Because the actual date was settled by the Secretary of State with regard to the programme of the British Parliament to whom the Report was made.

Mr. S. Satyamurti : Did not the Government of India communicate to His Majesty's Government, as it undertook to do on the floor of this House, the desire of this House that, if possible, it should be given an opportunity to discuss the Report, before the Parliament passed final orders ?

The Honourable Sir James Grigg : I think the Honourable Member begs the question. A full report of the discussion which took place in this House was forwarded to London, and the Honourable Member's intense desire and his henchmen's intense desire for a discussion was communicated to them. The Government of India did not enlarge those two desires into a general desire.

Mr. M. Ananthasayanam Ayyangar : Could not the Government of India have extended the last session by a week so as to enable this House to discuss this matter and send its own opinion ?

The Honourable Sir James Grigg : The Governor General could have done it.

Mr. M. Ananthasayanam Ayyangar : Did the Government communicate the intense desire of this House to discuss the Report on the floor of this House ?

The Honourable Sir James Grigg : No, Sir, because there was no such desire.

Mr. M. Ananthasayanam Ayyangar : Was not such a desire made clear on the floor of this House ?

The Honourable Sir James Grigg : I have already said that two swallows do not make a summer.

Mr. S. Satyamurti : On that point, I want to make a submission, Sir. If my memory serves me correctly,—if I am wrong, I may be corrected,—when a notice of adjournment motion was given, a statement was made on behalf of the Government that they would communicate to the Secretary of State that this House wanted an opportunity to discuss the Report.....

Mr. President (The Honourable Sir Abdur Rahim) : The answer has been given already. We do not want to have a discussion on it again.

QUESTION OF THE RAILWAY FINANCE.

32. ***Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

(a) whether he has examined the question of the Railway Finance from the point of view adumbrated in Sir Otto Neimeyer's Report, and whether he has come to any tentative conclusions thereon ;

(b) whether he has placed them before the Railway Board ;

(c) if so, what the results are ?

The Honourable Sir James Grigg : I regret I am unable to make any statement on this subject at present.

Mr. S. Satyamurti : May I know when the Government will make a statement on this subject ?

The Honourable Sir James Grigg : As soon as I possibly can.

Mr. S. Satyamurti : Does the Honourable Member realise that this House has a right to be taken into confidence on this matter ? Does he realise that the Railways are losing 5 to 6 crores of rupees a year, and the Government are doing nothing in the matter ?

The Honourable Sir James Grigg : Certainly, they are considering this matter.

FLOATATION OF LOANS.

33. ***Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

(a) when he proposes to float the loans this year ;

(b) whether he has considered the conversion of the outstanding loans, in view of the cheap interest on money loan ; and

(c) whether there is any proposal to raise any loans in the near future for starting capital works to relieve unemployment ?

The Honourable Sir James Grigg : (a). (b) and (c). A Rupee loan has already been raised and the terms and results have been published in the Press. As regards the question of further loans, whether for conversion or other purposes, I am unable to make any statement.

Mr. S. Satyamurti : Are the Government aware that this is an auspicious time for raising loans ?

The Honourable Sir James Grigg : We do not raise loans merely in order to spend them.

Mr. S. Satyamurti : I am asking about clause (c) of the question ?

The Honourable Sir James Grigg : That must be mainly the concern of the provinces. Some of the provinces are raising loans, I believe.

Mr. S. Satyamurti : Will the Government of India also consider the question of usefully spending some money in that direction ?

The Honourable Sir James Grigg : Not on unremunerative projects.

Mr. S. Satyamurti : Have they examined all remunerative ones ?

The Honourable Sir James Grigg : It will be very rash to say that I have examined every scheme, foolish or otherwise, which may be adumbrated.

Mr. S. Satyamurti : When money is cheap, and when unemployment stares us in the face, the Government ought to tackle this problem ?

The Honourable Sir James Grigg : Wise schemes, both in connection with Railways and Posts and Telegraphs, are considered, and if they are remunerative, they are adopted without any difficulty. I think if the Honourable Member asks the Railway Member or the Member in charge of Posts and Telegraphs, he will see that the Finance Department have not turned down one single wise capital scheme.

Mr. M. Ananthasayanam Ayyangar : With respect to the answer to part (a) of the question, may I ask the Honourable Member if there is a proposal to raise a loan for the purpose of terminating the lease of the Madras and Southern Mahratta Railway ?

The Honourable Sir James Grigg : I must have notice of that question. In any case I believe there are questions down on that point to my Honourable friend, the Commerce Member.

Pandit Lakshmi Kanta Maitra : May I know if relief of unemployment is a matter of concern to the Government of India ?

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot hear what the Honourable Member says.

Pandit Lakshmi Kanta Maitra : May I know from the Honourable Member if relief of unemployment is a matter of concern to the Government of India ?

The Honourable Sir James Grigg : It depends upon whether the Honourable Member means it in a moral sense or a technical sense. In a technical sense it is not and in a moral sense it is.

Pandit Lakshmi Kanta Maitra : Is it purely a provincial matter, and the Government of India have got nothing to do with it ?

The Honourable Sir James Grigg : Almost entirely a provincial matter.

Mr. President (The Honourable Sir Abdur Rahim) : It is wandering a little too far. Next question.

NOTICE OF TERMINATION OF THE OTTAWA TRADE AGREEMENT.

34. ***Mr. S. Satyamurti** : Will the Honourable the Commerce Member be pleased to state :

(a) whether notice of termination of the Ottawa Agreement has been given by His Majesty's Government ; if so, on what date ;

(b) if not, why not ;

(c) the reasons for the delay in giving notice ;

(d) what the terms of the notice are ; and

(e) whether a copy of the notice will be placed on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Notice of termination of the Ottawa Trade Agreement was given on behalf of the Government of India on the 13th May, 1936.

(b) and (c). Do not arise.

(d) and (e). The notice was given in a communication addressed to the Secretary of State for India. It is not the practice to place copies of such communications on the table of the House.

Mr. S. Satyamurti : Have Government any objection on the merits, apart from non-conformity, to place the communiqué on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : I am not willing to place the communiqué on the table of the House.

Mr. S. Satyamurti : May I know the cause of this unwillingness ?

The Honourable Sir Muhammad Zafrullah Khan : It is not in the public interest.

Mr. S. Satyamurti : Is there any catch in that communiqué ?

The Honourable Sir Muhammad Zafrullah Khan : There is no catch in that communiqué.

Mr. M. Ananthasayanam Ayyangar : Is a copy placed in the Library of the House ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Mr. M. Ananthasayanam Ayyangar : Why not ?

Mr. President (The Honourable Sir Abdur Rahim) : It has been answered. Next question.

NEGOTIATIONS FOR BILATERAL TRADE AGREEMENTS.

35. ***Mr. S. Satyamurti** : Will the Honourable the Commerce Member be pleased to state :

(a) whether, in pursuance of the Resolution of the Assembly on Ottawa Agreement, negotiations have been set on foot with other countries for bilateral trade agreements on the basis of reciprocity ;

(b) if so, with what countries ; and

(c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). Negotiations have been set on foot with His Majesty's Government in the United Kingdom with a view to the conclusion of a trade agreement in replacement of that concluded at Ottawa in 1932. Consideration of the question of trade agreements with other countries must await the result of these negotiations.

Mr. S. Satyamurti : May I know whether the Government of India have considered that this House by a very large majority passed a Resolution asking the Government to give notice of termination of the Ottawa Agreement and start negotiations for bilateral trade agreements with all countries, with a view to reciprocal trade advantage ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Mr. S. Satyamurti : May I know then why Government are carrying on negotiations only with the United Kingdom, and not with other countries, with whom India has substantial trade relations ?

The Honourable Sir Muhammad Zafrullah Khan : It would not be feasible to start negotiations simultaneously with all countries with which India carries on trade.

Mr. S. Satyamurti : Do Government realise that a concluded trade agreement between the United Kingdom and this country may affect adversely the possibility of bilateral trade agreements between this country and other countries ?

The Honourable Sir Muhammad Zafrullah Khan : It may or it may not.

Mr. S. Satyamurti : In negotiating this agreement, will Government keep in mind that the negotiations or the final stage thereof must not adversely affect the possibility of advantageous agreements for this country with other countries ?

The Honourable Sir Muhammad Zafrullah Khan : Government will keep in mind the consideration that it does not disadvantageously affect India's position with regard to trade agreements with other countries.

REDRESS OF THE GRIEVANCES OF THIRD CLASS PASSENGERS.

36. ***Mr. S. Satyamurti :** Will the Honourable Member for Railways be pleased to state :

- (a) whether he has considered the cut motion to the Railway Budget carried by the House for the redress of third class passengers' grievances ;
- (b) what steps he has taken in pursuance of that cut motion ; and
- (c) if no steps have been taken, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). The suggestions made during the course of the debate on the cut motion traversed, as the Honourable Member is aware, a very large field of that part of railway administration which is concerned with the improvement of facilities and the provision of amenities for third class passengers. These matters are constantly under review, in one form or another, and the progress made from year to year is

reviewed in the Railway Board's Annual Report. At I explained in my reply to the debate on the cut motion, many of the suggestions made, and most of which Government accept in principle, depend for their being put into effect on the extent to which funds become available. In regard to other points bearing on grievances of third class passengers, e.g., the necessity for courteous treatment, etc., the attention of Railways has been, or is being, called to the views expressed by Members during the debate with a view to their taking such action as conditions on their systems will permit.

Mr. S. Satyamurti : Is this ideal third class carriage now on any line in this country ?

The Honourable Sir Muhammad Zafrullah Khan : Which one ?

Mr. S. Satyamurti : The one that was exhibited to us in the Delhi Session.

The Honourable Sir Muhammad Zafrullah Khan : Whether any of them has been introduced on any railway ? No.

Mr. S. Satyamurti : May I know the reason for this delay ?

The Honourable Sir Muhammad Zafrullah Khan : The reason is the question of finance for one thing, and the design has not yet been finally settled.

Mr. S. Satyamurti : Do Government realise that they are moving in a vicious circle, to say that we cannot improve third class amenities unless funds come and that third class passengers won't come, unless there are amenities ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a vicious circle. For instance, I am hoping that if this House passes the Bill put forward before it as regards ticketless travel, more funds may become available. (Laughter.)

The Honourable Sir Henry Craik : Hear, hear.

Mr. S. Satyamurti : I am asking in spite of the Honourable the Home Member's hear, hear.

The Honourable Sir Henry Craik : Am I not entitled to say hear, hear ?

Mr. S. Satyamurti : May I invite the Commerce and Railway Member to ask my Honourable friend's co-operation in detecting corruption among railway servants and may I ask him to put on the C. I. D. against them ?

The Honourable Sir Muhammad Zafrullah Khan : Government have taken into consideration all the time the question of checking corruption among railway servants.

Prof. N. G. Ranga : How long will it take the Government to consider the advisability or not of putting these particular improved railway carriages on the rails ?

The Honourable Sir Muhammad Zafrullah Khan : As soon as the design has been finally settled and when funds permit for renewal of carriages, to the extent to which funds permit, they will be renewed.

Prof. N. G. Ranga : Who is examining this design? We were told that the Central Advisory Committee had to approve of it, that has been done, and who is now examining the design?

The Honourable Sir Muhammad Zafrullah Khan : Suggestions were made and those suggestions have to be taken into consideration by the technical side.

Mr. S. Satyamurti : Can Government give one single step taken by them to improve the lot of third class passengers since that cut motion was passed?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will be satisfied with one single concrete step.....

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think that that can be allowed. Next question.

FINANCIAL POSITION OF THE RAILWAYS.

37. ***Mr. S. Satyamurti :** Will the Honourable Member for Railways be pleased to state :

- (a) whether he has considered the cut motion to the Railway Budget censuring the bad financial position of the railways ;
- (b) what steps have been taken or are proposed to be taken to improve the finance of the railways ;
- (c) what are the steps taken to increase the income of the railways ;
- (d) what steps have been taken to reduce the expenditure of the railways ;
- (e) whether he proposes to consider the abolition of the Lee Concessions ;
- (f) whether he proposes to cut the salary of the highly-paid officers ;
- (g) whether he proposes to abolish free railway travel for several officers ;
- (h) whether he proposes to amalgamate the different railway systems for reducing expenditure ; and
- (i) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b), (c) and (d). Railway Administrations are carefully considering possibilities of increasing revenues by altering tariffs. As regards expenditure, the various job analysis organisations on the different railways are continuing to function, and various retrenchments of staff have been given effect to and are under consideration on various railways.

(e), (f) and (g). Government have no such proposals under consideration.

(h) I would refer the Honourable Member to the reply I gave to Mr. N. V. Gadgil's question No. 315 on the 12th February, 1936.

(i) Does not arise.

Mr. S. Satyamurti : Do Government realise that on the report of their own Financial Commissioner of Railways, which the Auditor General has accepted as sound and which the Government, I am told, have also accepted, they have got to make up a leeway of about ten crores of rupees a year, before the railways can become solvent on a really commercial basis?

The Honourable Sir Muhammad Zafrullah Khan : Government are aware of all the reports that have been made about the financial situation with regard to railways.

Mr. S. Satyamurti : Have Government any idea as to the savings they expect, for example, in the course of this or the next financial year, by way of retrenchment?

The Honourable Sir Muhammad Zafrullah Khan : I could not give any exact figures at the moment.

Mr. S. Satyamurti : May I know whether Government are aware that their proposals for increasing freights and fares have met with almost universal opposition from all interests concerned?

The Honourable Sir Muhammad Zafrullah Khan : Well, there has been a certain amount of criticism, yes, from various quarters, but the whole system is being adjusted with the object of making up the deficit and not pressing too harshly upon trade interests.

Mr. S. Satyamurti : With reference to the answer to clauses (e) and (f) of this question, may I know the reasons why Government do not propose to even consider the abolition of Lee concessions or the proposal to cut down the salaries of highly paid officers?

The Honourable Sir Muhammad Zafrullah Khan : This matter was raised during the debate on the Railway Budget last Session and I put forward the considerations which weighed with me in that respect.

Mr. S. Satyamurti : Do Government realise that they can make by a reasonable cut, more than Rs. 1½ crores a year by way of saving?

The Honourable Sir Muhammad Zafrullah Khan : No. I did explain then that that was not correct and that the greater part of the saving would come from people who were drawing salaries of less than Rs. 100 a month, and that sort of retrenchment was violently opposed by Honourable Members opposite.

Mr. S. Satyamurti : With reference to the answer to clause (g) of the question, may I know why they should not abolish free railway travel for several officers and make them pay?

The Honourable Sir Muhammad Zafrullah Khan : So far as Government officers outside the Railway Department are concerned, they pay for their travel; either Government pays or they pay themselves.

Mr. N. V. Gadgil : What is the decided policy of the Government governing the reduction of staff in order to secure a reduction in expenditure?

The Honourable Sir Muhammad Zafrullah Khan : The policy governing the reduction of staff is, for instance, where as the result of job analysis it is found by a redistribution of jobs that fewer people can turn out the same amount of work which had been distributed among

a larger number of people, reduction can be carried into effect. Again, as a result of lesser traffic offering on the railways and a reduction in the activities of various workshops and so on, retrenchments are being made.

Mr. N. V. Gadgil : Has that not resulted in reducing the low paid staff ?

The Honourable Sir Muhammad Zafrullah Khan : It results in reducing whatever category of staff is retrenched owing to the reduction in the activities of the department.

Prof. N. G. Ranga : Is it not a fact that since 1929, as many as 160 thousand low paid staff have been retrenched ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say whether the figure mentioned by the Honourable Member is correct.

Prof. N. G. Ranga : Arising from the answer given by the Honourable Member to parts (b) and (c) of this question, are we to understand that the Railway Department are considering the question of raising any further railway fares and freights.

The Honourable Sir Muhammad Zafrullah Khan : The whole question is under consideration, as I have said in reply to the question.

STATE CONTROL OF THE BENGAL AND NORTH WESTERN RAILWAY AND THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

38. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they have considered the Resolution of the House, recommending the taking over of the management of the Bengal and North Western Railway and the Madras and Southern Mahratta Railway ;

(b) what steps have been taken in pursuance of the Resolution ; and

(c) if nothing has been done why not ?

The Honourable Sir Muhammad Zafrullah Khan : The question is still under the consideration of Government.

Mr. S. Satyamurti : May I know whether the Government will consider, from the point of view of saving of expenditure, this question of amalgamation, as one which will go a long way towards easing the difficult financial situation of the railways ?

The Honourable Sir Muhammad Zafrullah Khan : As I explained during the last Session, that is a possibility which the Government are considering at the present moment.

Mr. S. Satyamurti : When is the last date for giving notice to these railways ?

The Honourable Sir Muhammad Zafrullah Khan : 31st December, 1936.

Mr. S. Satyamurti : Have not Government taken the matter into consideration yet ?

The Honourable Sir Muhammad Zafrullah Khan : Government are actively considering this question.

Mr. M. Ananthasayanam Ayyangar : Are Government also considering the question of the amalgamation of the Madras and Southern Mahratta Railway with the South Indian Railway ?

The Honourable Sir Muhammad Zafrullah Khan : One difficulty in regard to the question of amalgamation in this case is that the contracts of the two companies are not co-terminous.

Mr. M. Ananthasayanam Ayyangar : May I know what then is under consideration ?

The Honourable Sir Muhammad Zafrullah Khan : A good many aspects of this question are under consideration. The question which the Honourable Member has propounded is also under consideration.

ENCOURAGEMENT TO THE COTTAGE AND SMALL INDUSTRIES.

39. ***Mr. S. Satyamurti :** Will the Honourable Member for Industries and Labour be pleased to state :

(a) whether Government have considered the Resolution of this House asking them to encourage cottage and small industries ;

(b) whether they have taken any steps, in pursuance of that Resolution, to take a general survey of the cottage industries throughout the country ;

(c) whether they will take immediate and effective steps in this direction ; and

(d) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b), (c) and (d). The position of the Government of India was explained to the House in the observations made by the Honourable the Industries and Labour Member and myself when the Resolution was being discussed. The Government of India have considered the matter further and have decided to forward a copy of the Resolution to the Local Governments as it deals with a matter lying peculiarly within the sphere of responsibility of Provincial Ministers.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know whether the Government of India will consider themselves taking, or advising Provincial Governments to take, a general survey of cottage industries throughout the country with a view to their development on sound and proper lines ?

The Honourable Sir Muhammad Zafrullah Khan : I do not think that a mere general survey of cottage industries throughout the country would serve any useful purpose.

Mr. S. Satyamurti : In view of the fact that the objects of Government and this side of the House are the same in regard to the development of cottage industries, may I know whether Government will do everything in their power to help them and develop them ?

The Honourable Sir Muhammad Zafrullah Khan : As I have said this matter was fully explained in the speeches of my Honourable

colleague in the Industries and Labour Department and myself when the Resolution was under discussion.

Mr. S. Satyamurti : May I know if Government will consider the withdrawal of the circular prohibiting Government servants from co-operating with Mahatma Gandhi's All-India Village Industries Association, with a view to get a push given to these cottage industries, with the help of the most powerful man in India ?

The Honourable Sir Muhammad Zafrullah Khan : Will the Honourable Member put down a specific question as to the particular circular he has in mind ?

Mr. S. Satyamurti : The Hallett Circular.

The Honourable Sir Muhammad Zafrullah Khan : That circular gave no such prohibition.

Mr. S. Satyamurti : May I know whether that circular does not prohibit the co-operation of district officials and other Government officials with the Village Industries Association in the work of promoting the cottage and village industries ?

The Honourable Sir Henry Craik : The circular contained no final instructions on that subject and the subsequent circular which the Honourable Member did not succeed in securing did not contain any such prohibition.

Mr. S. Satyamurti : Is it the position now that district officials are free to co-operate in the matter ?

The Honourable Sir Henry Craik : The position is that if any requests are made for co-operation, and none has as yet been made to my knowledge, the district officer would refer the question to his Local Government.

Mr. S. Satyamurti : Will the Honourable Member place a copy of the circular on the table ?

The Honourable Sir Henry Craik : He will not.

Mr. T. S. Avinashilingam Chettiar : May I know whether this question of encouraging cottage industries will be considered in the recent negotiations with Japan and India ?

The Honourable Sir Muhammad Zafrullah Khan : The question of cottage industries will not be overlooked.

Prof. N. G. Ranga : Has any additional assistance been given to the handloom weaving industry since the date when the Resolution was passed ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of any additional assistance. I presume the Honourable Member's question refers to the Government of India.

Prof. N. G. Ranga : Is it not a fact that several representations from various parts of India have been made by the handloom weavers, both to the Government of India as well as to the Provincial Governments for additional assistance ?

The Honourable Sir Muhammad Zafrullah Khan : So far as the Provincial Governments are concerned, obviously I cannot say. So far

as the Government of India are concerned, I should require notice of the question.

UNIVERSITY TRAINING CORPS.

40. ***Mr. S. Satyamurti** : Will the Army Secretary be pleased to state :

- (a) what is the sanctioned strength of the University Training Corps of all the Universities in India ;
- (b) the actual strength of the University Training Corps on the latest date for which figures are available ;
- (c) the number of applications received from Universities for increase of the University Training Corps in strength and number of facilities ;
- (d) whether any such applications have been received from the Madras University, directly or through the Inter-University Board for the increase in strength and number of the University Training Corps, or for facilities ;
- (e) what the decision of Government on that request is ; and
- (f) what is the attitude of Government towards such requests now ?

Mr. G. R. F. Tottenham : (a) and (b). The Honourable Member's attention is invited to page 34 of the "Return showing the actual strength of the Army and Royal Air Force in India on 1st April 1936". A copy of this book is in the Library of the House.

(c) and (d). Government have not received any applications recently from individual Universities, but not long ago the Inter-University Board recommended the formation of University Training Corps units at universities where they do not exist at present.

(e) and (f). Government have the whole question under examination. Subject to the limitations necessarily imposed by financial considerations, they are not opposed to the extension of University Training Corps where they can be satisfied that full advantage will be taken of the facilities provided, but they consider that the first step must be to improve the training in the existing units.

Mr. S. Satyamurti : May I know whether any attempts are being made by the Government to improve the training in the existing University Corps ?

Mr. G. R. F. Tottenham : We have made several efforts. We have introduced a new syllabus of training for the University Training Corps. We have endeavoured to make it more interesting and instructive. Army Headquarters have also issued special instructions to all Commands asking them to take special interest in the matter and to afford all the assistance and encouragement they can.

Mr. S. Satyamurti : May I know what are the relevant financial considerations ? I am asking whether there is any maximum figure prescribed by the Army authorities for expenditure on this item or whether they will consider all requests, subject to the conditions laid down by the Army authorities, for expansion ?

Mr. G. R. F. Tottenham : There is no maximum limit imposed. It is a matter of what can be afforded from year to year. As the Honourable Member is aware, the expenditure on these University Training Corps is not met from the Defence budget in the ordinary way. It is met from a special civil grant for the purpose.

Mr. S. Satyamurti : Will the Army authorities approach Government for an increase in this grant, if they are satisfied that there is a genuine demand, as I know there is in Madras ?

The Honourable Sir James Grigg : The grant has been under-spent every year of its existence.

Sardar Mangal Singh : Is it not a fact that several applications from colleges have been refused for constituting these Training Corps ?

Mr. G. R. F. Tottenham : I have already answered that question.

Prof. N. G. Ranga : Is it not a fact that the Andhra University made a representation a good many months ago ? May I know at what stage the matter stands, and what action has been taken ?

Mr. G. R. F. Tottenham : We have received no application from the Andhra University within the last year that I am aware of.

Prof. N. G. Ranga : The Honourable Member stated on the floor of the House last Session that they have received such an application and it was under the consideration of the Government of India. I would like the Honourable Member to further enlighten the House at what stage that application stands in the pigeon holes and what decision has been arrived at ?

Mr. G. R. F. Tottenham : We are not examining new applications from individual Universities at the present moment. As I tried to explain, we are trying to improve the system of training in the existing corps before we consider the question of starting new corps in places where they do not exist at the present moment.

Mr. T. S. Avinashilingam Chettiar : Is it not true that last year the same Honourable Member replied that the reason why the University Training Corps was not extended was want of "finance" ?

Mr. G. R. F. Tottenham : I cannot remember ; I should require notice.

Mr. S. Satyamurti : Is the Honourable Member aware of the fact that the grant has been under-spent year after year, and if so, can he say why ?

Mr. G. R. F. Tottenham : I know that until quite recently the grant was under-spent, mainly owing to the fact that a large part of the Corps was under-strength.

Mr. S. Satyamurti : May I know whether it is a fact that certain requests were turned down on account of the want of finance and at the same time the grant remained under-spent ? May I have some explanation of the discrepancy ?

Mr. G. R. F. Tottenham : We have not dealt with individual applications from that point of view. The general position has been that the grant has been under-spent because many of these Corps were under-strength and therefore the full amount of the money provided was

not actually required, but we have not on that account dealt with individual applications from other Universities.

Mr. S. Satyamurti : Why should not the Government of India deal with these applications ? Who deals with them ?

Mr. G. R. F. Tottenham : They are dealt with by the Government of India in the Defence Department.

Mr. S. Satyamurti : I want to know who is the authority which deals with these individual applications.

Mr. G. R. F. Tottenham : They are dealt with by the Government of India in the Defence Department.

Mr. S. Satyamurti : That is my Honourable friend ?

Mr. G. R. F. Tottenham : Yes.

Mr. S. Satyamurti : Has my Honourable friend turned down any request from individual applicants for the creation of a fresh corps or the extension of an existing corps, and, if so, on the ground of finance ?

Mr. G. R. F. Tottenham : We have turned down any extension during the last few years partly on the ground that there was a very difficult financial position in existence, and also because a large part of the corps was under-strength and, therefore, if we proposed to provide more money, we thought it would be wasted. The two factors were combined in our decision.

Mr. S. Satyamurti : All applications were turned down on both these grounds, that is, want of finance and the fear that the money would be wasted, or only on the ground of finance ?

Mr. G. R. F. Tottenham : They were turned down on both the grounds. We are now hoping that the University Training Corps will be making a greater success of it and in that case we shall consider the matter on its merits in future.

Mr. S. Satyamurti : With finance at your disposal, did you turn down a request on the ground of want of finance in a single case ? Or it was not on the ground that the money would be wasted ?

Mr. G. R. F. Tottenham : That was the main ground.

Mr. M. Ananthasayanam Ayyangar : What facilities or what opportunities are afforded to persons, after training is over, for practice ?

Mr. G. R. F. Tottenham : The Honourable Member is aware that he has got a separate question on the paper on that subject and it will come on in the course of the next month or so.

Captain Sardar Sher Muhammad Khan : Does my Honourable friend know that in connection with the competitive examination candidates have complained that their scientific training clashes with the military training and that it is not any lack of desire on the part of the army authorities to facilitate the training of the students but that it is the educational authorities who do not like them to go in for military training as that clashes with the scientific training of students ?

Mr. G. R. F. Tottenham : That has been mentioned by the Public Service Commission in their report, but I do not think it quite arises

out of this question. What the Honourable Member has said is, however, more or less correct.

Mr. S. Satyamurti : Is the Honourable Member aware that many universities, for example, Calcutta and Madras, are giving all reasonable facilities for boys in the matter of the University Training Corps, in the matter of getting special marks or getting exemptions in other ways ?

Mr. G. R. F. Tottenham : I am aware of that, but the fact remains that certain individual candidates have complained that they were unable to take science subjects in their universities and to join the University Training Corps at the same time.

Mr. S. Satyamurti : Are the Government of India aware that the Calcutta University have introduced military science as a subject of study in the University, and that the Madras University, as I know to be the case, gives every facility to students who want to join the University Training Corps ?

Mr. G. R. F. Tottenham : Yes. I was referring to other kinds of science. I am quite aware that the Calcutta University have started this new course of military science and the military authorities in Calcutta are working in close collaboration with the University on that subject.

Mr. S. Satyamurti : Will Government consider these requests more favourably in the future, now that finance is available, and there is a genuine desire on the part of students to join the University Training Corps ?

Mr. G. R. F. Tottenham : I have already stated the policy in reply to a question. I said that Government, subject to the limitations necessarily imposed by financial considerations, are not opposed to the extension of the University Training Corps.

Mr. S. Satyamurti : There is money enough.....

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

POSITION OF INDIANS IN IRAQ.

41. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the latest position with regard to Indians in Iraq ; and

(b) whether they are being treated on the same basis as other British subjects in Iraq ?

Sir Aubrey Metcalfe : (a) The position remains as described in my reply to Mr. Satyamurti's short notice question No. 1798 answered on the 23rd March, 1936. No action has as yet been taken by the Iraq Government under the Law for the restrictions of trades to Iraqis, which, as I previously explained, does not become operative until Regulations are issued under Article II ;

(b) Yes.

RESERVATION OF THE KENYA HIGHLANDS FOR EUROPEANS AND POSITION OF INDIANS IN FOREIGN COUNTRIES.

42. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the latest position with regard to the reservation of Highlands in Kenya for Europeans ; and

(b) whether they propose, from time to time, to issue communiqués explaining the position of Indians in Kenya and other countries outside India ?

Sir Girja Shankar Bajpai : (a) The attention of the Honourable Member is invited to the statement of the Secretary of State for the Colonies reported in the proceedings of the House of Commons for the 9th July—a copy of which will be found in the Library of the House.

(b) The Honourable Member's suggestion is in accordance with Government's existing practice.

Mr. S. Satyamurti : May I know how much, as a matter of fact, of these Highlands has been reserved for Europeans already ?

Sir Girja Shankar Bajpai : Well, Sir, so far the Order in Council has not issued.

Mr. S. Satyamurti : I am asking whether, as a matter of fact, apart from the statutory recognition of this right of reservation, how much of these Highlands has been reserved for Europeans.

Sir Girja Shankar Bajpai : I was speaking from memory but I think I stated in reply to my Honourable friend's adjournment motion of last year that actually 12,000 square miles had been alienated for European settlers.

Mr. S. Satyamurti : Has there been any increase since then ? If so, how much ?

Sir Girja Shankar Bajpai : As far as I know, the Carter Commission recommended that the total area to be covered by the Order in Council should be 16,000 square miles, but how much the Secretary of State is going actually to include I cannot say.

Mr. S. Satyamurti : Do Indians get any chance in the Highlands at all ?

Sir Girja Shankar Bajpai : As the Honourable Member is probably aware already, the administrative practice is that Indians are not allowed to take up land.

Mr. S. Satyamurti : Will the Government of India take up this matter with His Majesty's Government, and see that they ought not to have this administrative discrimination against His Majesty's Indian subjects, as we are proudly called on Coronation occasions ?

Sir Girja Shankar Bajpai : In 1923, when this controversy was acute, the Government of India made their position absolutely clear. Practically I think he would agree that the present would have been hardly the occasion not merely for asking that what are administrative restrictions should not become statutory restrictions but also for asking that the existing administrative restrictions should disappear.

Mr. S. Satyamurti : Why not ask for more ? Now that the Government of India are at one with us on the question of not having a statutory recognition, why not ask for more ?

Sir Girja Shankar Bajpai : I have already stated that the Government of India propose to re-open this matter when a suitable opportunity occurs.

BILL AFFECTING INDIANS PASSED IN IRAQ.

43. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :
- (a) whether any Bill affecting Indians has been recently passed in Iraq ;
 - (b) what is the result of the Bill over the Indian residents in Iraq ; and
 - (c) the latest situation in the matter ?

Sir Aubrey Metcalfe : The attention of the Honourable Member is invited to the reply given by me to Mr. Satyamurti's question No. 41.

Mr. M. Ananthasayanam Ayyangar : Have any representations been made since the passing of the Act regarding the restriction of the rights of Indians there ?

Sir Aubrey Metcalfe : All representations were made before : nothing has happened since the Assembly was last in session.

Mr. M. Ananthasayanam Ayyangar : Does the Honourable Member remember that during the last Assembly Session he made a statement here that in connection with any statutory measure that should be passed by the Iraq Government a representation would be made after considering whether the Bill affects Indians or not ?

Sir Aubrey Metcalfe : All possible representations have already been made ; we cannot make more representations until something more happens.

ACTION TAKEN ON THE RESOLUTION *re* OTTAWA TRADE AGREEMENT.

44. ***Mr. T. S. Avinashilingam Chettiar** : No. 44† :

I want to put this question as regards clause (d) only.

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that in answer to questions by Mr. Satyamurti, Nos. 34 and 35.

Mr. T. S. Avinashilingam Chettiar : May I know if it is the case that there are no negotiations going on with any country except Japan and England now ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, that is the position.

LOSS OF INDIAN LIVES OR PROPERTIES IN THE ITALO-ABYSSINIAN WAR.

45. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :
- (a) whether any Indian lives or properties were damaged or lost in the recent Italo-Abyssinian war ;
 - (b) if so, to what extent ; and

†**Mr. T. S. Avinashilingam Chettiar** : Will Government state :

- (a) what action they have taken over the Resolution on the Ottawa Pact passed in the Assembly last Session ;
- (b) whether notice of termination has been given to Great Britain ;
- (c) whether negotiations for bilateral agreements with other countries have been started with any foreign countries ; and
- (d) if so, with what countries and with what results ?

- (c) in case where Indian life or property has been lost, whether any compensation was asked or secured ?

Sir Aubrey Metcalfe : I have here a statement, Sir, giving the facts in some detail which I propose to lay on the table ; if you wish me to read it out, it will take a few minutes, but I shall, of course, be very glad to do so.

Mr. President (The Honourable Sir Abdur Rahim) : Yes.

Sir Aubrey Metcalfe : As far as is known there was no loss of life among the British Indian community in Abyssinia since the commencement of hostilities in October, 1935.

As regards loss of property during the war the bombing of Jijiga by Italian aircraft on the 23rd and 24th March, 1936, is reported to have resulted in damage, amounting approximately to 150,000 Maria Theresa Dollars, to the property of British merchants. (The Maria Theresa dollar was worth about 2 shillings before the war and depreciated to M. T. \$13.50 = £1 in August, 1935. Its present value is not known.) Again during the bombing of Harar on the 29th March it does not appear that any damage was done to the property of British Indian merchants.

So far as the period between the disappearance of Ethiopian control in Addis Ababa and the arrival there of the Italian forces is concerned, serious rioting and looting broke out in the town, and the plan which had previously been prepared for the protection of British subjects and foreigners in Addis Ababa was put into operation. The majority of the British Indian community, numbering about 500 persons, were given shelter in the compound of the British Legation. Others, however, preferred to remain in their own premises and these put up a very stout resistance in defence of their property.

During this period of interregnum rioting and looting also broke out at Harar, where His Majesty's Acting Consul rendered valuable service in protecting the lives and property of British Indian subjects.

His Majesty's Chargé d'Affaires at Addis Ababa has reported that some 350 statements have now been filed at His Majesty's Legation by British subjects and protected persons in respect of losses suffered during the period of the rioting. The total amount is valued at approximately M. T. \$2,250,000 in Addis Ababa alone. Similar statements are being prepared under the direction of His Majesty's Acting Consul at Harar. The matter is under consideration by His Majesty's Government in the United Kingdom, but in view of the disappearance of the Abyssinian Government and of the fact that it would be difficult to prove Italian liability in respect of losses suffered prior to the Italian occupation of Addis Ababa, the prospects of securing any compensation are remote.

MOTIONS FOR ADJOURNMENT.

WITHDRAWAL OF THE GOVERNMENT OF INDIA FROM THE LEAGUE OF NATIONS.

Mr. President (The Honourable Sir Abdur Rahim) : Notice has been 12 Noon. given of an adjournment motion by Mr. Satyamurti to consider :

“ The failure of the Government of India to take steps to withdraw from the League of Nations, in view of the failure of the League in the Italo-Ethiopian War.”

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : As we are tabling a Resolution on this subject, I do not propose to ask the leave of the House to move this adjournment motion.

REFUSAL OF THE BRITISH DELEGATION IN ADDIS ABABA TO GIVE PROTECTION TO THE INDIANS THERE.

Mr. President (The Honourable Sir Abdur Rahim) : There is another motion of adjournment of which notice has been given by Mr. Avinashilingam Chettiar, the subject of which is "the refusal of the British delegation in Addis Ababa to give protection to the Indians there". Does the Honourable Member propose to move it ?

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, I do not propose to move it.

INTRODUCTION OF THE SYSTEM OF NOMINATION IN THE SELECTION OF CANDIDATES FOR THE INDIAN CIVIL SERVICE IN ENGLAND.

Mr. President (The Honourable Sir Abdur Rahim) : There is another motion of adjournment standing in the name of Mr. Chettiar, *viz.*, to consider "the Secretary of State's introduction of the system of nomination in the selection of candidates for the Indian Civil Service in England". That has already been discussed.

SIR OTTO NEIMEYER'S REPORT.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Satyamurti has given notice of another motion of adjournment which relates "to the failure of the Government of India to provide an opportunity for the Assembly to express its opinion on Sir Otto Neimeyer's Report, before the Parliament passed final orders thereon". Does the Honourable Member wish to move it ?

Mr. S. Satyamurti : Sir, it is a dead horse, and I do not propose to kick it.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Ayyangar has also given notice of a similar motion of adjournment.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I do not wish to move it.

SHIFTING OF THE PROVINCIAL HEADQUARTERS OF ORISSA FROM CUTTACK.

Mr. President (The Honourable Sir Abdur Rahim) : Pandit Nilakantha Das has given notice of an adjournment motion which relates to "the attempt made by Government to shift the Provincial Headquarters of Orissa from Cuttack". Does the Honourable Member wish to move it ?

Pandit Nilakantha Das (Orissa Division : Non-Muhammadan) : Sir, I do not wish to move it at present.

ABOLITION OF THE TARIFF BOARD.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Satyamurti has given notice of another motion of adjournment which relates to "the

abolition of the Tariff Board by the Government of India". Does the Honourable Member wish to move it ?

Mr. S. Satyamurti : Yes, Sir, I ask for leave to move that motion.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to move this adjournment motion ?

(No objection was taken.)

The motion will be taken up at 4 o'clock.

THE ARYA MARRIAGE VALIDATION BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : Sir, I present the Report of the Select Committee on the Bill to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the Bill further to amend the Indian Railways Act, 1890.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I addressed the House yesterday on this Bill which is called the ticketless travel Bill, and made myself very clear to the House that this Bill is too drastic and too unsuitable, and, therefore, it should be thrown out at this stage. In putting my reasons yesterday, I showed to the House how extraordinarily stringent and how risky this Bill is, and I would go to the extent of saying that if it is passed, how insulting it would be even to *bonâ fide* travellers. Yesterday, the last issue, that I took up, was with respect to the claim of the railways that by passing this stringent and extraordinary measure the economic position of the railways will improve and they will be able to increase their revenue. I submit that this is a wholly untenable position that the Railway Administration has taken. I do not think it is reasonable to expect that that would be a tenable position, and I hope the House will consider whether on that ground they should give sanction to this Bill.

Now, Sir, there are two classes of people who are the greatest sinners in respect of travelling without ticket. The first class are the mendicants, and the second class is the railway staff itself. Taking the first category of ticketless travellers first, I do not think the Railways would be justified in saying that these mendicants who travel without tickets will, on account of this stringent Bill under which they may be sent to jail, not travel by the railways. So long as India has got these mendicants—and it is very hard for that class to die—and unless and until they stop their avocations and religious ways, I do not think you can compel them not to travel by railways by measures such as this. Now, Sir, on this point my Honourable friend, the Railway Member, must be knowing and they

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must have the figures, because I find there are certain questions put on that subject that it is quite true that it is this mendicant class mostly that travels without ticket. They have not been able up to this time, by using the provisions of the Railway Act, to prevent them from travelling, and I think that these stringent provisions will also not help them much. Under the present Act, what they have been doing is this. They have actually been taking these people to the Magistrates, and many of them are not able to pay the money and they are allowed to go, but they are willing to go to the jail. If there is any doubt on that point, I will clear it by the authority which I think cannot be disputed. That authority is the Railway Magistrate giving the opinion. Yesterday, a point arose whether there were any Railway Magistrates. It is true that Railway Magistrates are appointed by the Local Government as any other Magistrates are appointed, but they are called Railway Magistrates, and the feeling in the public mind is that, because they are Railway Magistrates, therefore they are likely to favour the Railways. At any rate, these Railway Magistrates are on occasions taken to the railway station and they hold their Court there, in the station premises. Surely there is bound to be a feeling in the minds of the public that they will not get proper justice at the hands of these Railway Magistrates. Coming to the point of opinion of the Railway Magistrates, I would draw the attention of the House to page 1 of Part I of the Volume of Opinions. There you find, the First Class Railway Magistrate, Ajmer, says :

“ The persons who generally travel without tickets belong to the mendicant class, and, in these hard days of unemployment, they would welcome the short term imprisonment which would give them food with a little labour.”

Well, Sir, can there be any other authority better than this against this Bill ? Now and then the Honourable Member in charge of Railways says that he will postpone—even today he said—the convenience of third class passengers unless money is made available to him by the passing of this measure. Is it possible that any money will come from these ticketless travellers in sufficiently large amount, so that the railways will be able to improve the convenience of third class passengers ? (Interruption.) I have mentioned two classes of ticketless travellers. If there is a third set of ticketless travellers, let my Honourable friend mention that. Perhaps he has experience of them, being himself a ticketless traveller. Anyway, the point is, there are two sinners. I submit it is raising false hopes to believe that money will be raised on account of this stringent measure. I need not labour that point any further.

I will now refer to another opinion on page 20, the opinion given by the Passenger and Traffic Railway Association, Bombay. They say :

“ Scrutinizing the causes of ticketless travelling in India, we find that the economic situation and utter poverty of the country are bound to be the chief causes of inducement to many ticketless travellers, who out of sheer necessity have to move from one place to another, and being situated in such a poverty stricken condition have no other alternative but to travel without ticket. Whilst my Committee would not like to encourage such travelling, they would at the same time like to point out that this is unavoidable evil and it is bound to continue until the economic situation in the country improves.”

On this point there is another difficulty which would also go to lessen the income from the railways. If the railways introduce such stringent

punishment for ticketless travel, then every respectable man would think whether it is worth his while to travel by railway or whether he could not more conveniently travel by motor buses. Every respectable man will consider seriously before allowing himself to travel by railway with the possible chance of his being handcuffed at the discretion of the railway servants and being brought before the Railway Magistrate for trial. How can railway travel be popular ? I submit that if this measure is passed in its present form, the people would much rather take to motor travelling against which there is already a lot of complaint from the railways, because it affects their revenues. The railways might perhaps say that it is not possible to travel long distances in motor lorries and therefore the travelling public will perforce travel in railways for long distances. But it is not all long distances that pay the railways more. It is only the smaller distances that pay more and for these smaller distances you will be driving the passengers to motor service. It is therefore quite plain that the income for railways will not increase.

With regard to the point that the railway officials are the sinners in this respect, I submit it has been made clear that railway servants do travel without tickets. Not only that. The railway servants have a fellow feeling amongst their own folk. If a ticket examiner goes and finds that there are certain relatives of a railway official travelling without tickets, he passes them on and at the next checking station the other ticket examiner also passes them on and in this way these people reach their destination without tickets. This has been found out to be the practice. Why don't you check this evil practice ? Why don't you put more responsibility on your staff than to enact a measure like this against the travelling public ? This is a very unpopular measure. At any rate to a commercial concern like the railways, this measure will give a great blow. On this point, I will again refer to the list of opinions at page 33, the opinion of the Karachi Indian Merchants Association and they say :

“ It cannot be denied that to a large extent the railway employees are responsible for ticketless travelling and arrange in advance for the travelling of their relatives and friends without proper tickets or connive at such travelling. Then again there are *bonâ fide* cases where persons have to travel without tickets owing to want of time to obtain tickets or heavy rush at the ticket window.”

I, therefore, submit that the House should take into consideration all the points I have raised and decide whether it is not worthwhile to throw out this Bill at this stage.

Coming to the Statement of Objects and Reasons attached to the Bill, this is what is said :

“ Although railways have provided an elaborate and expensive organization for the check of tickets both at stations and in trains, the number of cases detected of passengers travelling without proper tickets has tended to increase.”

Now, is it the elaborate establishment that will give the relief ? It is only that staff which feels the responsibility and does the work properly and checks and detects properly that can stop the mischief. Then it is said :

“ Experience has shown that any expenditure incurred on additional checks by the appointment of more travelling ticket checkers results in an increase of revenue proportionate to the increase of expenditure.”

That may be true, but who says that there should be an increase of checkers ? If the present people do the work diligently and do not violate

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the rules, the present establishment would be sufficient. But the important fact is lost sight of that it is the railways themselves who are responsible for allowing these people to travel without tickets because their approaches to the station are not barricaded at all and they only put up a board at some distance, "Trespassers will be prosecuted". That board people do not even care to look at and they get in. If there is an easy way to go to the station, you do not go by a long zig-zag route. If you see the stations you will find that even the railings on the platforms are not complete. Some portions are open so that they can go to the yard and the lines. It is therefore necessary that these measures should be adopted rather than be in a haste to pass this Bill. You should wait for some time and if all these suggestions which are being made prove unavailing, then come in and ask for a measure. Specially when the Federation is coming in and a railway authority is going to be established, why not wait till then instead of teasing people and exposing them to all sorts of insults? It would not therefore be right to pass this drastic Bill.

Then, Sir, coming to the provisions, I should like to quote some of the opinions received. First I will not quote the opinions of non-official bodies, but of Government officials of high status and responsibility. The District and Sessions Judge of Delhi says on page 2, paragraph 2 :

"The proposed amendment in section 131 of the said Act is likely to lead to an abuse of powers by inferior railway officers."

This is what we have been arguing and putting before the House. He continues :

"It is a matter of daily occurrence that the illiterate passengers are harassed and women annoyed in particular by the railway staff."

This is the opinion of a responsible officer, and I do not think the officials or the Railway Board can deny this state of affairs. They know that what is said here is absolutely correct. He concludes :

"It would be unwise to arm them with more powers."

After an opinion like this there should not be any persistence in getting the Bill passed through this House.

The next opinion is also that of an official. At page 5, this is the opinion of the District Magistrate of Karachi :

"The object of the proposed amendment is to give powers to railway servants and other persons to arrest persons travelling without ticket and produce them before a magistrate for being dealt with according to law."

I have been saying since yesterday that the present law is sufficient to deal with this evil. He says also :

"As sufficient and necessary provisions exist in section 113 of the Act for recovery of dues and also in section 132, there is hardly any reason why this section should be amended as proposed as it is likely to cause harassment to the public."

On page 4, this is the opinion of the Bar Association of Karachi :

"The amendment of section 112 as proposed in the Bill is in some respects far too drastic and beyond the present requirements. The provisions with regard to presumption of guilt and the burden of proof put on persons found without a ticket, are likely to work very serious hardship in *bond fide* cases, such as that of a person having lost his ticket, etc. My Committee therefore do not approve of the provisions relating to presumption."

Then on page 19 you find the opinion of the Maharashtra Chamber of Commerce, Bombay. They say :

"The Committee of this Chamber have carefully considered the proposed amendment and its objects and I am to state that although they think that the evil of ticketless travel exists, they consider that the same is unduly exaggerated. The Committee do not therefore favour the drastic measures contemplated. They are opposed to giving the power of arrest to railway servants as proposed by the amendment of section 131 of the existing Act. Instead the Committee suggest that railways should exercise greater checks on the admission of passengers to railway platforms, and they believe that if this is done there will be considerable reduction in the number of those who enter trains without tickets. A careful watch from the offside of trains, while they are stopping at stations, will also be useful."

Then I come to section 131. Present section 131 provides for a person who has travelled without a ticket though he has not done so fraudulently or dishonestly, and they make it a cognisable offence. Now, they wish to add a proviso that if a person travelling without a ticket has obtained a certificate from a railway servant, then the provisions of this section will not apply to him. As regards these certificates, experience has shown that it is not possible to obtain these certificates from the guard who is in charge of the train at the moment, and that is so because at several stations the train stops only for a very short time : as soon as the train stops it whistles again to start and in two minutes it is off. How is the guard to be reached? Even for any other urgent business he is hard to reach. How then is he going to give a certificate? If he is asked two or three stations later, he will refuse to give it. How is that difficulty to be got over? Another point is that whenever guards give certificates they are snubbed for giving many.

Therefore, I submit that this provision will not in the least remove the difficulties of the people and will be too offensive.

Coming to section 132, it will be found that formerly if a man travelled without a ticket and made himself liable under section 113, an arrest could be made only when there was reason to believe that he would abscond or his name and address are unknown and he refuses on demand to give his name and address....

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : "or"—there is something more.

Mr. Lalchand Navalrai : Or there is reason to believe that the name and address given by him is incorrect. That is quite true. That means that if a man does like that he will not be found and will abscond. But now what are you doing? You are giving power under this section that he should be arrested. "If there are reasonable grounds for believing that except by his arrest he cannot be placed before a Magistrate without undue delay, trouble or expense". This is too wide. Is it not giving a blank cheque in the hands of the railway official? The official may say that the man could be brought up at once and prosecuted and punished then and there. He might also say that there may be trouble in securing the man afterwards and he should be punished there and then. Then as regards expense, supposing the man belongs to a particular place which may or may not be far off : the only means of bringing him to court will be by summons : he could then come and explain. I submit that this addition gives very wide powers to subordinate railway officials.

[Mr. Lalchand Navalrai.]

The Bill is, therefore, such that we should not countenance it and we should not be a party to it. I suggest there should be no haste. These arrangements and regulations should be made in such a way as to make railway subordinates really responsible. If after full inquiry the opinion of the people is found to be that there should be a more stringent amendment than the present Act, then it could easily be done. I also submit that the Local Governments under the new constitution will be different from the Local Governments now and their opinion will be the opinion of the people. On that ground also there should be no haste in the passing of this Bill. Even as regards these certificates, discretion has been given to the persons concerned to issue certificates or not. Sub-clause (2) of clause 2 says that a railway servant may grant a certificate to the passenger. We have been complaining that it is not possible to get the certificate even now. What is the good of putting in that proviso? On all these grounds, I would urge upon the House to throw out this Bill.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh : Muhammadan Rural) : Sir, there are two motions before this House,—one is for a Select Committee, and the other is an amendment by my Honourable friend, Dr. Ziauddin, that the Bill be circulated for the purpose of eliciting opinion thereon. Sir, I oppose the second motion, and I shall give my reasons. I find my Honourable friend, Dr. Ziauddin Ahmad, is not here—(Some Honourable Members : “ Oh, he is just behind you.”) When my friend made his motion yesterday, I think he was not in possession of the opinions that have already been collected by the Government of India on this Bill. If he were in possession of those opinions, I feel sure, he would not have made the motion he made yesterday for circulation of the Bill, because the Government have already obtained opinions for and against the measure, and no useful purpose would be served by circulating the Bill over again for getting opinions.

Then, my next point is this. This Bill was discussed in Delhi by the Members of the Central Advisory Committee on Railways. Generally the Members agreed, though various objections were raised. Some of those objections were partly explained, but as I said, the Members were generally in favour of the introduction of a Bill of this nature, and that is the reason why this Bill was introduced. The Members of the Central Advisory Committee are elected Members of this House. They have to look after the interests of the Railways on behalf of this House. All of them expressed their opinions, except the Congress Members, and such objections as were formulated personally by the latter were mostly removed. Then the Committee had the opportunity of discussing the various clauses of this Bill with the Agents of Railways who were asked to attend a particular meeting, and they were asked to explain the necessity for enacting this measure. After the Bill was thoroughly discussed in the Central Advisory Committee, the Railway Member introduced this Bill in this House. Therefore, I say that this Bill has not been thrust upon us without any previous intimation as was pointed out by some speakers. If there are any clauses which some Honourable Members think are somewhat stringent, they can certainly be discussed in the Select Committee, they can be amended so as to meet the general wishes. One of the Honourable Members, I think my friend Dr. Ziauddin

Ahmad, asked what was the necessity for this Bill? He said that he had travelled widely and he could not think of any other country where they had such a Bill as this. Then he compared Germany.....

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : On a point of personal explanation, Sir. What I said was that the system of checking tickets in Germany was more perfect than in India and that the avenues of tightening it were not considered by the Committee of which my friend was speaking.

Sir Abdul Halim Ghuznavi : I was coming to that point. I agree that the system of checking tickets is not right, it is not so perfect as it is in Germany. There nobody can enter the train without showing the ticket to the Conductor, no person without a ticket will be allowed to enter the corridor train without showing a ticket. There are no corridor trains in this country.....

Mr. N. M. Joshi (Nominated Non-Official) : There are a few.

Sir Abdul Halim Ghuznavi : In foreign countries, there is a Conductor to see that the man who gets into the train has a ticket with him. Then it was stated that a proper checking system was not introduced in this country. My friend forgets the fact that this question of ticketless travelling has been under the consideration of the Government for the last 15 years or more. And what did they do a few years ago to prevent ticketless travelling on the Indian Railways? They introduced in 1924 what is called the Crew system,—and we all know what the introduction of the crew system meant to the Railways. It meant purchasing a certain number of Punching Machines,—the Mohendra-Hayman Punch was a very heavy load on the Railways. Those machines are still in existence. After the introduction of the crew system, a large number of crew was travelling with the trains for checking tickets. That crew system did not succeed in stopping effectively ticketless travelling, and so it had to be abandoned, but still the punching machines remain, because we find in certain stations the crew coming round to check tickets and complaining that their hands are aching. Probably the fellow who introduced these machines had something to do with the Oriental Balm, because these punching machines are so heavy that a bottle of Oriental Balm also will have to be supplied to the crew to stop their handaches.

Then, Sir, another suggestion was made by my friend, Mr. Lalchand Navalrai, that railings could be put up all round the stations. How can you prevent ticketless travel by putting up railings round the stations? There are a number of openings on the stations alongside the roadways.

An Honourable Member : Then close them.

Sir Abdul Halim Ghuznavi : It was found in the Central Advisory Committee that it was not possible to do that. Besides that, the amount of money required to have railings round all stations in India will be considerable. This is India, and not England or Germany. Look at the number of small stations, roadside stations. Every half mile or a mile you have a station. (Some Honourable Members : “ Not at all.”) If not half a mile, I will prove it is a mile.

Pandit Nilakantha Das (Orissa Division : Non-Muhammadan) : It is only near Howrah, and nowhere else in India.

Sir Abdul Halim Ghuznavi : Two or three miles—there are hundreds of stations. (Some Interruptions.) If this goes on, I will bring the time tables and prove that you are shaking your heads for nothing. My Honourable friend, Mr. Sri Prakasa, says, you are doing so much for this ticketless travel, what about overcrowding of your compartments? You do not prosecute railways for overcrowding, whereas you prosecute the bus when it is overcrowded. Overcrowding in trains does not endanger human life. (Some Honourable Members : “Yes.”) Let me complete my sentence.

Pandit Nilakantha Das : Do you remember the Moplah trains?

Sir Abdul Halim Ghuznavi : That was 20 years ago, and I shall give you an instance of the Bengal Nagpur Railway, it is your Railway by which you travel. A bus can endanger human life in this sense that it may overturn if you overload it. As regards this overcrowding, the Railway Board circularised their railways to take a census of third class passengers and find out if there has been overcrowding, and I believe that they also said that when they discussed this particular question of overcrowding the members of the Railway Standing Finance Committee from the particular province should be invited to the meeting of the Advisory Committee, and I was invited by the Bengal Nagpur Railway last month to attend one of those meetings. This is the result. It shows that overcrowding is disappearing, and on the top of that, the East Indian Railway has started reservation of third class berths, which shows that overcrowding has almost disappeared.

Some Honourable Members : No.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Because there has been a theoretical provision!

Sir Abdul Halim Ghuznavi : You will find third class carriages marked there, reserved for third class passengers. This is the result on the Bengal Nagpur Railway. The census was taken on a particular date just to find what was the position, whether there was overcrowding at all, and if there was, why it was so. It was found that No. 10, Puri Passenger was overcrowded on three occasions. Naturally, my Honourable friend, Pandit Nilakantha Das, will appreciate why they took a census of the Puri Passenger. Puri is a holy place where a number of pilgrims go.

Pandit Nilakantha Das : In that line overcrowding is less and less now.

Sir Abdul Halim Ghuznavi : If that is admitted, I won't take the time of the House by reading out these statistics, and so on. We have been told that this very drastic measure will keep away those mendicants and *fakirs* who travel without tickets.... (An Honourable Member : “Who said that?”) One of the arguments was that if this drastic measure was passed they would not travel and the railways were not going to make any money, and what was the use of this Bill.

Mr. Lalchand Navalrai : At any rate, I did not say that.

Sir Abdul Halim Ghuznavi : I have not said that you said.

The Honourable Sir Muhammad Zafrullah Khan : There is no allegation that all untenable arguments are used only by the Honourable Member.

Mr. Lalchand Navalrai : I think the Honourable Member might allow me to say that he is looking at his own mirror.

The Honourable Sir Muhammad Zafrullah Khan : I was looking at the Honourable Member.

Sir Abdul Halim Ghuznavi : Sir, we are not concerned whether the railways will make more money or not. What we are concerned with is to prevent the ticketless travellers from travelling....

An Honourable Member : With what object?

Sir Abdul Halim Ghuznavi : Certainly, ultimately they will make money.

The Honourable Sir Muhammad Zafrullah Khan : Either make money or less overcrowding.

Sir Abdul Halim Ghuznavi : It is not only mendicants who travel without tickets, but there are many others, and very respectable people too.

An Honourable Member : Members of the railway staff.

Sir Abdul Halim Ghuznavi : Apart from members of the railway staff, there are others too. All that the Railway Member wants us to do is, let us go to the Select Committee and discuss the various clauses. If you agree there, well and good, if you do not, then the House can throw out the Bill. But why do you object to the Bill going to a Select Committee? Sir, I support the motion for a Select Committee.

Pandit Nilakantha Das : Sir, I did not like to make a speech, but wanted to ask a few questions. But now that points from the proceedings of the Central Advisory Council for Railways have been raised, I should like to enlighten the House that the Advisory Council was sitting in Delhi when this Bill had been introduced in this House, and that in the Advisory Council the general opinion was that it would not be proper to embarrass the House by discussing the Bill in the Advisory Council at one and the same time, and so the discussion in the Advisory Council was stopped. But there were some points only casually raised during the course of informal conversation about the relevant statistics to which I am coming.

The main object of the Bill seems to be, not money, for it is only .5 per cent. of the travellers that are given here as ticketless travellers, and I shall show you just now that most of this .5 per cent. have actually paid, and paid with penalty. So, there is no question of money. The object may be either to prevent ticketless travel altogether by making the administration of this business awfully terrific to the customer, or it may be to create a moral and ethical atmosphere in the country by altogether preventing all defrauding in this ancient sacred land of India. I do not know what it is, but if we go by statistics, the only figures given to us here are 23 to 29 lakhs or 25 lakhs a year on the average of passengers who travel without tickets. The same figures were also given in the Central Advisory Council. I then wanted to know as to how many,

[Pandit Nilakantha Das.]

out of these 25 lakhs, ultimately went off without payment, for it was said that this number, i.e., 25 lakhs, represented the total of all travellers who had boarded the train ticketless. From how many then was fare or fare with penalty realised afterwards, was the question. The Railway Board had no reply, for they did not care to know or enquire this important aspect of the question. Then the question was asked to the Agents, one by one. They were asked to give the number of passengers who actually defrauded, did not pay and gave the slip or ultimately went to jail. For in the ordinary course of things in a railway system, there must be a half per cent. or even one per cent. ticketless travellers as a matter of course.

The Honourable Sir Muhammad Zafrullah Khan : Why ?

Pandit Nilakantha Das : If somebody comes at the last moment and the train is steaming off, he will have to get in without
1 P.M. a ticket and he will be a ticketless traveller. He will get into the train, and then he will pay.

The Honourable Sir Muhammad Zafrullah Khan : If he pays up, there will be no prosecution.

Pandit Nilakantha Das : But that is not the point here. Out of these 25 lakhs who were ticketless travellers, out of this number, which is so alarming to you, you just tell me how many did not actually pay. That is the relevant point. I was saying, when I asked this question to the Agents, no Agent could make a reply. Only one Agent, the Agent of the Bengal and North Western Railway told me that 90 per cent. of his number, which was a lakh or two of this 25 lakhs, have paid. This Bengal and North Western Railway is not a Government line and we have always raised the question in this House over and over again that this line is more mismanaged than any other line in this country. So, I presume that in every other line more than 95 per cent. of these ticketless passengers did actually pay ; so 95 per cent. of these 25 lakhs of passengers actually pay. They do not defraud. Then, what does this 25 lakhs mean here ? That is what I want to know. You should tell us how many passengers are actually out to defraud the railway administration in this country. If that number be one lakh or two lakhs in this vast land of India, with its vast business, is any Bill at all called for.

New opinions have been collected on this Bill. Whatever opinions have been collected have been collected on this fallacious and misleading figure. This does not indicate anything. In any case there will be ticketless travellers. As a matter of fact there are many opinions on the subject and some of them have been read. They simply corroborate the common knowledge that the railway administration is more corrupt than any other commercial administration of the Government. It is a fact and there is no denying it. I shall give you one instance as regards goods traffic. The goods clerk in a particular station used to charge one rupee per bag of rice or a certain fixed quantity. I don't exactly remember. A new man came and he charged 8 annas for the same quantity. This was bribe. The officer was approached by some public men. He came to inquire. I am not giving the name. This is a particular instance which I know. Of course our people are also to blame in this giving of bribe.

But I maintain they are victims to a system. However, some merchants who were actually paying the bribes said " This man is very good. We used to pay one rupee but he charges only 8 annas. Why do you inquire into these things ? Then our business will not go on smoothly." That official did not know what to do. He said people are satisfied and say that otherwise their business will not go on smoothly. So, almost in every station this is going on. The more officers you will engage to check this ticketless travel, more bad money goes to the pockets of these officers in the way of illegal gratification. They take one rupee and relieve the passenger of, say, Rs. 5. Why don't you expurgate your own administration of these people just as the postal administration has done. There is no corruption there. You just take advice from them and find out what they are actually doing. You must tell the House what measures you are adopting actually to make your own administration clean.

The Honourable Sir Muhammad Zafrullah Khan : What does the Honourable Member suggest ?

Pandit Nilakantha Das : I cannot suggest unless we sit together across the table. We may devise measures in the Advisory Council.

The Honourable Sir Muhammad Zafrullah Khan : That is what I am wanting you to do—sitting across the table.

Pandit Nilakantha Das : By this Bill, you are making the administration terrific to the people. You are preventing people from travelling in the train and naturally they will take to road motor and it is only this year that in order to combat motor competition you are devising a very queer and interesting thing. You are going to purchase some light engines in countries other than India. What is the use ? If you take to means like this, you will simply make the administration terrific and you will drive passengers to road motors and you will then say again that, on account of this road-motor competition, you lose money. You have deficit budgets. You will not only purchase light engines abroad, but may then come to this House and ask this House to pass legislative measures to prevent people from travelling in road motors. They will be bound to travel in trains. If in this way you want to run the administration of this country, we do not know where we stand. I do not know whether this branch of the administration under one of our own people is going to be made more and more terrific at a juncture like this. It is being said that the country is being given autonomous government. I want you to tell me how many are defrauding you and what you are doing to expurgate your own administration of these nuisances which are more responsible than the passengers for this ticketless travelling. We know what these third class passengers are. You will simply terrify them and corruption will grow from bad to worse. As a matter of fact, I know one instance of this ticketless travelling. A marriage party was going from one station to another. Some private telegrams or telephones passed between the two station masters and about 30 people were allowed without ticket. At the destination station only three men were charged fare with penalty and the station masters pocketed Rs. 20 or Rs. 30 in the bargain and the whole party was let off. Do you know, how many like these three ticketless travellers have been there to give your 25 or 29 lakhs ? Why don't you look at this aspect of the question ? You want to make your own officials so many policemen, and you make

[Pandit Nilakantha Das.]

the offence cognisable and you throw the onus on the poor passenger to prove that he was not defrauding the Railways. This is not the way. Fraud, if there is any, is encouraged by your own officials. Where are the facts and statistics again to show that men are actually defrauding you and the fraud is unavoidable by a better control of your own employees? Therefore, I say, "withdraw the Bill altogether, devise other measures, and those measures should first be intended to make your own administration clean, just as during the last twenty-five years and particularly during the last five years your colleague in charge of the Postal Department has been able to make his Department almost clean".

Mr. R. F. Mudie (Government of India : Nominated Official) : The main argument, Sir, against this Bill is that it is too drastic, and that in some ways, which I am not clear about, it will harass innocent travellers. The Honourable Member for Railways made it perfectly clear that Government have no intention of harassing innocent persons.

Prof. N. G. Ranga : (Guntur *cum* Nellore : Non-Muhammadan Rural) : It is only an assurance.

The Honourable Sir Muhammad Zafrullah Khan : No, no.

Mr. R. F. Mudie : I do not think that our natural anxiety to protect innocent people should blind us to the actual facts of the present situation. The attention of the Honourable Members of this House was called to section 132 of the Railways Act. If that section is carefully read, it will be seen that there is no reason why anyone should buy a ticket at all, except possibly a platform ticket. (*Prof. N. G. Ranga* : "Oh, oh!") All he has to do is to give a false name and address, and practically nothing can happen to him at all. That provision is very widely known and very widely taken advantage of.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Does not the section lay down that if a railway officer or police officer thinks that a particular name and address is not correct, he may arrest that man and place him in custody?

Mr. R. F. Mudie : If a man gives his name as Nur Muhammad or Rahim Bux and says he comes from Cawnpore or Calcutta, it is quite impossible for the ticket collector to disbelieve him. If he does and his name is really Rahim Bux, he lays himself open to a suit for malicious prosecution or wrongful arrest. It is quite impossible to do so : and the proof that it is impossible is that in the year 1934, the last year for which I have got full statistics, 30,000 people gave false names and addresses.

Pandit Lakshmi Kanta Maitra : All over India?

Mr. R. F. Mudie : Yes.

Mr. M. Asaf Ali (Delhi : General) : How was it discovered?

Mr. R. F. Mudie : Because they were not found at these addresses when looked for.

An Honourable Member : Were effective steps taken to track them?

Mr. President (The Honourable Sir Abdur Rahim) : Let the Honourable Member go on.

Mr. R. F. Mudie : The question of wrong names and addresses is not really a financial one, it is a moral one. Any Act which deliberately puts a premium on cheating must be a bad one. As long as such an Act is in force, it is useless to take the advice which one Honourable Member gave yesterday and, instead of passing this Bill, to plaster our railway carriages with pious mottoes. It is no use to put up notices on carriages "Honesty is the best policy", when clearly the best policy is to give a wrong name and address. I should like Honourable Members to just bear that figure of 30,000 persons who gave false names and addresses in mind.

Pandit Lakshmi Kanta Maitra : On a point of information. Will the Honourable Member kindly say.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can put his question after Lunch. The House is adjourned till half past two.

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

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

Mr. R. F. Mudie : Just before we adjourned, I was asked the number of passengers who travel by train each year. I believe the number is about 400,000,000. I give that as a present to my Honourable friend, and he may also accept, by way of commission, the 30,000 who gave false names and addresses.

Pandit Lakshmi Kanta Maitra : To what period does this figure relate?

Mr. R. F. Mudie : It is the general average. I have not looked up the figures. Then, we are told that, when it suits our book, we say that the Railway Department is a business department and at other times we bring forward legislation which is contrary to that principle. I do not think that this legislation at least is contrary to that principle. How would business flourish in a country in which you could go into a shop and pick up an article that you wanted and walk out with it? If the shop keeper were greedy enough to ask the price, you simply turn to him and say : "My name is Jones, and I live in London. If you want the price, just apply to the nearest Magistrate, and he will get the price from me and also fine me if he can." That is the law as regards railways at present. If a man gets into a train, you cannot turn him out of the carriage; he is bound to continue the journey and you are bound to let him travel whether he pays or not. He can turn round to you and say : "Collect it from the Magistrate." We are trying to end that state of affairs, and we are not proceeding on unbusinesslike lines.

Then, Sir, as regards those who travel without tickets. We have been told that they are mostly beggars and that, after all, it is everyone's business to be charitable and every business contributes to charity and as these poor beggars live on charity, why should they not travel on railway charity? That is one argument. Another argument is that most ticketless travellers are railway employees and the cure for that was to put fences round railway station presumably to keep the railway employees

[Mr. R. F. Mudie.]

out of the station ! But the bulk of those who are detected by travelling ticket collectors are neither mendicants nor railway servants. Last year, excluding beggars, 17½ lakhs people were detected, of whom 17 lakhs paid on demand fare and excess. These 17 lakhs of people certainly had the money on them. Possibly a considerable number of them were unable to obtain tickets. I do not deny it. But you must also admit that a great number of these 17 lakhs had gambled and lost. They took a chance and, when they were caught, they paid the fare and excess. Then, Sir, there were 75,000 who did not do that. Of these, as I have said, 30,000 gave false names and addresses and they were not mendicants. 30,000 were made to pay the fare and excess by the Magistrate. That is to say, they had the money but would not pay except under compulsion. 15,000 were fined. I do not see that in our Bill there is any fear for the *bona fide* traveller. The whole object of the Bill is to ensure that a man who neither takes a ticket nor pays his fare to the travelling ticket inspector shall not travel by the railway. If that is an absurd proposition, then certainly there is an end to business principles. We were told yesterday by two Honourable Members—one of whom disclaimed any knowledge of civilized countries—that in no civilized country was there such a Bill. Well, in South Africa, in Kenya, in Ceylon, in the Malaya States and in Siam, in all these countries.....

Mr. M. Asaf Ali : Any European country.

Mr. R. F. Mudie :—South Africa is a *quasi*-European country—unless you buy your ticket or unless you pay your fare, you are liable to conviction by a Magistrate. In the United Kingdom you are liable to be removed from the railway carriage. If Honourable Members will look at our Bill, that is what we propose to do in sub-section (3) of section 112. That is not the present law. The present law, as we are advised, is that you cannot remove a person from a railway carriage who has not paid his fare and who refuses to do so. That is the present law in India. That, Sir, is the basis of our Bill. That is all I have to say about the Bill, but Sir, there was one accusation made yesterday which had nothing to do with the Bill, but about which I want to say something. It was an accusation against a Magistrate whom I happen to know. There were two accusations which were brought against him. One was that he resigned his post of Honorary Magistrate because his free pass was cancelled. I have it on very good authority that that was not the case. His magistracy was resigned owing to a disagreement with the District Magistrate and not with the railway. The other accusation was about dishonouring of women. On that point, too, I believe, the Honourable Member was misinformed. I happen to know the Magistrate, and so I do not believe it.

Pandit Lakshmi Kanta Maitra : Mr. Deputy President, the motion before the House is the reference to a Select Committee of the proposed amendment of the Indian Railways Act. The purpose which this Bill is designed to serve is to tackle the problem of ticketless travel. We are given to understand that this problem is assuming formidable proportions of late. Fortunately, just now we had a speech from the Treasury Bench from my Honourable friend, Mr. Mudie, who was pleased to give some figures. The figures, however, indicate that the problem is not assuming

so serious a proportion as the Honourable the Railway Member would have us believe. At the time of moving his amendment, Dr. Ziauddin Ahmad, whom I do not find just now in his seat, told us that the total percentage of ticketless travellers in this country averages about .5 per cent., that is to say, less than ½ per cent. But from the figures which have just now been given by my Honourable friend, Mr. Mudie, I am inclined to believe that it is not even a decent fraction of an integral number. After all he has just now told us that 400 million people travel in railways in the course of a year on an average. Out of these 400 millions, less than 18 lakhs—17½ lakhs to be precise—have paid fares and excess. Then there are 30,000 people, who are vagrants and beggars from whom nothing could be realised.

Mr. R. F. Mudie : Beggars and vagrants are excluded from the figures given.

Pandit Lakshmi Kanta Maitra : All right. Fifteen thousand were made to pay fines. I ask the House seriously to consider where is the case for the Honourable the Railway Member to say that ticketless travel has grown to formidable proportions or rather has assumed proportions which require drastic remedies such as he has proposed by this amendment of the Railway Act. There have already been several speeches on this side of the House and Honourable Members have described the various aspects of this proposed amendment. I heard only one speech from an elected Indian Member—I think it was Sir Abdul Halim Ghuznavi, whom I do not find here now in his seat—who seems to support this measure. Barring him, up till now, we have not come across a single Indian elected Member who had a kind word to say about this Bill. Be that as it may, we must first of all view this Bill from the point of view of principle, for at the very outset I must tell the Honourable Member for Railways that so far as we are concerned, we never encourage ticketless travel. We are quite at one with him when he is out to check this mal-practice or corrupt practice, but our only difference with him is as to the method of approach and the means which he suggests and the remedies he proposes. This Bill, by the proposed amendment of section 112 of the Railway Act, in the first place, seeks to introduce a very dangerous principle and I believe any lawyer Member in this House who has read this provision will recoil with horror at the proposal that the onus in a criminal case should lie not on the prosecutor but on the man who is held up for trial. Sir, the corner stone of British criminal jurisprudence in this country is, as everyone knows, the presumption of innocence of the accused until the actual guilt is brought home to him and it is on this salutary principle that criminal administration of justice in British India has gone on for nearly a century. It is a tragic irony of fate that it after all fell to the lot of an Indian lawyer Member who is now a new recruit to the executive Government for the first time to introduce this principle which is revolting to all lawyers and to all notions of criminal jurisprudence in this land. That is really a misfortune. There had been his predecessors and so far as I know they had not been lawyers, but it never struck them to introduce a piece of legislation embodying such a vicious principle. After all may I ask the Honourable Member for Railways why should he claim for his railway company a special privilege which is not enjoyed by any other prosecutor in this land ? Sir, it will not do to forget that the transaction with the railway is purely on a contractual basis. It is a

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contractual obligation between a class of persons and a system of carriers. I can understand that in all such transactions resting on a contractual basis, civil liability can accrue, but why should he foist on us in this Bill a criminal liability unless and until the guilt or intent to defraud is established? The prosecutor will be at perfect liberty to come forward and say, here is a man coming forward with dishonest motives, that he is trying to use these public carriers with intent to defraud, without paying the legal fare and as such he makes himself liable to penalties. He cannot assume that the person is guilty. It is not to be presumed that he is a dishonest fraudulent man unless his wicked intent is proved in accordance with law. It is for the prosecution to prove the dishonest intention and fraud. Is it not very difficult for a man to prove the negative? I believe it is much more difficult for a man to prove that he is not dishonest or fraudulent than for one to prove that he is so. For instance, there is a respectable gentleman, he has no intention to defraud the railway, he comes up to the station at the last moment. I am not referring to those high paid officials who go about in saloons and who have every comfort at their disposal, the saloons being brought to the platform long before the time of the departure of the train. I am referring to the ordinary travellers. You will find often that a respectable gentleman, he is not a dishonest man to all intents and purposes, comes to the station at the nick of time just a few minutes before the scheduled time for the departure of the train, it may be he goes to the booking clerk and gives a ten rupee note for purchasing a ticket costing 12 annas. The booking clerk says he has no change. The poor man cannot afford to miss the train. He has to go immediately on business. If that man is detected on his way without having a ticket, he will say, "I came at the nick of time, I could not buy the ticket, because the booking clerk had no change for a ten rupee note". Then, the railway officials will say: "look here, here is a man decently dressed, he wants to defraud the railway company by giving lame excuse." Thus there will be a great howl created. If that man is hauled up in a Court, he will be presumed to be guilty. How can he prove that he is an honest man, that he had no intention to defraud the railways? To shift the onus of proof in such a case from the prosecution to the accused will be tantamount to a denial of his defence. How can any right thinking man accept that position? It is preposterous.

Supposing I am coming to Kalka or to some other distant place, can I expect a fellow passenger always to be with me to give evidence that I boarded the train at a particular station, that I had told him the facts, that I had no intention to defraud the railway, that I had such and such difficulties which stood in the way of my purchasing a ticket? This is ridiculous and absurd. The Burma Government characterises it as indefensibly drastic. I think that is a correct characterisation of this provision, and the Honourable Member cannot expect any Member on this side of the House to support a Bill which is based on such an obnoxious principle and which is subversive of all established principles of criminal jurisprudence as it obtains in this country.

In this connection, I will tell another thing. I think Dr. Ziauddin pointed out that in emergent circumstances we can of course think of shifting the burden of proof from the prosecution to the accused. But

where is that emergency here? I am not talking here of such measures in the provinces. If it had been Bengal and if the Honourable Member had brought forward a Bill like that in the Bengal Legislative Council of course he would have got some supporters, because in that province people are made to swallow any amount of nonsense under the bogey of terrorism, under cover of combating terrorism. There in Bengal we have got a law that whoever possesses anything, some poem or book which in the opinion of Government is seditious, then it must be presumed that he intended to possess it for the purpose of furthering terroristic activities until he proves the contrary, which is impossible. You bring some commodity from the market; something is tied with a newspaper and in the newspaper there is some eulogy of some terrorist or any other matter objectionable in the opinion of the Government. You unwittingly bring that and some people come in and say that you are possessing it for furthering terroristic activities, and you are quietly lodged in the jail by an obliging magistrate. So it is possible there; and everything has to be tolerated so long as the spectre of terrorism dangles before the vision of the authorities there. But here I have not yet got the full figures from the Honourable Member. He has not given province by province or railway by railway what is the percentage of ticketless travel in the different systems of railways. Only he has given some very vague data; sometimes 25,00,000, sometimes 29,00,000, sometimes 23,00,000. That is all the figures that he has given us about ticketless travel. And my Honourable friend, Pandit Nilakantha Das, very pertinently asked what out of this was the actual percentage of people who wanted really to defraud the railways. No answer was forthcoming. As a matter of fact we heard just now from my Honourable friend, Mr. Mudie, that very many people actually paid the fare and the excess. So I submit that this is a measure which we cannot support on this ground, anxious though we are equally with the Honourable the Railway Member to stop ticketless travel. It will not do for the Honourable Member to say that his railway administration is absolutely faultless. I say his administration lends itself to corruption and ticketless travelling. Some of my friends have given innumerable instances of incompetency and inefficiency on the part of the railway staff. I will give one concrete instance. In the amendment to section 68 you propose that a railway officer *may* grant a certificate to a passenger. In Bengal suddenly the railway administration abolished the system of issuing a guard's certificate to passengers.

Prof. N. G. Ranga : In other provinces also.

Pandit Lakshmi Kanta Maitra : I am coming to that. Abruptly a notification was issued by the Eastern Bengal Railway administration that on and from a certain date guards are not empowered to issue certificates to passengers who want to notify to them that for certain reasons they could not buy a ticket and they would be prepared to pay for it later on. This power of granting a certificate was withdrawn. I brought up the matter and had a discussion over it on the floor of this House and, Mr. Deputy President, you will kindly bear with me a few minutes while I place before you the answer which the Financial Commissioner of Railways gave to a question I asked in the Delhi Session of the Assembly in 1935,—starred question No. 1640. I asked :

"(a) Is the Honourable Member in charge of Railways and Commerce aware of a recent notification issued by the Eastern Bengal Railway.....discontinuing the issue of guard's certificates?"

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(b) Has a similar notification been issued on other railways ?

(c) Is the notification referred to in part (a) issued with the sanction or approval of the Railway Board ?

(d) If the answer to part (c) be in the affirmative, will Government be pleased to state the reasons for this measure ?

(e) If the answer to part (c) be in the negative, are Government prepared to consider the desirability of rescinding the same ?

Mr. P. R. Rau replied :

“(a) Yes. The notification withdraws from the railway staff the authority they previously had to grant permission to passengers to travel without a ticket, but authorises the guard to issue a certificate for the purpose of extending a ticket beyond the station for which it was originally issued and making a ticket already issued as available for travelling in a higher or lower class.

(b) Government are not aware of similar notification on other Railways, but they believe that the only other principal Railways which permitted a passenger to obtain a guard's certificate to travel without a ticket were the Burma, East Indian and Great Indian Peninsula Railways.

(c) No. The Railway Board's sanction was not necessary.

(d) and (e). The Agent, Eastern Bengal Railway, states that the system of guards issuing certificates to passengers travelling without tickets was stopped in 1932 on the southern (suburban) section as an experimental measure, and in 1933, over the rest of the suburban section, as it was found that it was facilitating fraudulent travelling and interfering with the normal duties of guards. As the experiment proved successful, the Agent decided that the system should be discontinued over the entire Eastern Bengal Railway system. Government do not consider that there is any justification for their intervention.”

Then I followed it up with a supplementary question. I asked :

“Does the Honourable Member realise that there are generally many *bona fide* cases where people have to travel without tickets, not from any dishonest motive, but because of the fact that often they do not get any change at the railway station, and that if the railway guard does not issue certificates, they are thus penalised for travelling without tickets ? Does the Honourable Member realise that in many cases people who are *bona fide* passengers cannot get change from the railway stations and it is thus only that they cannot at the last moment buy tickets, and that it is because the guards are being deprived nowadays of the power of issuing certificates that they have to travel without tickets ?”

Mr. P. R. Rau replied :

“I realise that there may be individual cases of inconvenience of that sort, but my Honourable friend must also realise that that system does lend itself to fraudulent practices and corruption.”

Here we find in the amendment that the guard may issue a certificate, and I am pointing out cases in the whole of the Eastern Bengal Railway administration where even if I were willing to pay the legitimate fare and to have a guard's certificate the guard will not give me the certificate. The result has been that there have been too many cases of penalising of honest passengers ; and I can tell you from my own personal experience that many highly placed Government officials also have been victims of that. Under the Government Servants' Conduct Rules they cannot approach me direct but I got reports from other people because outside they think we are big men. But when we put a question here, we are met with the reply : “That does not arise”, “The matter has been referred to the railway administration”, or “The Honourable Member may refer to me any specific case of hardship, and I will see what can be done”, and

so on. Later on, I pursued the matter further, and, at a meeting of the local Advisory Council, I was told that the old system has again been revived. That shows that so far as the Eastern Bengal Railway and other railways are concerned, even if the passengers went to the guard and asked him for a certificate they could not get them, though the circular said they could. Can it therefore be seriously contended that these people were really cheats ? I say if you give this power into the hands of these people, it will open the door to corruption and vice and all sorts of oppressive tactics. We cannot allow that. We cannot allow travelling ticket examiners and checkers and even railway porters and others to go on harassing and humiliating passengers in that way. We know how people, especially ignorant villagers and women who have frequently to travel by railway—we know what sort of treatment they get at the hands of the railway people, especially the third class passengers ; and if we put this additional weapon in the hands of the railway people, then God help them. I say it will not help the railways to increase their revenues. It will defeat its very purpose. It will scare away people who will take to other systems of transport. Travel by rail will be more and more unpopular and there will be consequent loss of revenue.

In addition, you make it a cognisable offence ; and an honourable

3 P.M. member gave an analogy of a man purchasing in a shop and not paying. I say that is something absolutely different.

After all we believe in the homely maxim that prevention is better than cure. You first exhaust all the remedies to stop ticketless travel, and then come to us and say “We have tried all means at our disposal. We have tried all remedies and we have failed : we are coming now for these extraordinary remedies”. My friend, Sir Halim Ghuznavi, was telling us that it is not possible to fence railways : that the railway stations were situated one or two miles or half a mile away from each other. But that is no justification. Give greater facilities for the issue of tickets. If my honourable friend will only go to any big railway station where third class tickets are sold, he will find that there are one or two counters for second and first class passengers—they issue tickets probably for half a dozen passengers : whereas two or three third class counters have to deal with about two thousand people : these booking clerks are human beings, they cannot cope with the rush and they have to make up their accounts : the people are in a sheer fright to buy tickets. Personally if we see a set of people thronged near a third class counter where tickets are sold, we will be simply scared away : it is a life and death struggle and only that man can succeed who has wonderful strength and endurance, because buying a ticket at one of these railway counters is really a question of trial of strength. So I say, give him greater facilities. See to it that these ticketless travellers cannot enter the railway precincts or railway carriages. Take all possible precautions and then see if this abuse is not reduced to a minimum. At present we cannot say that you are looking to that aspect of things. This morning in reply to a question about the amenities of third class passengers we were naively told that so far as that part of the resolution relating to courtesy was concerned, that has been forwarded : in other words, the whole railway administration has been advised to be a bit courteous to people who pay them for their services and who finance the railway system. This is all that the railway administration has been able to do after the passing of the cut motion. Year in and year out at the time of the railway budget we move these cut motions, of which this third

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class travel is one of the important subjects, and suddenly the railway authorities are roused from their sleep and make pompous promises and hold out pious hopes and then allow their feelings to go to sleep for another twelve months till the next budget comes round.

So, I submit that having regard to the obnoxious character of this Bill, the power which it gives to the railway employees to bodily remove persons if necessary from carriages and send them to jails, I am inclined to think that no elected Indian should willingly lend support to the Bill. It is not a question of sending it to Select Committee, because that will commit us to the principle of the Bill. This Bill is so drastic and obnoxious and punitive that we should throw it out even at this stage.

Sir, a good deal has been said about the integrity, probity and other-wise of the railway employees. I shall give the reason why I am so much against giving more power to the railway officials. Several cases have been narrated by Honourable Members of this House as to how passengers are being treated by railway servants. I will place this one case before Honourable Members : it is the judgment of a criminal Court where a highly respectable Indian gentleman was harassed and put on trial and was ultimately acquitted. From that you will be able to gather how the railway employees, beginning from top to bottom, are behaving with respectable people. I have got a copy of the judgment ; and if the Honourable the Railway Member wants it I shall be glad to give it to him. I shall read only portions from it. This was a case against one Mr. K. M. Pandit, son of Mr. K. C. Pandit, manager of the Bank of Bihar, Patna, who is also a member of the Calcutta Advisory Committee of the East Indian Railway. This Mr. K. M. Pandit is a young distinguished technologist, a highly educated man and a great grandson of the late Shambu Nath Pandit of hallowed memory, a late puisne judge of the Calcutta High Court : this gentleman was travelling on the 29th September, 1934, by the 10 Down Express from Dehri on Sone to Sone East Bank : he wanted to buy a second class ticket. The booking clerk told him that no second class ticket was available, not even blank tickets were to be found. So the gentleman boarded the train informing the guard and travelling ticket examiner and he went to Sone East Bank. There he paid the booking clerk two annas as non-booking excess charges. There he got intimation from a friend that he was to proceed straightaway to Patna. He went up to the railway booking office and wanted an inter-class week end ticket from Sone East Bank to Patna. He was told that no week end inter class ticket could be had—there was no stock of those tickets. Therefore, he had to buy a third class week end ticket. On arriving at Patna this gentleman had the hardihood, I may say, to write to the Divisional Superintendent that it was purely for lack of proper arrangements for selling tickets that he was forced to travel in a lower class and that the railway had to suffer some loss and that he had also to feel considerable inconvenience on the journey ; and he requested the railway authorities to see to it that better arrangements for sale of tickets are made and that no such inconvenience was caused to the travelling public in future. This brought all the trouble. A sort of perfunctory inquiry was held by the railway authorities and they at once informed him that as he could not buy a second class ticket it stood to reason that he travelled from Dehri on Sone to Sone East Bank without a ticket and that he must have travelled second class as he could not get a ticket when

he wanted it and therefore three annas was due from him. A good deal of correspondence passed between the parties and ultimately the matter came up to Court and this gentleman who was proceeding to England was hauled up to stand his trial before the railway magistrate in his Court at Sasaram. There was a protracted trial and there was an honourable acquittal of the accused. I will merely read a few sentences from the judgment of the learned Magistrate to show the conduct of the railway officials, the zeal with which they fought out the case for a paltry sum of three annas, and how a highly respectable youngman was humiliated, harassed, persecuted :

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

“ The complaint by Pandit of not getting a second class ticket at Dehree on the particular night and not getting an inter class week end return at Sone East Bank for the destination of Patna Junction and in not getting a receipt for the sum of two annas paid as non-booking excess charge at Sone East Bank and his consequent discomfort of being forced to travel in a lower class were practically given a go by and great fuss was made over the alleged non-payment of second class fare from Dehree to Sone East Bank.”

He has thoroughly disbelieved the witnesses, particularly one Balapat Rai, who was the travelling ticket checker who was travelling with this train and who was later on charged with the duty of helping in the prosecution. About this Mr. Balapat Rai, the learned Magistrate says :

“ This witness prevaricates to the specific question as to if he had any printed second class ticket for Sone East Bank at that hour.”

This class of witnesses we shall have to deal with when we are hauled up in Courts of justice, and the onus will be on us. The witness does not even say if he had a second class printed ticket at that hour. Then came the evidence of the guard, and about this gentleman, the learned Magistrate says :

“ Incidentally this guard should be told that he is not following Rule 32 (B) quoted on page 126 of April 1935 East Indian Railway Time Table (4 annas edition). As he says he does not give the passenger the certificate, but gives it to a railway servant. When a passenger gets into a train without a ticket for some reason and informs the guard, he is entitled to the certificate. The guard also explains that he does not accompany a passenger of this type at the next station for purchasing a ticket owing to insufficiency of time.”

It was complained that “ I was forced to travel without a ticket after informing the T. T. E. and Guard ”. It was this complaint that brought about the whole trouble on the head of the accused. It was the complaint that “ the interpretation that has been put on it by the railway administration and the C. S. I. that it means that the accused travelled in a second class compartment does not hold water ”.

It is a lengthy judgment and I do not wish to read it in detail, but later on the learned Magistrate remarks :

“ The Enquiry Report of Balapat Rai should not have been accepted by his superior officers. The complainant was not examined, and yet his report was accepted and acted upon. The responsibility is not of the Enquiring Officer but of the authorities that accepted it without looking into it scrutinisingly. Then started a series of correspondence, and yet in spite of the refusal of the Pandit to pay up, it did not strike the railway authorities that there should be a thorough inquiry in the matter. On presumption alone the accused has been prosecuted..... There is no doubt that the accused has been put to a considerable amount of expenses and harassment and vexation. Probably if the railway authorities had handled the matter more

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carefully and particularly had a more thorough inquiry made, the case would have been avoided."

This is how a highly respectable Indian citizen was treated by the railway authorities.....

The Honourable Sir Muhammad Zafrullah Khan : What is the date of that judgment ?

Pandit Lakshmi Kanta Maitra : It is dated 13th August, 1935. It was delivered by the 1st Class Magistrate of Sassaram, Mr. P. C. Roy Choudhury.

The Honourable Sir Muhammad Zafrullah Khan : What is the title of the case ?

Pandit Lakshmi Kanta Maitra : The title is—East Indian Railway *versus* K. M. Pandit under section 112 of the Railways Act.

I hope the Magistrate will not be sacked.

Now, Sir, this is how a respectable Indian passenger was treated by the East Indian Railway authorities. With such cases before us, how can you give power in the hands of people like ticket collectors, guards, inspectors and all sorts of people to prosecute passengers ? This youngman had to suffer so much harassment, persecution and loss all due to the vindictiveness of the railway officials. I may inform the House incidentally that this gentleman had also to cancel his passage to Great Britain. In the face of such cases, does the Honourable the Railway Member want to assure us that these provisions would be so manipulated and so put into operation that there will be no hardship ? Without meaning any disrespect to my Honourable friend, I may tell him that these assurances from high personages have no meaning and significance so far as we are concerned. The sacred promises and pledges of even the King Emperor are not honoured in this country. I know on one occasion when passing a punitive measure Lord Sinha gave an assurance that such and such law would be operated in such a manner as not to interfere with the legitimate activities of the people. We know how things have turned out. When the Bengal Criminal Law (Amendment) Act was passed, assurances were given in the Bengal Legislative Council that the law would be operated in such a way as not to interfere with the legitimate activities of the people, but we all know how things are going on today in Bengal. When the Criminal Law Amendment Act was passed as a temporary measure for 3 years, assurances were treated in actual practice. Therefore, Sir, it is no use trying to convince us by honeyed words.

Another point which was resented by my friend was when it was said that most of the passengers who travelled without tickets were either railway servants or Government servants. That might be overstating the case, but if the Honourable Member will take us into his confidence, which I know he never will, except uttering a few words of promises, we can tell him that people like us, who are more or less of a locomotive disposition, whenever board a second class compartment, in passenger or express trains, invariably find several people occupying the seats. In most cases they happen to be pass holders, and in some cases they buy tickets from Calcutta to Burdwan or some short distance, so that if they take an Express at Howrah at night, they can put down the safety clutch and quietly move

on to Moghal-Serai. When we people who pay full legitimate fares, ask them to make room for us, they generally turn a deaf ear, although they have not paid for their tickets. Of course, if the passenger who enters the compartment happens to be a European, the case is different,—these pass holders are careful enough to make room for them readily. This is how things are going on. Sir, in reply to a question which I put last year, my Honourable friend, Mr. Tottenham, who is now busy reading something, stated that some ranks of military officers are entitled to travel in a higher class than that for which the actual fare has been paid. I followed it up by a supplementary and asked what was the reason why certain ranks of military officers were entitled to travel in 1st class when they have paid the fare of a lower class, and the reply was that it has been the long practice and Government saw no reason to interfere with it. We are told that a man who pays second class fare is entitled to travel by 1st class because he happens to belong to Mr. Tottenham's department, and he is not to be treated as a ticketless traveller or fraudulent traveller. In face of these things we are asked to believe that we Indians are such a lot that we are given to ticketless travel.....

The Honourable Sir Muhammad Zafrullah Khan : There are so many concessions given by the Railways and those who take advantage of them are not described as fraudulent travellers.

Pandit Lakshmi Kanta Maitra : I am extremely sorry for the analogy that my friend gives. He seeks to defend what is morally indefensible.

The Honourable Sir Muhammad Zafrullah Khan : When a military officer who is entitled to a concession travels in a higher class than the class for which he pays the fare, he does so under the rules. He pays his fare and obtains a warrant or a ticket entitling him to travel in a higher class than the class for which he has actually paid the fare.

An Honourable Member : Without paying for it ?

The Honourable Sir Muhammad Zafrullah Khan : There is not the slightest justification for saying that he is travelling fraudulently. He takes advantage of a concession which is given to him, just as a concession is granted to the public on the occasion of holidays whereby by paying the fare for a lower class they obtain a ticket for a higher class.

Pandit Lakshmi Kanta Maitra : I am thankful to the Honourable the Railway Member for the light that he has thrown on this apparently unpalatable question. After all, I am glad he has come to the rescue of my Honourable friend, Mr. Tottenham, who has been sitting tongue tied because he has no answer to give. We are to understand that simply because some rule has been made, therefore it is no fraud that he does not pay actually for the tickets. So, if a rule is made tomorrow that all Government supporters and sympathisers, loyalists are entitled to travel first class with third class tickets, they will not be regarded as ticketless passengers, as the illegal ticketless travel has been legalized by this fiat. A funny argument indeed, and with this kind of argument we are asked to support the motion. If this is the mentality behind this measure, I should ask my Honourable friends not to support it. From every point of view I am inclined to think that this is a most outrageous and atrocious measure. It militates against all fundamentals of criminal jurisprudence in this country. It seeks to put a premium on the

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inefficiency, incompetence and dishonesty of railway employees. If passed it will open the door to corruption and blackmail and all manner of corrupt practices, and I would ask the House and every Honourable Member of it to throw out the Bill. (Applause.)

The Honourable Sir Nripendra Sircar (Law Member) : After the enthusiasm of my Honourable friend, Pandit Lakshmi Kanta Maitra, my remarks will be rather dull and flat, because I want to confine myself to only one point of principle of law which he has raised. My Honourable friend was rather eloquent and he did not spare my colleague, the Honourable the Commerce Member, in describing his surprise that an Indian lawyer should think of destroying the very foundation of the principles of criminal jurisprudence by throwing the onus on the accused.

Pandit Lakshmi Kanta Maitra : In a case under the Railways Act.

The Honourable Sir Nripendra Sircar : In a case under the Railways Act, yes. That is the point on which I want to address the House. When my Honourable friend stated that a person must be deemed to be innocent until the contrary is proved and that the onus is on the prosecution to prove that the man is guilty, he laid down the maxims very correctly. But maxims of general application have got to be applied to concrete facts of a situation. If I may remind my Honourable friend of two more maxims, viz., that during the course of a trial the burden of proof, the onus, shifts from time to time, and the second, that after all the evidence has been laid and produced before the Court the question of onus is wholly immaterial.....

Pandit Lakshmi Kanta Maitra : I was talking of initial onus.

The Honourable Sir Nripendra Sircar : If my Honourable friend will not interrupt me, I am thinking of the initialness too. What is the initial onus which has been thrown by this proposal? If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment, etc. Let us take a concrete view of things. The man has been put up in a Court and he has been charged with travelling without a ticket, and let us see what happens if this law is enforced. What has the prosecution initially to prove? It has to prove that a person entered in contravention of section 68—therefore, it is up to the prosecution, before it can turn to the next sentence and discuss the question of onus—it is up to the prosecuting officer to prove that there has been a contravention of section 68. What is the contravention of section 68? Section 68 is this :

“ No person shall, without the permission of a railway servant, enter any carriage on railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.”

Therefore, to prove contravention of section 68, he has got to prove that here is a person who entered the railway carriage without the permission of a railway servant and holding no ticket. Therefore, the initial onus is on the prosecution to prove that he has broken or contravened section 68 by not taking the permission and by not having a ticket.

(Professor N. G. Ranga interrupted.)

If my Honourable friend, Professor Ranga, will not interfere, especially as it is not a labour question. Now, we have arrived at the stage where the prosecution has proved that the accused entered a carriage without getting permission from the railway and without having a ticket. Let us stop there. That is the stage which has been reached. What are the circumstances? Here is a man who has been proved not to have a ticket; it has been proved, that he never took permission. On whom should the onus be for proving that, as a matter of fact, that there was no intention to travel without a ticket in the sense in which it will amount to an offence? May I remind this House of an Act which has been in existence from 1872, the Indian Evidence Act, and let us see what is the position there. Section 106 says :

“ When any fact is specially within the knowledge of any person, the burden of proving that fact is upon him.”

An Honourable Member : Then why this section?

The Honourable Sir Nripendra Sircar : I shall answer that question in a minute. That rather cuts away your argument that something is happening which is so horrible that it does not happen in Great Britain, it does not happen in Africa, it does not happen in Zululand.

Pandit Lakshmi Kanta Maitra : Because it makes some difference in this section.

The Honourable Sir Nripendra Sircar : Do not interfere with my civil liberty of speaking. (Laughter.)

Mr. President (The Honourable Sir Abdur Rahim) : The Chair thinks the Honourable Member ought not to interrupt.

The Honourable Sir Nripendra Sircar : In those circumstances, on whom is the onus of proving that there were special circumstances which would induce the Court to hold that he was justified or that he was compelled, whatever the position may be, to enter the carriage without asking permission and without having a ticket. One would have thought that under section 106 the position was perfectly clear, but as further argument, may I read to this House illustration (b)?

“ A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.”

Why is it not up to the accused to prove that fact? Because of the salutary rule of law that the facts which compelled him to enter the railway carriage without asking for permission or without getting a ticket are specially within his knowledge. Therefore, illustration (b) is only common sense—if he is travelling in a railway carriage without a ticket the burden of proving that he had a ticket is on him.

Mr. Lalchand Navalrai : What about fraud?

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : It is different from intending to travel without a ticket.

The Honourable Sir Nripendra Sircar : What about fraud? I do not know who is the fraud. (Laughter.)

Mr. Lalchand Navalrai : The Honourable the Law Member knows it. What I meant to say is this—what is to be proved is this, that he fraudulently got in, and that does not come under section 106.

Mr. N. V. Gadgil : Once he was your host. (Laughter.)

The Honourable Sir Nripendra Sircar : Sir, I am reminded that my Honourable friend, Mr. Lalchand Navalrai, was once my host. I can assure the House that in his capacity of my host he was not a fraud. (Laughter.) So far as this section is concerned, my Honourable friend will kindly attend to the wording of this section. Remembering that he has taken over an hour and fifteen minutes in his speech I assume he must have read the section some time or other : " If a person enters in contravention of section 68 any carriage of a railway, he shall unless he satisfies the Court that he had no intention to defraud the railway administration be punished with imprisonment which may extend to two months."

Mr. Lalchand Navalrai : Where is the intention of fraud ? What has he got to prove ? Who must prove it ?

The Honourable Sir Nripendra Sircar : I hope my friend will not go on making pointless points. I have been interrupted. No one is in a hurry. Nor am I. We reached the stage where it has been proved that the man entered in contravention of section 68. That is to say, some railway officer has led evidence to show that the man did not ask for permission and he had no ticket. Then may I draw my friend's attention to illustration (b) once more because as I have read it only twice probably my friend has not appreciated it. Illustration (b) says : A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him. Why is the burden thrown on him. I am coming to the question of fraud in a minute. The burden is on the accused and not on the prosecution because the facts must be within his special knowledge—that is to say whether he arrived there at such a time that there was no time to buy a ticket or that his purse was in the possession of a servant who was lagging behind or whatever the excuse or justification may be. Those must be facts within his knowledge. What more is the prosecution going to do except proving ' Here is a man who never took our permission and who has no ticket '. It is up to the accused to explain having regard to the circumstances which have been proved as to why he is without a ticket and why he did not ask for permission. I am assuming that the prosecution has proved that he has contravened section 68. He shall then satisfy the Court that he had no intention of defrauding. How can he satisfy the Court that he had no intention to defraud ? Surely by proving facts which will explain that his presence in the railway carriage without a ticket was consistent with honest motives, which means that he can offer his explanation as to why he was unable to buy a ticket or to take permission. For instance, he may prove that there was nobody there and that he was rushing to enter the train and that he could not take permission and so on. There will be hundred ways of proving his innocence but supposing he offers no proof of any kind, the Court is left in the situation that he has not taken permission, has not got a ticket and has no explanation to offer. What inference would the jury be entitled to draw. If I may say so with respect, the mistake which my friend, Pandit Maitra, is making is by not noticing that the initial onus is on the prosecution. They have got to start by proving contravention of section 68. I notice the vigorous shake of the head of my Honourable friend there but in spite of that, I am confident in expressing my own opinion. The prosecution cannot proceed a step without proving

that there has been contravention of section 68. What happens if the prosecution does not lead evidence that he has entered in contravention of section 68 ?

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Will all ticketless travellers have the Law Member for their defence ?

The Honourable Sir Nripendra Sircar : All ticketless travellers cannot have the Law Member as their advocate. They cannot afford it. I may proudly proclaim to the House that at one time Mr. Sri Prakasa was my client and I remember very gratefully what I received from him.

Mr. S. Satyamurti : Was he a ticketless traveller ?

The Honourable Sir Nripendra Sircar : No.

Mr. Sri Prakasa : For the sake of old days, will he not give in now ?

The Honourable Sir Nripendra Sircar : I do not know what my friend wants, I am still grateful to him for what I received. Now, Sir, Mr. Satyamurti, if I may say so with respect, put a very pertinent and legitimate question. That is to say, if under section 106, you can arrive at the same result, why then this amendment at all. If merely on the strength of 106 you cannot arrive at the result then what is the difference which is being created by this section. I do not think that at any time I wanted to mislead the House by saying that no change is being effected by section 112. If any one has taken me in that sense, then I must correct him. Under general principles of law taken with section 106, want of permission and of ticket having been proved, the accused should be called upon to show how it happened. Existing section 112 requires something more to be done by prosecution. Section 112, therefore, does not conform to general principles of law, whereas the amended section does. That is what I have been wanting to tell the House.

My friend, Pandit Maitra, expressed the view that there has been a violent departure from the principle of criminal jurisprudence. I can assure the House that there is no departure from any of the recognised principles of criminal jurisprudence whereas existing section 112 involves such a departure. Under the proposed law a *prima facie* case having been made out against the accused he has got to give his explanation as to why he was there without a ticket and without permission. After all the evidence has been led, it will be for the magistrate either to disbelieve him or to believe him. My Honourable friend, Pandit Lakshmi Kanta Maitra, has been referring to so many maxims of jurisprudence, and perhaps he will be reminded of one of the maxims in Broom that there is such a thing as *Res ipsa loquitur*,—that there is such a thing as " a thing speaks for itself ". You can draw legitimate inferences from a situation until the ordinary inference has been rebutted. Now, Sir, what is the inference to be drawn ? If a man has no ticket, if a man has obtained no permission, and then he says, " I shall offer no explanation ", and makes no attempt to explain the circumstances, what more should the prosecution be asked to do ? I would now ask my friend, Pandit Maitra, to imagine that he has been briefed for the Crown,—which is possible. What is he going to do ? After proving absence of ticket and permission what more evidence should be lead ? Remember, Sir, that you have already proved, to start

[Sir Nripendra Sircar.]

with, that he had no ticket, he had no permission. Now, Pandit Maitra has got to prove, under the present section, further, that the accused had intention to defraud. What are the facts he is going to prove? All the facts of the situation are known only to the accused. Common sense requires that prosecution should not be asked to prove anything further, if the accused does not explain his conduct.

Pandit Lakshmi Kanta Maitra : Is much left to be proved after that? After the fact is found that the man entered the railway compartment without any permission, and then that he had no ticket, if that is done according to the law which is proposed, the whole case for the prosecution is finished?

The Honourable Sir Nripendra Sircar : Take it under the ordinary law as it stands. The prosecution has proved that the man entered the compartment without permission, without a ticket, and, after that, what more is there for the prosecution to prove, but for the wording of the existing section? What further evidence should Pandit Maitra be required to lead.

Pandit Lakshmi Kanta Maitra : By his conduct. The prosecution would have to prove that this man had some dishonest motive about him. By some conduct prior to his coming to the compartment and by subsequent conduct, his intent or character can be established. That is what is always done : and if you once concede that that fails, that that is not sufficient to prove, then the prosecution will lose and there is no help for it.

The Honourable Sir Nripendra Sircar : I am very much obliged to my Honourable friend.

Pandit Lakshmi Kanta Maitra : May I make my position clear?

The Honourable Sir Nripendra Sircar : I think it is as clear as mud. My friend says, "from his previous conduct, from his subsequent conduct"; but, surely, the previous conduct must be a matter particularly within his own knowledge.

Pandit Lakshmi Kanta Maitra : It may be also within the knowledge of the prosecution.

The Honourable Sir Nripendra Sircar : It may be, but is not likely to be, but it must be always within the knowledge of the accused.

(Interruption.)

There has already been one interruption; one will do at a time, let him get a chance.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member (Pandit Lakshmi Kanta Maitra) himself has spoken for a considerable time, and he should not go on making these interruptions.

The Honourable Sir Nripendra Sircar : I do not desire to repeat especially as I find my friend getting rather unhappy (*Pandit Lakshmi Kanta Maitra* : "Not at all."), but I wanted to know what else would the prosecution do, and the answer I got was—"previous conduct, subsequent conduct".

Mr. M. Asaf Ali : May I have a little bit of information? I should just like to know the exact importance and significance of this sentence : "he shall, unless he satisfies the Court that he had no intention to defraud the railway administration...." What is the significance of it if nothing further is to be done? In any case, you have got to prove all that you have said to prove a *prima facie* case, and, after that, the accused enters on his defence. Then what is the significance of it? Why have it at all?

The Honourable Sir Nripendra Sircar : Perhaps I have not sufficient intelligence to follow my Honourable friend's point.

Mr. M. Asaf Ali : Perhaps I too have not sufficient intelligence to follow my Honourable friend's point.

The Honourable Sir Nripendra Sircar : The second stage is that the onus having now been thrown on the accused, he has got to satisfy the Court that he had no intention of defrauding. But he can do that in one hundred and one ways of which I gave some illustration. For instance, he can adduce evidence to show that, as a matter of fact, as I said, there was no time for him to buy a ticket, that there was no time to ask for permission, that there was no officer from whom he could get the permission, etc. If he does not lead that evidence or evidence of some other kind,—I cannot conceive of all possible situations on the spur of the moment,—he leads no evidence to rebut the situation which has been created by proving a contravention of section 68, then he will be hit by clause 112 as proposed. My Honourable friend, Mr. Asaf Ali's question was—what is the significance? It is this, that a point of time has arrived in the prosecution when it will be up to the accused to show why he was there without a ticket and without permission. That he can do in any way he likes.

Prof. N. G. Ranga : He can do that even now.

The Honourable Sir Nripendra Sircar : Of course he can do it now. If that is so, I will put the question which my Honourable friend, Mr. Satyamurti, put to me, "then what is your objection?"

Mr. S. Satyamurti : I have one question to ask, if you will turn to section 112 of the Railways Act as it stands today :

"If a person, with intent to defraud a railway administration,—

(a) enters in contravention of section 68 any carriage on a railway....."

Then follows the other portion. That is the fundamental difference.

Today the prosecution has got to prove not only entry but also intent to defraud. The Bill now merely wants the prosecution to prove "entry" in contravention of section 68 and then puts on the defence of the accused the entire responsibility for proving no intent to defraud.

The Honourable Sir Nripendra Sircar : I would remind my friend and the House that I did not suggest that section 112 as it exists today is the same as section 112 which is sought to be amended. I never suggested that. What I wanted to say was that even under the new section 112 as amended, the initial onus is on the prosecution to prove a contravention of section 68. Up to that, it is common. Then I submitted that this is different from the situation now existing under section 112.

[Sir Nripendra Sircar.]

It is a departure from section 112 which is a departure from the situation arising under general law, what I do not admit is that there is no destruction of the fundamental principle that the prosecution has got to prove this case. The prosecution shifts the onus by proving contravention of section 68—and thus discharging the initial burden.

Mr. S. Satyamurti : How about the Criminal Law Amendment Act ?

The Honourable Sir Nripendra Sircar : If my friend thinks that a reference to the Criminal Law Amendment Act will give him a couple of extra votes, I do not mind, but that is wholly irrelevant. There the opinion of the executive prevails and not of the Court. Here the Court, after hearing evidence, will have to come to a conclusion. I would submit to this House, Sir, that as a matter of fact no violent change is being made by the amendment proposed of section 112 because even in the amended section we are starting from the situation which arises after the prosecution has proved that this man has entered the carriage without a ticket. That is all I want to say, Sir, and the repetition of my arguments had been forced on me by interruptions.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, I have very carefully heard the analysis by the Honourable and learned Law Member regarding the present section of the Railway Act and the amended one. Before proceeding with the merits of the Bill further, I want to express before the House my doubts regarding the construction that has been put by the learned Honourable Member.

So far as I have been able to understand, we can very briefly put the reasoning of the Law Member like this : that in so far as the section is concerned there has been some change, because previously it was for the prosecution to prove that the man entered the railway compartment with the intention to defraud. By the present change in the section only one part will have to be proved by the prosecution that he entered without a ticket and the other part will have to be proved by the accused that he entered the compartment without any intention to defraud the railway. He says that by splitting up this burden of proof which lies on the prosecution today into two parts he is putting one part on the prosecution and changing over the other part to the accused, and therefore the principles of criminal jurisprudence are not at all encroached upon. As a matter of fact, the principle of the current jurisprudence is that the law presumes that the accused is innocent and the Honourable the Law Member says that it is also followed in the new enactment. I submit that, as far as the first part is concerned, that of being found in a railway compartment without a ticket, it is perfectly correct that the prosecution will have to prove it. As to that part, there may be a number of exceptions according to the law itself. According to the law, a passenger might have entered the train without any ticket, because he has got some privileges or he has got any licence or oral permission of the guard or something of that kind. Now, merely the fact that he entered the compartment is not the real question at issue. It is the condition in which the person is found. In fact, there may be no question of onus so far as his being found in the train without a ticket is concerned. It is the circumstances in which the person

has been found and there can be no question of onus so far as that part is concerned. Now, we come to the second part whether he wanted to defraud the railway by entering without a ticket. I beg to submit that being found without a ticket in a railway compartment can never lead to the conclusion that the person has gone to defraud the railway. The very idea of fraud is different in the case of the railway. A person may want to get some money from some other person and he may defraud him. But in the case of the railway a person boards the train not with the intention of defrauding it but with the intention of travelling. Travelling is the intention and the fact whether he could get a ticket or not or whether he could pay for the travelling or not is a subsidiary question which has to be determined by the Court. So, to say that the mere fact of his entering in the compartment amounts to fraud or raises a presumption of fraud is not correct. The mere fact of his entering the compartment without a ticket raises the presumption that he intends to travel, not that he wants to defraud the railway. By boarding the train without getting any ticket, a person never means to get any money. He does not get any money. What he does is only to save the money. So, to use the word "defraud" in the sense in which the Law Member has been using it cannot be applied to the travelling by railway because any person who goes to the railway goes only for the purpose of travelling. He does not get anything by doing so : at the most he saves something.

Now, I submit, some distinction must be drawn between trying to save some money and trying to obtain some money from the railway. It may be contended that he does not get any money from the railway, but takes the service from the railway. Yes, it is so, but before the prosecution can charge him that he is criminally liable they will have to prove that he had sufficient leisure, that he was strolling on the railway platform and was on the look-out to get stealthily into a railway compartment or something of that kind. Thus, Sir, there are two principles which are involved in the motion before the House. One is this of shifting the onus while the other is that by this Bill they are turning a purely civil liability into a criminal liability. This Bill stands as No. 12 on the Agenda for today and if you just reverse number 12, you will get 21. This is the number of another Bill which is appearing on the Agenda of today which provides for the practical abolition of civil imprisonment for debts. What I mean to say is that we in this Assembly have got to consider on one and the same day two Bills, in one of which we are trying to change a civil liability into a criminal liability and at the same time we have to consider another Bill in which we want to abolish civil imprisonment for civil liabilities. It is a very important matter which we have got to consider, namely, how far it is consistent for the same Assembly on the same day to consider two Bills, in one of which we want to abolish a civil imprisonment for civil liabilities whereas in the other case which affects only a few corporations, only a few companies or State Railways, we have got to abolish that principle altogether and change an ordinary civil liability into a criminal liability. There is no harm if the Government come forward today with a law and try to change our old conceptions of civil jurisprudence and criminal jurisprudence. I will have no hesitation in considering it if the Government Members bring forward a law of that kind. But these little encroachments on the principles of jurisprudence, one after the other, without considering the whole thing

[Qazi Muhammad Ahmad Kazmi.]

cannot be tolerated by any person who has got any idea of the principles of jurisprudence so far as it prevails at present in this country.

Now, Sir, I come to the merits of the Bill, as to how far the railways will be successful in getting a larger amount of revenue by this enactment. We are not told either by the Commerce Member or other Members who have supported the Bill if they are going to reduce the number of ticket examiners or ticket checkers that they have already got on the railways and in that way succeed in saving a large amount of money. If they are going to reduce the railway checking staff, I do not think they will succeed in saving much because even with the best law, even with the most terrifying law, if we have not got a sufficiently large number of checking staff.....

(It being Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim) : Mr. S. Satyamurti.

MOTION FOR ADJOURNMENT.

ABOLITION OF THE TARIFF BOARD.

Mr. S. Satyamurti (Madras City : Non-Muhammadian Urban) :
4 P.M. Sir, I beg to move that the House do now adjourn.

The specific matter I am bringing up is the abolition of the Indian Tariff Board. I do not use that word in a technical sense. I am grateful to the Government for not raising any technical objection this morning. Of course, the Government cannot permanently abolish this Tariff Board. At some time or other, they will have to appoint a Tariff Board for some enquiry or other. But my point is this : that, as a result of the recent acts of commission and of omission of the Government of India, a genuine apprehension has been created in the minds of the Indian public, especially of the Indian commercial and industrial public, that the policy of the Government of India, which has been in favour of what is called discriminating protection as laid down by the Indian Fiscal Commission and accepted by the Government of India, is undergoing a subtle and a bad change for the worse. I do not want to be personal. But my Honourable friend, the Finance Member, believes in calling a spade a spade and not a useful agricultural implement. I share the same fault with him.

The Honourable Sir James Grigg (Finance Member) : Not a fault.

Mr. S. Satyamurti : He has made no secret of his opinion that this policy of protection is no good for this country, that we are making the consumers pay unnecessarily, and that if the revenues of the country are ever to improve and that if we are to get sound finance for this country, we must give up this policy of protection. Now, Sir, frankly I see the Roman hand of the Honourable the Finance Member behind this new attitude or change in the attitude of the Government of India towards this policy of discriminating protection. The Government have wound up this Board, or they have disbanded this Board, and I suggest that that means a warning to Indian industrialists and to Indian commercial magnates and to the Indian public generally that the policy of

discriminating protection will no longer hold the field, but that the Griggean philosophy of free trade for all countries except his own, especially for India, should hold the field.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : May I ask the Honourable Member to specify what is the specific matter of urgent public importance to which he is drawing attention. I am merely asking what specific point I shall have to meet. Will he kindly specify that ? He can give any arguments he likes in support of it.

Mr. S. Satyamurti : I am grateful for this friendly interruption. The point I want to be assured of, and I want the public of this country to be assured of, is that the Government of India still stand committed to the policy of discriminating protection at least as laid down by the Fiscal Commission, and that the disbanding of the last Tariff Board does not mean any change in that policy. I would add that we were hoping that, although this Tariff Board had had recesses from time to time, the Government of India would soon appoint a permanent Tariff Board.

An Honourable Member : A judicial body.

Mr. S. Satyamurti : Fully judicial in the sense of the status of High Court Judges, independent of the executive, whose future will not depend upon the favours of the Secretary of State or of the Government of India. I want to draw the attention of my Honourable friend, I am sure he knows it almost by heart, but still I merely want to draw the attention of the House to the recommendation of the Indian Fiscal Commission in paragraph 302 :

“ We have made it clear throughout our Report that the successful working of the scheme of protection we have recommended depends on the existence of a thoroughly competent and impartial Tariff Board. The Board must be one which will command the confidence of the country, and must be above suspicion of any subservience to particular interests.”

Sir, the Honourable the Finance Member influences the Commerce Member in many ways, will he at least allow the Commerce Member to listen to what I am reading ? The Tariff Board report goes on :

“ It is evident that the Board must be a permanent body. Consistent decisions and continuity of policy are of primary importance, and these cannot be secured except from a permanent Board. We therefore rule out at once any idea of such an organization as has been set up in the United Kingdom to deal with enquiries under the Safeguarding of Industries Act..... No arrangement of this kind would give the continuity which is essential to the Tariff Board we contemplate.”

That is my first point, that we were hoping that the Government would set up a permanent Board. I deprecate very strongly the idea of these *ad hoc* committees appointed for particular industries, and for particular enquiries. I want to make no personal remarks, but I think the recent appointments have shown that it is not the competence of the person to advise on the industry, it is not his knowledge, it is not his position, but something else—I will not characterize that—which weighs with the Government in making these appointments. It seems to me, therefore, and the whole House will agree with me, whether they accept the entire policy of protection or not, that, if there is to be a policy of protection in this country, it ought to be on the advice of a competent, impartial, judicially-minded body, which will command the confidence of all interests concerned, and of the country as a whole. *Prima facie*,

[Mr. S. Satyamurti.]

ad hoc bodies are peculiarly unfitted for this task. We want men who are competent, who are independent, and who have security of tenure, and who can therefore advise without fear or favour of any interest or of the Government.

My second point is this. I can understand my Honourable friend saying, how can you have a continuous Tariff Board, if there are no materials for enquiry? I will answer him. I am sure my Honourable friend has read paragraph 306 of the Indian Fiscal Commission Report. I will only read just two or three items of inquiry, which they have recommended to the Tariff Board:

"To watch the effect of protective duties or other measures of assistance on industries; to review periodically the results of such protection on each industry, and to make recommendations when necessary for the modification or withdrawal of protection."

Have the Government got any machinery to continually watch the effect of protective duties? It is not enough to have *ad hoc* committees to report whether protection is to be given or not to be given, and then leave it to the Government to forget completely the report made by them or to give effect to the report. It is not that the Tariff Board should be completely ignored, until another fresh enquiry starts for protection for some other industry. What the Fiscal Commission contemplated and in our opinion very rightly so, was a continuous watch on the effects of protective duties or other measures of assistance on industries. I am sure the Honourable the Commerce Member will agree with me that you must have a competent body.....

The Honourable Sir James Grigg : You do not want a Commission to tell you that.

Mr. S. Satyamurti : My Honourable friend is so self-confident that he wants nobody to advise him. If dumping is taking place on a large scale, who is to watch it? Who is to consider and watch the effects of protective duties or the excise duties on industries? You have got the sugar excise duty, the match excise duty, the kerosene excise duty. Surely, you want a competent body to watch the effect of these excise duties on Indian industries and "to consider to which articles preferential rates of import duty in favour of United Kingdom might be extended and what the preferential rates should be". Even this, although I do not agree with them, should be done by a continuous body with a permanent tenure instead of *ad hoc* committees, which are appointed to recommend what preferential rates ought to be given to British products. The Tariff Board Report further says:

"To watch generally the effects of the tariff policy on the cost of living, to study the tariff systems of other countries, to investigate questions in connection with the treatment of Indian products by foreign countries and the advisability of taking any retaliatory action in special cases, to investigate any complaints regarding combinations of manufactures to the detriment of the Indian consumer and to make recommendations for any necessary action."

I am sure, there are many other items and I am also sure that my Honourable friend will agree with me that these are individual items which can give a continuous, important and strenuous work to any competent body like a permanent Tariff Board.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : What is the point at issue just now? These paragraphs have been quoted from the Tariff Board Report very often on the floor of the House. I myself quoted them half a dozen times. I should like to know what is the question of recent occurrence. This thing has been happening for the past twelve years. I am in entire agreement with my Honourable friend, Mr. Satyamurti, on principle, but it cannot be a subject for motion for adjournment.

Mr. S. Satyamurti : Sir, I think I have made my point clear. My point is that this disbandment of the last Tariff Board means giving up the recommendations of the Fiscal Commission to have a permanent Tariff Board, to do all these things which I have enumerated just now. My Honourable friend, Dr. Ziauddin Ahmad, might have quoted this, ever so many times. Let him vote with me this time, it will have a more telling effect, than when he was quoting these when he was in a minority. Let him vote with me and he will see the effect on the Government.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Was the last Tariff Board, which has just been disbanded, performing all the functions which the Honourable Member was referring just now?

Mr. S. Satyamurti : That is my complaint. My complaint is that there should not be these *ad hoc* Tariff Boards, but a permanent Tariff Board discharging all these functions.

The Honourable Sir Muhammad Zafrullah Khan : The point being put forward is not the failure of Government to set up a permanent Tariff Board, but to draw attention to the abolition of the Tariff Board.

Mr. S. Satyamurti : Which signifies to him, and which ought to signify to every Honourable Member of the House, that Government have washed their hands off this recommendation of the Fiscal Commission, and have given up this idea of establishing a permanent Tariff Board.

The Honourable Sir Muhammad Zafrullah Khan : There has been no change in Government policy with regard to these Boards at all, as I shall explain later on.

Mr. S. Satyamurti : I shall listen with great interest to what he has got to say, but, in the meantime, let me point out to this House that the point of my motion is that this disbandment or abolition (as I call it) means the giving up permanently by Government of the idea of setting up a permanent Tariff Board. Then, Sir, when this question of the adoption of a policy of protection came up before the Assembly in 1923, Sir Charles Innes who was then the Commerce Member said:

"We must be able to rely on the Board for a perfectly impartial investigation of all relevant facts before it makes its recommendations. That is the first essential. The Board must be entirely impartial. No extraneous considerations of any kind must enter into its composition; and that is why I hope the House will not think that I am casting any reflection upon the Indian Legislature if I say that the Government feel that they must retain in their own hands the duty, or rather the responsibility, of appointing this Board. They cannot delegate that duty to anyone. They cannot trust to election even by the Indian Legislature."

I agree, but I want Government not to trust to nominations being made from time to time. Let them nominate once and for all, give them a life tenure, and then only you can get a satisfactory Tariff Board, on whose recommendations you can act and in whose recommendations the

[Mr. S. Satyamurti.]

public will have confidence. Now, Sir, I merely want to know whether this latest act of Government means any change in the policy of Government.

The Honourable Sir James Grigg : Which act is the Honourable Member referring to ?

Mr. S. Satyamurti : My Honourable friend knows it better, than I can describe.

The Honourable Sir James Grigg : But why not specify it ?

Mr. S. Satyamurti : I have specified it in the motion, that is to say, your failure to appoint a permanent Tariff Board as evidenced by the recent act of disbanding the last Tariff Board and saying that you will appoint another Tariff Board, only when the need for an inquiry arises. And, in this matter, I am supported by the opinion of all Indian commercial interests in this country. It is not as if I alone, a layman, have taken fright. I am sure my Honourable friend has in his possession representations from commercial bodies against this idea of dropping a permanent Tariff Board. And in the *Indian Finance*,—I know the Honourable the Finance Member does not like it but I rather like it,—in the *Indian Finance* of the 20th June the talented editor has referred to this under the heading “Tariff Board in liquidation”.

“A short report from Simla brings the news that the Government of India have decided to disband the Tariff Board.....”

The Honourable Sir James Grigg : That is just about as accurate as articles by that fellow usually are.

Mr. S. Satyamurti : I thought Sir Muhammad Zafrullah was the Commerce Member, but I live and learn.

The Honourable Sir James Grigg : You will not learn anything from that stuff.

Mr. S. Satyamurti :

“and that orders have been despatched to the President and the Members. The lack of work for the Board for a few months to come has sufficed to impel Government to what we consider a momentous step. It is true that the Tariff Board has not, of late, been so popular as in the past ; but we are sure that the public is hardly prepared for this unceremonious end to an institution, which is, after all, the pivot of our policy of discriminating protection.”

I want to put to the Honourable the Commerce Member one simple question. Is there or is there not any change in the policy of Government ? And why did not Government accept the recommendation of the Indian Fiscal Commission to appoint a permanent Tariff Board, which will command the confidence of this House and of the public in India and will discharge the many important functions recommended to be assigned to them by the Indian Fiscal Commission. That is the purpose of my motion. Sir, I move.

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

“That the Assembly do now adjourn.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I have a feeling, as a matter of fact I am almost certain, that this motion owes its origin to certain rumours published in the press which were subsequently

contradicted, but which nevertheless have caused a certain amount of misapprehension in some quarters. There are two specific matters on which the Honourable Member who has moved the adjournment of the House has asked for assurances from me. Before I give him those assurances let me explain the position. The Tariff Board up to now has always been continued on a temporary basis in this sense that every year a grant is obtained for the expenses of the Tariff Board. It is sometimes exceeded in which case a supplementary grant is asked for ; in other years it may not be spent in its entirety because the Tariff Board may not have enough work to sit throughout the year. Each Tariff Board is set up to investigate certain specific matters. Those matters are referred to the Tariff Board by a Resolution of the Commerce Department. The Tariff Board so set up has no authority to go beyond the inquiry which is entrusted to it. As soon as that inquiry is completed, the Tariff Board becomes *functus officio*. It has sometimes happened that to the same Tariff Board, that is to say, to a Board composed of the same members as a previous Board, some further inquiry is remitted for investigation. Sometimes the personnel of the Board is changed either completely or to some extent ; but the arrangement all the time has been that the Tariff Board is there for the purposes of a particular inquiry. Now, Sir, on previous occasions it has happened that when a certain inquiry has been completed and there is no further inquiry pending in the Commerce Department to be referred to the Board for investigation, the Board having come to an end and having become *functus officio* is not immediately reconstituted. This is all that happens. Sometimes the Board is immediately reconstituted for the purpose of undertaking further inquiries which are remitted to it by the department, and sometimes it is not immediately reconstituted. There is never any abolition of the Tariff Board or any disbandment of the Tariff Board as my Honourable friend has phrased it ; and that is the situation today. Previous Tariff Boards have, on completing their inquiries, become *functus officio*. The last Tariff Board has also become *functus officio*. Sometimes the interval between two Boards has been very small ; sometimes two Boards have continued without any interval at all. Sometimes the interval has been as much as several months ; but the extent of the interval has made no difference whatsoever to the constitution or the functions of the Tariff Board. I hope I have made that perfectly clear.

Now, Sir, with regard to the two specific questions put to me. Before, however, I go on to that, may I draw the attention of the House to the note that was published in some of the organs of the press with regard to the misapprehension that had been caused ? It is a note issued by the United Press and published among other newspapers in the *Hindustan Times* of the 27th June 1936, explaining that nothing had occurred on this occasion which had not occurred on previous occasions ; that is to say, that the situation was as I have tried to explain it and that previous intimations in the press to the contrary were based upon some misapprehension. Now, Sir, the recent occurrence, which when analysed comes only to this that the particular inquiry which was remitted to the Tariff Board having been completed the Tariff Board has for the moment become *functus officio*, does not indicate any change of policy whatsoever on the part of Government. Government adhere to the policy of discriminating protection laid down by the Fiscal Commission subject to the conditions which the Fiscal Commission have attached to the exercise of that policy.

[Sir Muhammad Zafrullah Khan.]

The second assurance which has been asked for from me is practically the same assurance. My Honourable friend wanted me to say whether this did not mean that Government had altogether veered away from the policy of referring inquiries to the Tariff Board when occasion arose and whether the recent disbandment, as he called it, of the last Tariff Board does not mean that there are going to be no further Tariff Boards for the purpose of making these inquiries. That again is not so. As I have explained, if the question is only one of the intention of Government, Government's intentions in these two respects have undergone no change whatsoever.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I listened with profound disappointment to the speech of the first non-official Indian Commerce Member about the protection policy and the present policy of the Government of India with regard to the existence of the Tariff Board. My Honourable friend, Mr. Satyamurti, read out a passage, oft quoted on the floor of this House, of Sir Charles Innes : but when Sir Charles Innes propounded that principle he was of one mind ; and when he appointed the first Tariff Board he appointed one of the *ex*-members of this House and had to go back on his own words. So that, although the first Tariff Board existed for five years, subsequent Commerce Members went to appointing *ex*-members of this House as members of the Tariff Board, and in the end membership of the Tariff Board became just a patronage of the Government of India. The Honourable the Commerce Member contested that the Tariff Board had no work and so Government could abolish the Tariff Board and appoint a new Tariff Board or revive the old Tariff Board. But that was not the original idea of the Government of India when Sir Charles Innes framed his first proposal of the Tariff Board. If we try to read through the lines of the Commerce Member, he wants the Indian industrialist to come with begging bowls to the Commerce Department where a particular industry or certain industries need protection, and then if the Commerce Member thinks it right, he would revive the Tariff Board and ask the Tariff Board to inquire if that particular industry needs protection. But those of us who gave evidence or took interest in the Fiscal Commission's Report and subsequently in the establishment of the Tariff Board, we expected that the Tariff Board would be a permanent tariff tribunal under the Government of India. We expected that the Commerce Department instead of being a suppliant before the Board of Trade in England would develop into a Board of Trade of the Government of India and that the Finance Member would refer to this Tariff Board more and more in order to establish a scientific tariff policy. My Honourable friend, Mr. Satyamurti, quoted an instance whether excise duties are rightly levied on the industries or whether they are wrong. The Honourable the Finance Member may be an authority on finance, but he is not an authority on fiscal policy or fiscal matters. He must have expert assistance and those of us who were in an optimistic frame of mind seven or eight years ago expected that the Tariff Board would soon develop into a permanent expert body which would not only inquire into the little or big grievances of Industrial India—whether Indian or European—but that the Government of India would take assistance from the Tariff Board over their fiscal policy. But the Government of India in other departments have

always shirked the Commerce Department and have never taken any assistance. Why were the original principles laid down by Sir Charles Innes not followed up ? I would have expected my Honourable friend, the Commerce Member, would have explained why this brake was put slowly on the work of the Tariff Board and in the end members were recruited to the Tariff Board in whom the public had no confidence : even this House had no confidence in some of the members. If they were experts, this House would have had confidence in them, as Government should have confidence in them. The very fact that Government have to change members after members every three months or six months—and not every five years or seven years as it happened when Mr. Kale and Sir George Rainy were members of the first Tariff Board—shows that even the Government has no confidence in the members. Therefore, what this House wants and what I think is the view point of the industrial community in India—and even I think my Honourable friends of the European group would like to have—is that there should be a permanent Tariff Board consisting of experts, not men temporarily recruited and temporarily taken under the protection of Government only to be given another job in another place. These experts should not only devote their time to those subjects which the industrial community will bring before the Government but that they should examine the taxation policy of Government and devise a scientific basis of taxation. The Government of India should have a co-ordinated fiscal policy, and the Finance Member, in spite of the high credit which he preaches so much owing to the flight of gold away from India to Europe would soon be forced, if Federation does not step in and he washes his hand off it, to devise and evolve a scientific policy of taxation ; and for that he needs experts ; and for that he need not import experts from outside : he should have a permanent tariff board of super experts who will give him the necessary advice here ; and if they are real experts, their secrets should not go out to the public and the Finance Member need not get frightened that such and such an inquiry is being made by the Government of India which might upset the Calcutta or Bombay markets and allow gamblers on the stock exchange to gamble. Therefore, I support wholeheartedly the adjournment motion. I believe the Government have failed not today, but continuously. Their action has deteriorated day after day and at the moment they have no uniform policy. The policy laid down by the first Commerce Member has been given the go-by : whether by the present Commerce Member or by the present Government of India is for the Honourable Commerce Member to find out from the archives of the Commerce Department and of the Government of India.

Dr. Ziauddin Ahmad : Sir, I have discussed this very same topic not less than half a dozen times during the last six years. The fact is that the Government of India never accepted the recommendations of the Fiscal Commission about the appointment of a permanent Tariff Board. They have been guilty of this not recently, but they have been guilty of it during the past 14 years, and, therefore, I thought that this was a subject fit for a Resolution, and not for an adjournment motion. The subject is not a topic of recent occurrence. We have debated it several times. As the subject has now been brought before the House, I do not hesitate to express my own opinion on it. The Government have adopted a policy of appointing *ad hoc* Commissions for a definite purpose and abolishing them when no longer required. They never accepted the recom-

[Dr. Ziauddin Ahmad.]

recommendations of the Fiscal Commission of appointing a permanent Board. To my mind, there are two defects in the system now being followed by the Government which I have repeatedly pointed out on the floor of the House. The first defect is that in the investigation of the same problem, they appoint a different set of personnel who do not know all the internal sides of the same question. I have mentioned this fact in connection with the textile industry. The Government appointed a number of Tariff Boards one after another to discuss the textile industry, and I may be able to expose the discrepancies in the recommendations of the Tariff Boards on some later date when I have no time restrictions. One Board recommended import duty in terrestrial figures something like 5 to 15 per cent. while another Board recommended the import duty in celestial figures, something like cent. per cent. or 120 per cent. Thus there has not been continuous policy on account of the frequent changes in the personnel. I must also add that the members appointed to the Board from time to time were not always suited for the work which they had to perform. The recommendation of the Tariff Boards, as pointed out in the first paragraph, chapter VII has never been accepted by the Government of India, and we cannot raise the issue after fourteen years in a motion of adjournment.

The second defect in the working of the Government of India's *ad hoc* Tariff Board is that it had no opportunity to see the effect of their own recommendations. Now, these Boards make recommendations, but the members go out of office, they have no chance to see whether their recommendations have proved to be useful, whether the protection was excessive. I discussed some of those points in detail in connection with the steel industry. We gave a protection to the steel industry. I have said that the protection was excessive. On account of excessive protection the value of the shares has gone up. I have now put a question which will probably come up tomorrow, I find that the dividend which the Tata Company have paid this year is 9 per cent. on 1st Preference shares, 14 per cent. on second Preference shares, 7½ per cent. on deferred shares. I think the Tariff Board or some machinery in the Commerce Department ought to have been there to examine periodically the effect of the excessive protection. The same is the case with regard to the sugar industry. We have given protection to sugar industry, and there exists no machinery to watch the effect of the protection given to the industry; they have no means to test whether the essentials on which protection was granted are being duly observed. Will the industry be able to stand on its own legs and will the industry pay back to the consumers the increased cost of living? The increased cost is a loan given by consumers on the security of the Government. They have no means of examining periodically whether after the grant of protection the industry is able to stand on its own legs or not. Therefore, I entirely agree on these two grounds that it would have been much better had there been a permanent Tariff Board, and appointed 12 years ago in the year 1924. It is an old story. It is not a matter of recent occurrence.

As regards the general question of protection which has also been introduced in the course of this discussion, I have my own personal opinion; and I do not hesitate to express it, even if I happen to be in a

minority of one. I am in favour of protection, provided the protection is for the people of India, and not for the capitalists of India. We should give protection to cottage industry, if the protection is intended only for the mill industry for the benefit of capitalists at the sacrifice of the cottage industry, and consumers, then I would oppose it tooth and nail.

Then, again, Sir, a new problem has arisen during the last three years and it did not exist at the time the Fiscal Commission wrote its report. The problem is that in recent years the prices of agricultural products have gone down enormously and the prices of manufactured articles have gone up comparatively. I gave certain figures on the last occasion, and whenever there is a full dress debate, I shall repeat those figures, but it is a fact that the price index of agricultural products has gone down, while the price index of manufactured articles is going up, and if the Government continued to adopt the policy of protection which they have been following for the last few years, then the effect on the poor agriculturist will be something inconceivable. Sir, 70 per cent. of the people of this country live on land, and they will suffer enormously. There exists at present maladjustment of prices between manufactured articles and agricultural products and the maladjustment will become more acute if the Government continued its present policy of protection. High tariff on manufactured articles will adversely affect the peasants who get less for what they produce and pay more for what they purchase. The entire Tariff requires reconsideration. Therefore, the fundamental problem before us is not so much as to grant protection to certain industries as to raise the price level of agricultural products. It is the problem of all problems. The subject, as I said, is not for a motion for adjournment.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I rise to support the adjournment motion, because I am in favour of the appointment of a permanent Tariff Board so that it may be able to discharge the functions which the Indian Tariff Commission wanted it to discharge. It was not only, Sir, to protect and help the producer and the industrialist of this country that a permanent Tariff Board was recommended, but also to look after, to watch continuously, the effects of the protection granted by the Government of India, not only to the industries sought to be protected, and also to other industries which were likely to be affected either adversely or favourably, and also the consumers who are to pay and foot the bill as far as this protection is concerned. Even on the last occasion when I had an opportunity of speaking on this topic, I mentioned the anxiety of the consumers to see to the appointment of a permanent Tariff Board so that their interests could be protected and watched continuously by the Tariff Board. But, Sir, till now the Government of India have not accepted the recommendations of the Tariff Commission for the creation of a permanent Tariff Board. Now we are told by the Honourable the Commerce Member that he has not seen any urgent necessity for continuing the last Tariff Board or for appointing another Tariff Board and therefore he abolished it before another body could be created. Sir, if really the recommendations of the Tariff Commission are to be given effect to, I do not understand why he should not appoint a permanent Tariff Board. Sir, I will take the case of the Indian Railway Rates Advisory Committee. Only half a dozen cases are referred to that body every year,

[Prof. N. G. Ranga.]

and yet there is a permanent Advisory Council consisting of 2 or 3 highly paid members, and Government has not thought fit to abolish that body, but have thought it fit to spend money by keeping those members in their places, because the Government have realised the necessity for a such permanent body. I feel, Sir, there is even a greater necessity for a permanent Tariff Board to discharge important functions of not only affording protection to those of the industries which are really in need of protection, but also to look to the effects of the protection upon the consumers as well as upon the producers of subsidiary industries.

I do not know why Government wishes to play these silly jokes upon the Indian public by appointing their bosom friends from time to time whenever it suits them as Special Tariff Boards, Normal Tariff Boards and so on, and by ceasing to keep any Tariff Board in existence so that any really deserving industry may come forward with an application for protection. I know, Sir, that the Finance Member is rather afraid that if there is a permanent Tariff Board, he will be receiving more and more applications for protection, and so he thinks, the best thing will be not to have it at all, but to keep in reserve their power whether or not to constitute a new Tariff Board, they want to reserve to themselves the power whether or not to refer to a new Tariff Board any particular application sent up by any particular industry for protection. Sir, I am personally very much opposed to this discretionary authority that the Government of India reserves for itself, namely, whether to allow any particular application for protection to be placed before a Tariff Board or not, and even if they are to come to the conclusion that a *prima facie* case is made out for protection for a particular industry, the Government reserves to itself the power to decide what sort of Tariff Board they should appoint, and what sort of people are to be appointed as its members. We know only too well, and it has been stated by one or two Honourable Members on the floor of this House today, that the Government have not been quite happy in the choice of its members for the successive Tariff Boards. Very often the choice has gone to those people who favoured the Government case, and more often Government tried to help its own bosom friends and, therefore, the Tariff Boards came into existence. Sometimes the interval between one Tariff Board and another was made shorter in order to suit the convenience of some members of the Tariff Board. I know on reliable authority that many of the members of the Tariff Board were not quite happy about the way and the manner in which the Government of India had treated them. Under these circumstances, I think that it is but legitimate that we should try and condemn this Government for its failure to appoint a permanent Tariff Board and for its failure to accept the function that the Indian Fiscal Commission had wanted them to discharge.

In support of my plea, I wish to mention one or two specific cases. Take the case of the Sugar Protection Act. They wanted to protect the sugar cane cultivators, and according to the Act the provincial Governments were authorised to fix a minimum price for sugar cane in order to protect the cultivators there. But we find that in very many provinces the provincial Governments have failed to fix this minimum price on some pretext or other, and the Government of India says that it is not responsible

for any such thing as it is left to the provincial Governments and, therefore, they shall shift for themselves. What has been the result of this particular Sugar Protection Act? Surely a mushroom growth of sugar manufacturing factories all over the country, but it is the sugar manufacturers who have been benefited and not the sugar cane growers. Only the other day at question time the Honourable Secretary for the Department of Education, Health and Lands said that they were trying to give bonuses to the Sugar Cane Growers' Association in order to help them to get a fair price but that he was sure that they were getting more than the minimum price, and he was satisfied with the refusal of the Madras Government to fix a minimum price. I can assure him and this Government that this is not the case in the Madras Presidency and that growers have been grumbling loudly and vehemently against the failure of the Madras Government to fix the minimum price, and they have seen in their own experience that they were not able to get even the ordinary minimum price.

Take the handloom weavers. Two Tariff Boards have mentioned that the protection that has been offered to the textile industry has had an adverse effect upon the handloom weavers. These are two joint producers for textile products, the millowners on the one side and the handloom weavers on the other. Because the millowners have been strong and influential and powerful with the Government of India they were supposed to have made out a *prima facie* case for protection to the industry, and successive Commerce Members have constituted successive Tariff Boards and helped them in every possible way. But now the handloom weavers have been clamouring for protection for the last one year. All over India there has been set afoot a large agitation and representations have been made to the Government of India to appoint a special Tariff Board in order to see how far they have been affected adversely by the textile import duties that we have in this country. Yet the Honourable the Commerce Member insists upon a *prima facie* case being made, and even after it has been made, it must be made to his satisfaction. Even thereafter, only if he thinks it necessary he will constitute a special Tariff Board. Even then he must find suitable people, and these suitable people must be somewhere or other in the whole of India, and if they behave themselves properly they will be promoted either to London or to heaven. (Laughter.)

There is again the match excise duty. We have been protesting against this duty. This match protection has been taken advantage of by only foreigners in this country and we have no safeguard against any such thing. We do not gain anything from it but we do lose very much by this match excise duty as well as by the match protection duty. Both these duties are being paid by the consumers, and the Indian producers are not benefited. Is it not the duty of a permanent Tariff Board to watch the effects of those two duties? But who is to watch the effects of these two duties if there were to be no permanent Tariff Board? Is it the duty of the Honourable the Commerce Member, or is it the duty of the Honourable the Finance Member, I do not know. They themselves cannot say that it is their duty.

My Honourable friend, Dr. Ziauddin, has referred to the effects of this protection on the cost of living and on prices. It is true that the agricultural prices of this country have been going down to a very much

[Prof. N. G. Ranga.]

greater extent than the prices of manufactured goods, and in that way the agriculturists have been drained in more than one way in an invisible fashion. The Honourable the Finance Member is very glad that I have made that remark, but he must also be glad and he must also be willing to agree with us in our plea for the appointment of a permanent Tariff Board to see that the consumers for whom he grows eloquent from time to time whenever it suits his convenience are safeguarded and their interests are properly protected.

The Honourable the Commerce Member suggested that we should try to get into touch with the textile millowners and get into a conference with them to get them to agree to some sort of compromise so that it might be possible for him to further the efforts of the handloom weavers. We did meet, we did not agree and we made a report to the Honourable the Commerce Member. And the handloom weavers all over India have been asking for protection against millowners who are protected by the Government of India and my Honourable friend, Sir Muhammad Zafrullah Khan. Everybody is in favour of affording protection to some Indian industry as against other countries, but even there the Honourable the Finance Member in league with the Honourable the Commerce Member has succeeded in bringing down the textile duties in order to help Lancashire, but he will not raise his little finger to help the handloom weavers. If it is a case of Indian *versus* British, the Honourable the Finance Member is quite awake, but if it is a case of some Indians as against other Indians he becomes thoroughly impartial in order to help and please my Honourable friend, Sir Muhammad Yakub, who is not in his seat today. The Honourable Sir Muhammad Zafrullah Khan has at least to justify his position as an Indian and see that justice is done as between two classes of people, one group of producers as against another group of producers, one class of industrialists as against the whole general public. For all these reasons I condemn this Government and I hope the House will join with me in condemning this Government for its continued failure to appoint a permanent Tariff Board which can discharge its work in a completely judicial and independent fashion.

Some Honourable Members : Let the question be now put.

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : May I ask, through you, the Honourable the Mover of this motion, after the promise made by the Honourable the Commerce Member that he will consider it sympathetically, to withdraw his motion ?

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : The first fruits of the policy of discriminating protection are, I believe, well known to the House, and I need hardly remind the House that it is since the inauguration of that policy that India has steadily, until certain recent events to which I cannot help referring, marched on to what it ought to be, a self-sufficient country, having regard to its natural resources both in the matter of men and in the matter of means. At the same time, I must confess that during the last two years I have noticed several instances in which that policy has not been as efficiently and as satisfactorily applied as it ought to have been. It is both in its affirmative and negative aspect that I refer to this matter. There are instances known where Tariff Boards were in the first instance

appointed but their reports had been rejected in a manner and under circumstances which I do not think do very much credit to those who appointed them or who studied those reports themselves. The House being powerless to compel the Government to accept those recommendations, matters have had to be left where they were and more often than not in the matter of discriminating policy we have had to be content with half a loaf instead of no bread but so long as this is clearly understood, what I am now observing will then be fully appreciated. There also have been cases where a proper case has been made out for an examination whether or not a particular industry requires protection and if so to what extent. Those recommendations have also been turned down. It is therefore in both senses that the policy which was inaugurated under happy auspices with perfectly *bona fide* intentions, entirely in the interests of this country, has of late received a set back and therefore the House need not be surprised at the apprehensions which were expressed by my Honourable friend, Mr. Satyamurti. For it is obvious that in one sense it is possible to say that a Board is not abolished on the ground that it has always been appointed from time to time, but the interval was long, but so far as a layman is concerned, he looks upon one continuous thing as an institution and the other as a mere *ad hoc* creation. An institution has undoubtedly a great value and we have every hope and we had every hope that if a Tariff Board had been appointed in terms recommended by the Fiscal Commission there would have been not only a continuity of policy but in all probability (though legally there might still be a right), the Government would not have been able to turn down requests for the appointment of a Tariff Board for the examination of questions which were submitted to them, for there would have been an available and an existing body. There is less excuse for turning down such requests. If a permanent body existed, it is equally clear that, having regard to the policy, the manner in which rejections have taken place would also to a large extent have been tempered notwithstanding the irresponsibility of the Government to which I have been frequently treated. None the less, there are two assurances given by the Honourable the Commerce Member today which, speaking for myself at all events, have heartened me considerably. The first assurance to the House is that the fact that the *ad hoc* committee that was appointed, having served its time, that is to say, having served its purpose, was not required to continue should not lead to any inference being drawn from it adversely affecting the intentions of Government in the prosecution of the policy which was laid down—of discriminating protection subject to the conditions mentioned in that behalf. The next thing he said was that the mere discontinuity from time to time or the intervals, longer or shorter as they happen to be between several appointments, ought not to indicate that if there is a greater and a continuous demand for the examination of certain questions, the fact that there was a longer interval before would not stand in the way of the Government appointing a Board as reasonably frequently as may be required by the conditions of the industry a Board for the examination of their case for protection. In the light of these assurances, I fully recognise the limitations of a motion of this character, for it is easy to agree or to differ by attaching different meanings to the same word. That appears to be to a certain extent the defence of the Government on this occasion. If you mean by abolition the entire disappearance of a system by which protection was examined and given, our answer is in the negative, that our

[Mr. Bhulabhai J. Desai.]

policy has not changed but I prefer, to take the statement to be the same in spirit as in letter—a *bona fide* assurance to this country, which it had many reasons to doubt—not the intentions of any individual member of Government but the policy of the continuation of discriminating protection. Recognising, therefore, the limitations of a motion of this kind and having regard to the assurances, the subject whether or not there ought to be a permanent Board might well be, I quite concede, the subject of a Resolution but while I say that, I wish to say one word lest I should be misunderstood. I fully appreciate that even if this House carried a Resolution we know how those Resolutions have been dealt with. We have been told that the policy of non-co-operation was futile. I have had a lesson to learn that the policy of co-operation has turned out to be worse than futile. None the less we shall continue to do our duty so long as we are in this House and if a Resolution is required we shall table it for the acceptance of the House, if for no better purpose than to call attention to what we deem to be an urgent duty to be performed. Having regard to those circumstances I would certainly request my friend, Mr. Satyamurti, not to press this motion any further.

Mr. S. Satyamurti : I agree to withdraw this motion.

The motion was, by leave of the Assembly, withdrawn.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 2nd September, 1936.

LEGISLATIVE ASSEMBLY.

Wednesday, 2nd September, 1936.

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

QUESTIONS AND ANSWERS.

EFFECT OF THE APPLICATION OF SANCTIONS IN INDIA AGAINST ITALY.

46. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :
- (a) the effect of the application of sanctions in India against Italy ;
 - (b) the probable loss of Indian trade by the application of sanctions ;
 - (c) whether any attempt has been made to get reparations for the loss suffered ; and
 - (d) with what result ?

Sir Aubrey Metcalfe : (a) and (b). In the seven months December, 1935, to June, 1936, Indian exports to Italy and the Italian Colonies were valued at Rs. 89 lakhs as compared with Rs. 86 lakhs in the seven months December, 1934, to June, 1935. There was, however, an increase of about Rs. 12 crores in the value of Indian exports to all other countries during the same period. It is impossible to state to what extent the decrease in trade was due to the imposition of sanctions.

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

ALTERATIONS IN THE INDIAN CIVIL SERVICE RECRUITMENT RULES.

47. ***Sardar Sant Singh** : (a) Is it a fact that the Secretary of State for India has made important alterations in the Indian Civil Service recruitment rules ? If so, what are the changes, and what would be its effect on the Indianisation of the service ?

(b) Is it a fact that according to these new rules, no Indian can sit in the competition in England unless he has been a student in England for two years or over in certain specified universities ? If so, what are the reasons for such restrictions ?

(c) Is it a fact that Public Service Commission in England has been given power to nominate Britishers without competition for Indian Civil Service ? If so, is there any such rule for the British Home Service or Colonial Service ? If not, what is the reason for the innovation in the case of the Indian Civil Service ?

The Honourable Sir Muhammad Zafrullah Khan : That is given in answer to part (b) of the question. "Capacity to discharge with ability and dignity the functions of his high office".

Sardar Sant Singh : That is too vague a term to be understood at all. Will the Honourable Member say whether he has got any academic qualifications, his experience as a High Commissioner, as a trader or commercial man or any such thing ?

The Honourable Sir Muhammad Zafrullah Khan : The gentleman in question did possess some of the qualifications mentioned.

Sardar Sant Singh : I want to know what are those qualifications ?

The Honourable Sir Muhammad Zafrullah Khan : I have replied, in answer to part (b) of the question, that this gentleman was judged to possess the "capacity to discharge with ability and dignity the functions of his high office".

Sardar Sant Singh : I just want to understand the meaning of the words "capacity to discharge with ability and dignity the functions of his high office". What were the criteria to judge of that ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member does not know the meaning of the words "capacity to discharge", I am afraid I cannot enlighten him.

Sardar Sant Singh : The Honourable Member wants to evade my question, but I still persist in asking for an answer. What were the university qualifications for this post ?

The Honourable Sir Muhammad Zafrullah Khan : Sir, is the Honourable Member in order in saying that I am trying to evade his question ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not justified in making any such allegation.

Sardar Sant Singh : Am I not entitled to know in some definite language what the qualifications were which led Government to make this appointment ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has given his answer repeatedly—the qualification is a "capacity to discharge the duties of the office".

Pandit Sri Krishna Dutta Paliwal : What are his academic qualifications ?

The Honourable Sir Muhammad Zafrullah Khan : He is a graduate of Oxford and a barrister-at-law.

Sir Muhammad Yakub : May I know if Sir Feroze Khan Noon is the first Muslim High Commissioner for India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Sir Muhammad Yakub : Is it not sufficient to disqualify him to hold any important post under the Crown ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Sardar Sant Singh : May I know if it is not the case that among the other candidates for this post were Muslims and Muslims of better education than Sir Feroze Khan Noon ?

The Honourable Sir Muhammad Zafrullah Khan : I am not prepared to disclose any information regarding other candidates.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow this sort of discussion to go on.

†49.

TRADE NEGOTIATIONS WITH CEYLON.

50. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) whether they are aware of Mr. Peri Sundaram's speech reported in the *Hindu*, dated the 29th April, 1936, that Ceylon is looking forward to a new agreement with India ;

(b) whether any trade negotiations with Ceylon have been started ; and

(c) if so, at what stage these negotiations are ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). The Government of India have been in communication with the Government of Ceylon on the subject of the grant of mutual tariff preferences. The matter is, however, now bound up with the denunciation of the Ottawa Trade Agreement, which included Ceylon, and it is not possible to proceed further until the negotiations with the United Kingdom have reached a more advanced stage.

Mr. T. S. Avinashilingam Chettiar : When do Government expect this agreement with the United Kingdom to be completed ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I am unable to state that at this stage.

Mr. T. S. Avinashilingam Chettiar : In that case the negotiations with other countries will stop and cannot be proceeded with ?

The Honourable Sir Muhammad Zafrullah Khan : I have explained that Ceylon was a party to the Ottawa trade preferences. It is quite possible that Ceylon may also be a party to any fresh agreement that is concluded with the United Kingdom, in which case the question will be taken into consideration during the negotiations that are proceeding.

REPORT OF THE WHEELER COMMITTEE.

51. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) whether they have considered the report of the Wheeler Committee ;

(b) what is the result of the consideration ;

†This question was not put by the questioner.

(c) whether the Committee have recommended any change in the methods of recruitment; and

(d) whether the report of the Committee will be made available to the Members of the Legislative Assembly?

The Honourable Sir Henry Craik : (a) and (b). The action to be taken on the Report is still under consideration.

(c) and (d). The Report of the Committee will be published as soon as Government is in a position to state its conclusions as to the action to be taken.

Mr. T. S. Avinashilingam Chettiar : May I know the answer to clause (c) ?

The Honourable Sir Henry Craik : I have said that the report of the Committee will be published as soon as Government are in a position to state their conclusions as to the action to be taken. I am not prepared to disclose any particular recommendation of the report prior to publication.

Mr. T. S. Avinashilingam Chettiar : Am I to understand that it is going to be published ?

The Honourable Sir Henry Craik : Yes.

Mr. S. Satyamurti : Does the report contemplate any extra or additional expenditure to the Governments, Provincial or Central ?

The Honourable Sir Henry Craik : The Honourable Member must wait till it is published.

Mr. T. S. Avinashilingam Chettiar : What is the answer to clause (b) ?

The Honourable Sir Henry Craik : The action to be taken on the report is still under consideration.

Mr. M. Ananthasayanam Ayyangar : Have Government any objection to publishing it in advance so that public criticism may be invited before Government decide to take action on it ?

The Honourable Sir Henry Craik : Government have objection.

Mr. M. Ananthasayanam Ayyangar : Why ?

The Honourable Sir Henry Craik : The course which they have decided to take is what they think the best.

Mr. M. Ananthasayanam Ayyangar : Do Government think that it is inadvisable to invite public opinion upon this ? Is it the opinion of the Government that public opinion ought not to be invited with respect to this report ?

The Honourable Sir Henry Craik : The report deals with what is purely a domestic matter, viz., details of the internal administration of the Government of India, and the decision must rest with the Government.

Mr. M. Ananthasayanam Ayyangar : Is it not then the concern of the people at large and the country as a whole ?

The Honourable Sir Henry Craik : No, I do not think so.

Mr. S. Satyamurti : In so far as the recommendations contemplate any extra expenditure, do not Government want to invite public opinion, because they have got to foot the Bill ?

The Honourable Sir Henry Craik : I do not think any extra expenditure is involved.

REPORT OF THE INCOME-TAX ENQUIRY COMMITTEE.

52. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) whether the Income-tax officers have submitted their report ;

(b) whether they have considered it ;

(c) if so, the result of the consideration ; and

(d) whether they contemplate introducing legislation to amend the Income-tax Act in view of the report, and if so, in what respects ?

Mr. A. H. Lloyd : (a) Not yet.

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

Mr. T. S. Avinashilingam Chettiar : When do Government expect the report ?

Mr. A. H. Lloyd : Within the next few months.

Dr. Ziauddin Ahmad : May I ask, Sir, the two questions Nos. 53 and 54 together ? It will facilitate supplementary questions.

DIVIDENDS ANNOUNCED BY THE TATA IRON AND STEEL COMPANY, LIMITED.

53. ***Dr. Ziauddin Ahmad :** (a) Are Government aware that Tata Iron and Steel Company, Ltd., announced the following dividends for the year ended March 31st, 1936 :

(1) 9 per cent. on first preference shares ;

(2) 14 per cent. on second preference shares ; and

(3) Rs. 7½ per share on deferred shares ?

(b) What was the Bank rate of interest during the same period ?

The Honourable Sir Muhammad Zafarullah Khan : (a) (1). The dividend declared on first preference shares was Rs. 9 per share of Rs. 150, i.e., 6 per cent.

(2) On second preference shares it was Rs. 17-8-0 which included certain arrears of payment.

(3) Yes.

(b) The Bank rate was 3½ per cent. from 1st April to 27th November, 1935, and 3 per cent. from 28th November, 1935, to the end of the year.

INSPECTION OF THE ACCOUNTS OF THE TATA IRON AND STEEL COMPANY, LIMITED.

54. *Dr. Ziauddin Ahmad : (a) Did Government inspect the accounts of the Tata Iron and Steel Company, Ltd., to find out whether the Company, as a result of excess protection, was getting more profit than that promised by the Tariff Board? If not, why not?

(b) Is it not a fact that the Fiscal Commission recommended periodic inspection of the accounts of protected industry?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The answer to the first part of the question is in the negative. I would refer the Honourable Member to paragraphs 117 and 118 of the Report of the Indian Fiscal Commission, copies of which are in the Library. From these he will see that the Commission's recommendation that the accounts of protected industries should be periodically inspected was linked with their conclusion that the imposition of a time-limit on protective duties was impracticable. But as he is aware, the Government of India have not shared the doubts of the Commission as to the practicability of imposing a time-limit on the operation of protective import duties, and when such duties are imposed they are normally imposed for a specified period of years before the expiry of which the question of their continuance forms the subject of further enquiry. I would also invite attention to the provisions of section 4 of the Indian Tariff Act, 1934.

Prof. N. G. Ranga : For how long is this protection offered to steel?

The Honourable Sir Muhammad Zafrullah Khan : I could not give the exact period without notice.

Dr. Ziauddin Ahmad : Is it not a fact that the Tariff Board on steel industry recommended a profit of six per cent. on the capital, and the actual profit is much more than six per cent.? If that is the case, I would like to know whether this excess profit should not reasonably go to the labourers who helped to produce this wealth?

The Honourable Sir Muhammad Zafrullah Khan : I should require notice of that question.

REPORT OF THE WHEELER COMMITTEE.

55. *Mr. Ram Narayan Singh : Has the attention of Government been drawn to the leading article in the *Statesman* of the 13th May, dealing with the Wheeler Committee's report on the reorganisation of the Central Secretariat under the future Federal Government of India?

The Honourable Sir Henry Craik : Yes.

REPORT OF THE WHEELER COMMITTEE.

56. *Mr. Ram Narayan Singh : Will Government be pleased to state the reasons for the delay in publishing the Wheeler Committee's

report on the reorganisation of the Central Secretariat under the future Federal Government of India?

The Honourable Sir Henry Craik : The Honourable Member is referred to the answer given to Mr. T. S. Avinashilingam Chettiar's question No. 51.

Mr. T. S. Avinashilingam Chettiar : May I know why there has been this long delay in considering the report?

The Honourable Sir Henry Craik : The subject is one of some complication and involves correspondence with the India Office.

CONSTITUTION OF THE CENTRAL UNIVERSITY BOARD.

57. *Mr. Ram Narayan Singh : Will Government be pleased to state :

- (a) what the constitution of the Central University Board is ; and
- (b) what the need, the authority and the up-to-date achievements of the said Central University Board are?

Sir Girja Shankar Bajpai : (a) There is no Central University Board.

(b) Does not arise.

EXPENSES ON TROOPS SENT FROM INDIA TO ABYSSINIA DURING THE ITALO-ABYSSINIAN WAR.

58. *Mr. M. Ananthasayanam Ayyangar : (a) What is the amount of money that was spent upon the contingent of troops sent from India to Abyssinia during the Italo-Abyssinian War?

(b) Have the Government of the United Kingdom contributed any portion of the expenses? If so, how much? If not, why not?

(c) Was not the contingent of troops intended for the protection of British interests in Abyssinia as much as, if not more than those of Indians?

Mr. G. R. F. Tottenham : (a), (b) and (c). The entire cost of the contingent is borne by His Majesty's Government and the Government of India have no information what the exact bill amounts to. I would, however, refer the Honourable Member to the answer given on 3rd September, 1935, to Mr. Satyamurti's short notice question on the subject, in which it was stated that the cost of transport to Djibuti was about Rs. 20,000 and the monthly pay bill of the detachment about Rs. 13,000.

Mr. M. Ananthasayanam Ayyangar : Are these charges also borne by His Majesty's Government?

Mr. G. R. F. Tottenham : Yes.

Mr. M. Ananthasayanam Ayyangar : Both their passage and their maintenance ?

Mr. G. R. F. Tottenham : Yes.

INDIA'S WITHDRAWAL FROM THE MEMBERSHIP OF THE LEAGUE OF NATIONS.

59. ***Mr. M. Ananthasayanam Ayyangar :** (a) Do Government propose to take early steps to withdraw from the membership of the League of Nations ?

(b) Are Government prepared to withhold the contribution to the League for this year and in future ?

The Honourable Sir Nripendra Sircar : (a) and (b). The answer is in the negative.

Mr. M. Ananthasayanam Ayyangar : What is the amount of contribution that is now being paid to the League of Nations ?

The Honourable Sir Nripendra Sircar : That question does not arise.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that other nations are considering the question as to whether they should continue their membership of the League of Nations ?

The Honourable Sir Nripendra Sircar : May I remind the House that yesterday the adjournment motion on the League of Nations was not moved very properly, because my Honourable friend, Mr. Satyamurti, said that this matter will be discussed in a Resolution for which 30 Members have given notice. I submit that I should not be asked to enter into the merits of the question of the League of Nations in answer to supplementary questions.

Mr. President (The Honourable Sir Abdur Rahim) : Yes, supplementary questions cannot be asked about the League of Nations on this question.

Sardar Sant Singh : Have Government received any communication by His Majesty's Government about the reformation or re-organisation, and have they been consulted on the point ?

The Honourable Sir Nripendra Sircar : I must ask for notice of that question.

LOSS OF TRADE SUFFERED BY INDIA BY ADOPTING THE SANCTIONS AGAINST ITALY.

60. ***Mr. M. Ananthasayanam Ayyangar :** (a) What, if any, is the loss of trade suffered by India by adopting the sanctions hitherto imposed against Italy ?

(b) What steps, if any, are being taken to regain the volume of Indian trade with Italy ?

Sir Aubrey Metcalfe : (a) I would refer the Honourable Member to the reply given by me to Mr. T. S. Avinashilingam Chettiar's question No. 46.

(b) The present hindrances to the resumption of normal trade relations are due to import and exchange restrictions imposed by Italy.

Mr. M. Ananthasayanam Ayyangar : Are any negotiations going on with this country regarding the removal of these restrictions ?

Sir Aubrey Metcalfe : Not so far as I am aware.

LOSS OF LIFE OR PROPERTY OF INDIANS IN ABYSSINIA.

61. ***Mr. M. Ananthasayanam Ayyangar :** (a) Was there any loss of life or property of Indians in Abyssinia after the commencement of war by Italy ?

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

(c) What preventive measures have been taken ? And why were not more adequate steps taken to avert this ?

Sir Aubrey Metcalfe : Attention is invited to the statement, read out yesterday in reply to question No. 45 by Mr. T. S. Avinashilingam Chettiar.

Mr. Lalchand Navalrai : May I know, Sir, if the Indians who are there now are safe ?

Sir Aubrey Metcalfe : There is a further question on that point which I propose to answer as soon as it comes on. It will be difficult to enter into discussion on it now.

PADDY IMPORTED FROM SIAM INTO INDIA.

62. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that 24,000 bags of paddy have been imported from Siam into India from one Japanese steamer named "Peiping" on or about 6th May, 1936 ?

(b) What is the quantity of paddy imported month after month into India from foreign countries since the 1st of April, 1936, and for the whole years 1934-35 and 1935-36 ?

(c) What steps, if any, do Government propose to take in the matter ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The paddy in question was imported from Indo-China.

(b) A statement is laid on the table.

(c) The matter is receiving the consideration of the Government of India.

STATEMENT I (B).
Imports of rice into India from foreign countries.

Months.	Whole rice.				Broken rice.				Paddy.			
	From Siam.	From Indo-China.	From others.	Total.	From Siam.	From Indo-China.	From others.	Total.	From Siam.	From Indo-China.	From others.	Total.
April, 1934	500	25	675	1,200	28,895	2,168	1	31,064	1,386	1,663	..	3,049
May, 1934	3,195	39	23	3,257	12,507	515	501	13,523	3,439	300	..	3,739
June, 1934	1,657	..	13	1,670	12,377	573	..	12,950	5,750	10,133	1	15,884
July, 1934	228	4,391	706	5,325	9,888	396	..	10,284	3,101	2,499	..	5,600
August, 1934	5,893	197	8	6,098	17,328	682	..	18,010	1,881	8,636	..	10,517
September, 1934	7,149	301	15	7,465	11,727	496	..	12,223	6,218	3,940	1	10,169
October, 1934	2,135	2,497	5	4,637	35,252	300	..	35,552	7,405	15,268	3	22,676
November, 1934	3,424	1,442	8	4,874	22,348	1,244	..	23,592	4,030	4,427	2	8,459
December, 1934	2,870	2,751	25	5,646	24,517	4,555	1	29,073	5,320	20,772	1	26,093
January, 1935	1,453	..	6	1,459	4,179	217	..	4,396	1,517	..	..	1,517
February, 1935	1,306	1,832	4	3,142	12,918	295	..	13,213	..	3,685	..	3,685
March, 1935	2,594	3,414	4	6,012	22,095	5,513	150	27,768	..	..	..	..
Total for 1934-35	32,404	16,889	1,492	50,785	214,031	16,954	653	231,638	40,047	71,573	8	111,628

April, 1935	..	300	607	5	912	3,918	600	..	4,518	..	1,442	..	1,442
May, 1935	..	500	..	8	508	..	..	..	..	..	10,548	..	10,548
June, 1935	..	..	..	4	4	..	..	..	..	..	7,360	3	7,363
July, 1935	..	500	..	6	506	..	..	..	..	..	3,411	..	3,411
August, 1935	..	750	..	5	755	9,035	..	..	..	..	550	..	550
September, 1935	..	453	205	6	664	11,930	..	..	..	..	3,358	..	3,358
October, 1935	..	401	892	7	1,300	5,792	150	..	..	..	3,247	1	3,247
November, 1935	..	1,673	200	7	1,880	9,602	547	1	5,942	10,150	3,535	..	17,456
December, 1935	..	2,988	..	5	2,993	7,696	482	1	8,179	8,179	837	..	3,960
January, 1936	..	9,638	701	12	10,351	5,833	751	..	6,584	..	..	1	537
February, 1936	..	4,010	598	1	4,608	1,928	..	..	1,928	3,750	2,122	..	5,879
March, 1936	..	2,265	1,759	8	4,032	3,505	6	1	3,512	1	20,934	..	20,934
Total (1935-36) 1st April to 31st March.		23,478	4,962	74	28,514	59,239	2,536	3	61,778	22,351	97,375	5	119,723
April, 1936	..	429	196	9	634	1,051	..	..	1,051	1,265	2,966	..	4,233
May, 1936	..	1,127	..	7	1,134	940	..	2	942	..	11,807	..	11,807
June, 1936	..	..	460	9	469	501	..	..	501	762	20,965	..	11,713
July, 1936	..	1,549	311	8	1,868	..	..	..	..	2,101	31,471	4	33,576

Mr. T. S. Avinashilingam Chettiar : Are Government satisfied that the present duty on broken rice is enough to stop the imports of foreign rice ?

The Honourable Sir Muhammad Zafrullah Khan : Government are satisfied that the present duty is enough for the purpose for which it was intended.

Mr. T. S. Avinashilingam Chettiar : How does the last year's import of foreign rice compare with this year's ?

The Honourable Sir Muhammad Zafrullah Khan : I have laid a statement on the table. Will the Honourable Member please study it ?

Prof. N. G. Ranga : Are not the imports of paddy increasing ?

The Honourable Sir Muhammad Zafrullah Khan : On the whole, there was some increase in 1935 over 1934, as the figures will show in the statement that I have laid on the table.

Prof. N. G. Ranga : What steps are Government taking to see that imports do not increase further ?

The Honourable Sir Muhammad Zafrullah Khan : If I were in a position to say straightaway what steps Government propose to take, I would not have said that the matter is receiving the consideration of Government.

Mr. C. N. Muthuranga Mudaliar : Are Government aware that the prices of paddy and rice have fallen during this year as compared with the prices of last year ?

The Honourable Sir Muhammad Zafrullah Khan : They have fallen all over the world, not only in India.

NEGOTIATIONS FOR THE TUNGABHADRA PROJECT.

63. ***Mr. M. Ananthasayanam Ayyangar :** (a) At what stage do the negotiations for the Tungabhadra Project stand ?

(b) When is the agreement likely to be reached among all the States interested ?

(c) What steps are Government taking to expedite the matter ?

The Honourable Sir Frank Noyce : (a) and (c). The Government of India have suggested to the interested Provinces and States that a small conference should be held with their representatives, under my Chairmanship, in order to settle certain preliminary issues on which a decision is required before any tribunal can be appointed.

This course has been proposed in order to avoid the delays which would be involved by any attempt to settle the preliminary issues through correspondence. The Madras, Bombay and Hyderabad Governments have already agreed to attend the conference which, if held, is likely to take place about November next.

(b) I am not yet in a position to say when an agreement is likely to be reached among all the States interested.

Prof. N. G. Ranga : What was the reply received from the Mysore Government ?

The Honourable Sir Frank Noyce : I think my Honourable friend can draw the inference from what I have said, namely, that the Madras, Bombay and Hyderabad Governments have already agreed to attend the conference, that we have not yet received a reply from the Mysore Government.

Prof. N. G. Ranga : How long ago was the Mysore Government addressed on this matter ?

The Honourable Sir Frank Noyce : They were addressed at the same time as the other Governments. I cannot say how long ago. But I imagine that the delay is due to the fact that His Highness the Maharaja of Mysore and his Diwan, Sir Mirza Ismail, are at present in Europe.

Prof. N. G. Ranga : Is it not a fact that there has been a considerable amount of delay experienced in the correspondence carried on by the Government of India with the Mysore Government during the last two years in regard to this matter ?

The Honourable Sir Frank Noyce : I want notice. My Honourable friend is as well aware as I am that there are often delays in correspondence with Indian States.

TICKETLESS TRAVELLERS CHARGED AND PUNISHED IN INDIA.

64. ***Mr. M. Ananthasayanam Ayyangar :** (a) What is the number of ticketless travellers charged and punished in the whole of India during 1935-36 and during the five years previous thereto ?

(b) What was the loss to Government ?

(c) What is the percentage of richmen to beggars among the ticketless travellers ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). I am placing on the table a statement giving such particulars as are available for the six years ending with December, 1935.

Statement shewing particulars regarding Passengers travelling Without Tickets for six years ending December, 1935.

Year.	(i) Total No. of passengers found travelling without tickets.	(ii) No. of passengers who paid excess fares and penalty on detection.	(iii) Particulars regarding details of punishment inflicted under Sections 112, 113 and 132.				(iv) No. of persons (indigents, etc.), let off or ejected.
			(a)	(b)	(c)	(d)	
			Let off.	Fare and penalty recovered.	Punish- ment inflicted.	Pending in Courts.	
1930 ..	2,778,488	Figures not available.	12,143	26,459	8,069	35,660	Figures not available.
1931 ..	2,367,665	Do.	34,557	45,999	10,655	132,576	424,457
1932 ..	2,376,627	184,345	37,619	44,851	20,465	61,502	581,440
1933 ..	2,911,687	1,607,597	28,473	54,733	16,913	70,361	90,553
1934 ..	2,694,164	1,714,841	29,192	31,837	17,709	72,129	332,952
1935 ..	2,877,014	1,957,638	28,416	30,315	26,695	91,082	338,621

NOTES.—

- Figures for columns (ii) and (iii) (a), (b), (c) and (d) were not recorded separately by all railways and therefore the totals of the figures in these columns do not agree with the figures in column (i).
- Some railways have not recorded separately the number of mendicants, etc., let off or ejected but have included these in column (i), and therefore while the figures shewn in column (iv) are exclusive of those given in column (i), the total number of mendicants, etc., who were let off or ejected shewn in column (iv) is not quite accurate.

Mr. T. S. Avinashilingam Chettiar : What is the answer to part (c) ?

The Honourable Sir Muhammad Zafrullah Khan : I said the information is contained in the statement I was laying on the table.

Mr. President (The Honourable Sir Abdur Rahim) : The whole matter is now under discussion in connection with the Indian Railways (Amendment) Bill.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

65. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that Sri Jut Subhash Chandra Bose's day was celebrated throughout the length and breadth of India on the 10th May, 1936 and that there is a persistent demand for his release ?

(b) Are Government prepared to release him forthwith ? If not, why not ?

The Honourable Sir Henry Craik : (a) I am aware that meetings were held in various places, but my information is that they were not largely attended and generally very little interest was displayed.

(b) No. I have already explained the reasons for the action taken by Government.

Prof. N. G. Ranga : Are Government aware that in innumerable villages, peasants gathered in large numbers to protest against the action of the Government of India in keeping Mr. Subhash Chandra Bose under detention, and are demanding his release ?

The Honourable Sir Henry Craik : I have no information on that point. The information that I have is that meetings were held in large towns.

Mr. T. S. Avinashilingam Chettiar : Who gives this information to the Honourable the Home Member ?

The Honourable Sir Henry Craik : The Local Governments concerned.

Mr. T. S. Avinashilingam Chettiar : How do they get that information ?

The Honourable Sir James Grigg : The usual way.

Mr. T. S. Avinashilingam Chettiar : What is the usual way.

Mr. M. Ananthasayanam Ayyangar : Has there been a single instance of any meeting where there was a demand for the continuance of Mr. Subhash Chandra Bose in detention.

The Honourable Sir Henry Craik : Not that I am aware of.

AMALGAMATION OF THE LONDON STORES DEPARTMENT WITH THE INDIAN STORES DEPARTMENT.

66. ***Mr. T. S. Avinashilingam Chettiar :** (a) Has the intended investigation into the question of amalgamation of the London Stores Department with the Indian Stores Department been completed ?

(b) What is the result of the investigation ?

(c) What action have Government taken in the matter ?

The Honourable Sir Frank Noyce : (a) The investigation has recently been completed but no report has yet been submitted to the Government of India.

(b) and (c). Do not arise.

Mr. T. S. Avinashilingam Chettiar : When do Government expect the report ?

The Honourable Sir Frank Noyce : Very shortly.

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*This question was not put by the questioner.

INDIANS IN FIJI AND SUBSTITUTION OF NOMINATION FOR ELECTIONS.

68. *Mr. T. S. Avinashilingam Chettiar : Will Government state :

- (a) the latest situation regarding Indians in Fiji and the attempted substitution of nomination to elections ; and
- (b) whether they have received any representations from His Majesty's Government, and, if so, what ?

Sir Girja Shankar Bajpai : (a) and (b). I lay on the table a summary of a despatch addressed by His Majesty's Secretary of State for Colonies to the Government of Fiji, conveying the decision of His Majesty's Government on the proposal to substitute nomination for election to the Fiji Legislative Council.

Summary of a despatch addressed by the Secretary of State for the Colonies to the Government of Fiji, regarding the constitution of the Legislative Council of the Colony.

1. I have given careful consideration to the representations which have been made to me on the proposals to substitute nomination for election of non-official European and Indian members of the Legislative Council and I have also had conversations with Governor and with two European elected members of the Legislative Council. From representations which have been made to me and from enquiries which I have made it is apparent that first part of proposal, viz., suggestion that elective system be abandoned is one on which opinion within the Colony is sharply divided, there being a considerable body of opinion both for and against that suggestion. For the second part of the proposal, viz., suggestion for equality of representation of three communities, I gather there is a much wider measure of agreement. I have been urged to decide that the choice of the continuance or discontinuance of the present system of election of European and Indian members be referred to European and Indian electors but there are in my view weighty objections to that course. If elections were to be held at this juncture there is a very real possibility that they might be bitterly contested, that the votes for or against the change might not be sufficiently conclusive and that a more acute political situation than existing at present might be produced.

2. I am also unwilling to entertain the suggestion that a referendum be held either of European and Indian electors exclusively or on a more extended basis.

3. I am confident that it is the desire of all the communities in Fiji that political peace shall be restored with least possible delay and that the settlement be conceived in spirit that interests of the Colony be placed before those of any one section of the population. On a full consideration of position and mindful of racial and other issues involved I have come to the conclusion that it will be in the interests of the Colony that a compromise should be imposed by me. It is not to be expected that any solution of problem will give universal satisfaction, but it is my earnest wish that Colony generally will be ready to accept a compromise which I conceive to be in the public interest.

4. As to Fijian representation I understand it to be the wish of the Fijians that their representatives be selected as heretofore, viz., by the Governor from a panel submitted by Great Council of Native Chiefs and I am happy to acquiesce.

5. As regards European and Indian representatives I gather some Europeans and Indians are wanting elective principle to be given up while others are wanting it to be retained and that there is real reason to doubt whether if election or a referendum were to be held there would be a convincing majority among Europeans or Indians for either of those alternatives. In the circumstances I cannot see my way to decide that elective principle be dispensed with altogether either for Europeans or Indians. In my opinion more satisfactory course will be to provide that in future some of the European and Indian members shall be elected and the others nominated. On the question of a common electoral roll I understand that Indians were never unanimous on that matter and that as time passes more and more of Indians who

were wanting a common roll in Fiji are abandoning their advocacy of it. On that issue I am in full agreement with view expressed by Mr. Amery in 1925, viz., that circumstances of Fiji and in particular the nature of organisation of native inhabitants and position in which Crown stands to them are such as to make it impossible to arrange for representation of 3 sections of population on Legislative Council by means of a general franchise. I have accordingly decided to recommend to His Majesty that there shall be a reconstituted Legislative Council consisting of Governor, 16 official members, 5 European members (3 to be elected on a communal franchise and 2 to be nominated), 5 Fijian members (all to be selected as at present) and 5 Indian members (3 to be elected on a communal franchise and 2 to be nominated). The reduction from six to three in the number of European elected members will involve a readjustment of European electoral divisions, and I contemplate that simplest possible geographical boundaries shall be chosen, such as one member for Suva and environs, one member for rest of Viti Levu and near islands, and one member for rest of Colony. A more precise definition will be required and I would welcome an early recommendation from you on this point.

6. With the number of Indian elected members remaining at three, alteration of existing Indian electoral divisions will not be necessary though I am prepared to give consideration to any recommendation which may be made on that point.

7. The determination of details of new constitution will necessarily occupy some time and, in order to provide an interval for this, steps have been taken to enable life of existing Legislative Council to be prolonged until the 31st December, 1936, or such other date not being later than the 14th July, 1937, as may be fixed by the Governor by proclamation.

Mr. T. S. Avinashilingam Chettiar : What is the substance of the Despatch ?

Sir Girja Shankar Bajpai : The substance is that Indian representation has increased from 3 to 5 which gives equality with the representation of other communities and that the elective principle is maintained to the extent of three.

Mr. T. S. Avinashilingam Chettiar : Have the Fiji Government replied to that representation ?

Sir Girja Shankar Bajpai : There is no question of representation. That is the decision of His Majesty's Government.

Mr. S. Satyamurti : What is the Indian population in Fiji, which makes them get a representation of only five, as also the population of non-Indians who get the same five ?

Sir Girja Shankar Bajpai : My Honourable friend is aware that unfortunately or fortunately these matters are not determined in relation to the population alone.

Mr. S. Satyamurti : May I know what are the criteria on which a very large Indian population has been given a representation of only five, while the non-Indian population has been given the same representation of five ?

Sir Girja Shankar Bajpai : As far as I know, the justification for this given by His Majesty's Government is that, so long as there is an official majority, it is immaterial as to what the representation of individual communities is.

Mr. S. Satyamurti : Will the Government of India press on the attention of His Majesty's Government the need for increasing the representation of Indians in some more reasonable proportion to their population in the island.

Sir Girja Shankar Bajpai : I would suggest that my Honourable friend might refresh his memory of the statement which was made on behalf of the Government of India in regard to the representation of Indians in Fiji Legislative Council a few years ago. It was stated then that the question of the strength of Indian representation might be taken up with His Majesty's Government again when a favourable opportunity occurred.

Mr. S. Satyamurti : Will the Government of India take it up now now that a decision has been given, and we know that it is wholly disproportionate to our numbers there? Will the Government of India take it up now?

Sir Girja Shankar Bajpai : I submit that the knowledge that the representation of Indians is disproportionate to the population of the community is not subsequent to this decision. That knowledge has been there all this time.

RATIFICATION OF THE INTERNATIONAL LABOUR CONVENTION OF FORTY HOURS A WEEK.

69. ***Mr. M. Ananthasayanam Ayyangar :** By how many countries in the world has the International Labour Convention of forty hours a week been ratified and given effect to?

The Honourable Sir Frank Noyce : The Convention had not been ratified by any country up to the end of July, 1936.

ORGANISATION OF PUBLIC WORKS IN CONNECTION WITH THE RELIEF OF UNEMPLOYMENT.

70. ***Mr. M. Ananthasayanam Ayyangar :** (a) Have Government considered any scheme for the organisation of public works in connection with the relief of unemployment?

(b) Is it not a fact that the organisation of public works in relation to unemployment has been set out as one of the subjects for consideration in the 1937 session of the International Labour Conference?

(c) What is the attitude of Government in this matter?

The Honourable Sir Frank Noyce : (a) Yes. The various schemes embodied in the Provincial Famine Codes are designed to relieve persons unemployed by reason of famine or scarcity and provide for their employment on various public works.

(b) Yes.

(c) The instructions to be given to the Government delegates have not yet been considered.

Mr. M. Ananthasayanam Ayyangar : I want information as regards the nature of public works organised for relief of unemployment normally not during exceptional seasons as famine?

The Honourable Sir Frank Noyce : That is a matter for Provincial Governments. As far as the Central Government are concerned, I would refer, as I have done time and again in reply to numerous questions which have been asked on the subject, to the New Delhi capital programme. (Laughter.) This is not a matter for my Honourable friends to laugh at.

The programme of public works in New Delhi was definitely resumed with the idea of relieving unemployment as was explained at the time.

Mr. T. S. Avinashilingam Chettiar : In view of the statement made by the Honourable the Finance Member yesterday that capital programmes for relieving unemployment are taken only when they are remunerative, may I know how far are the New Delhi capital programmes remunerative?

The Honourable Sir Frank Noyce : I would suggest to my Honourable friend that he puts that question to my Honourable colleague.

Mr. N. M. Joshi : May I ask whether the Government of India have considered the question of providing housing accommodation to all Government employees as a measure of relieving unemployment when money is very cheap?

The Honourable Sir James Grigg : No, Sir.

Mr. N. M. Joshi : May I ask, why, no, Sir?

The Honourable Sir James Grigg : Because the project would not be remunerative.

Mr. T. S. Avinashilingam Chettiar : May I have an answer to my question?

The Honourable Sir James Grigg : I think if the Honourable Member will examine my various statements on the subject he will find that I said that in future there would be no question of undertaking capital works unless they were remunerative.

Prof. N. G. Ranga : Is it not a fact that in spite of the prevalence of famine in Gujarat and Maharashtra, no famine relief works have been undertaken by either the Provincial Government or the Central Government?

The Honourable Sir Frank Noyce : Surely, Sir, that is purely a matter for the Bombay Government.

Prof. N. G. Ranga : Then if not in the provinces, where do the Government of India expect to undertake famine relief works in order to relieve unemployment?

The Honourable Sir Frank Noyce : My Honourable friend knows as well as I do that the Provincial Famine Code is administered by the Provincial Governments.

Mr. N. V. Gadgil : Do the Central Government propose to make any contribution to the famine relief fund if works are started in the Bombay presidency and other provinces? The Honourable Member may take it that the Maharashtra districts are experiencing the bitterest famine during the last 60 years.

The Honourable Sir Frank Noyce : I can only repeat that famine relief in Maharashtra is purely a matter for the Bombay Government.

Mr. N. V. Gadgil : My question is, will the Central Government send me contribution to the Provincial Governments in order to finance mine relief schemes?

The Honourable Sir James Grigg : As regards the Bombay Government, the Bombay Government have made a very considerable profit by the separation of Sind which the Central Government has got to pay for.

Mr. N. G. Ranga : In view of the fact that a considerable amount of unemployment and distress prevails in the United Provinces, Bengal and Bihar, because of the recent floods, have the Government of India considered the advisability of making any grant or subvention to these provinces to enable them to relieve the distress there ?

Sir Girja Shankar Bajpai : Neither the Government of Bihar nor the Government of the United Provinces have made any approach to the Central Government yet.

SCHEMES FOR THE RELIEF OF UNEMPLOYMENT SUGGESTED BY THE SAPRU COMMITTEE.

71. ***Mr. M. Ananthasayanam Ayyangar** : (a) Have Government considered and devised any schemes for the relief of unemployment as suggested by the Sapru Committee ?

(b) If so, what are they and, if not, why not ?

(c) Have Government taken any steps to collect statistics of the educated unemployed ? If so, what are they and, if not, why not ?

(d) Is there any proposal to restrict admission to pupils in the colleges with a view to prevent the increase of educated unemployed ?

(e) Is there any minimum age prescribed for eligibility to appear at the Matriculation examination in Delhi University and, if so, what is it ?

(f) Are Government aware that in Madras, Government have fixed 16 years as the minimum age for eligibility for the S. S. L. C. examination ?

(g) Does similar restriction regarding age exist for eligibility to appear at colleges examinations in England or any other country ?

(h) What are the reasons for fixing such minimum age ? Is such minimum age insisted on for reducing unemployment in the country ?

The Honourable Sir Frank Noyce : (a) and (b). The attention of the Honourable Member is invited to the reply given by me on the 31st August, 1936, to Mr. T. S. Avinashilingam Chettiar's question No. 24.

(c) The attention of the Honourable Member is invited to the answer given to part (b) of starred question No. 1482 asked by Mr. Satyamurti in the Legislative Assembly on the 8th April, 1936.

(d) No general proposal of this kind is before Government. The question is discussed in Chapter XIV of the Sapru Committee's report and in restricting admission to some of their own institutions—the School of Mines, for example—the Government of India have regard to the prospects of employment for students.

(e) Delhi University does not conduct a Matriculation Examination. The Honourable Member probably refers to the High School and School Leaving Certificate Examinations which are held by the Board of Secondary Education, Delhi. No minimum age limit is prescribed for these examinations.

(f) Government have no information whether the Madras Government have fixed 16 years as the minimum age for eligibility for the Secondary School Leaving Certificate Examination, but the Madras University have

laid down an age limit of 15 years for admission to their Matriculation Examination.

(g) Yes, in certain Universities.

(h) Restrictions, where imposed, are imposed in the interest of the students themselves and of their health.

Prof. N. G. Ranga : Have Government considered the advisability of closing down these universities for a few years in order at least to stop the increase of unemployment among the educated middle classes ?

The Honourable Sir Frank Noyce : No, Sir.

Mr. M. Ananthasayanam Ayyangar : With reference to the answer to clause (c) have any statistics been collected so far about the educated unemployed ?

The Honourable Sir Frank Noyce : I have referred my Honourable friend in reply to that part of his question to the answer I gave to Mr. Satyamurti's starred question No. 1482 on the 8th April last. I may add, however, that the matter is on the agenda of the next meeting of the Central Advisory Board of Education.

EXTERMENT OF MR. V. V. GIRI BY THE PONDICHERRY GOVERNMENT.

72. ***Mr. M. Ananthasayanam Ayyangar** : (a) Are Government aware that Mr. V. V. Giri, M.L.A., was externed from Pondicherry by the Pondicherry Government, when he had gone there in connection with the Labour Conference ?

(b) Are Government prepared to consider the desirability of referring to the Pondicherry Government regarding the reasons and propriety of the externment order ?

Sir Aubrey Metcalfe : (a) According to the information received by the Government of India Mr. Giri was not externed from Pondicherry but was informed on arrival that the meeting in which he wished to take part could not be held in French territory. He is reported then to have withdrawn to British territory.

(b) Does not arise since there was no externment order.

Mr. M. Ananthasayanam Ayyangar : Was he not asked to quit French territory ?

Sir Aubrey Metcalfe : I have given the information which we have which is that he was informed that the meeting in which he was to take part could not be held in French territory.

Mr. V. V. Giri : Sir, on a matter of personal explanation, I was externed by the French Government, but without the intervention of this Government the French Government again thought it desirable to invite me back to Pondicherry, and I went there and settled certain matters.

CONVENTION re ESTABLISHMENT OF A MACHINERY FOR FIXING MINIMUM WAGES.

73. ***Mr. M. Ananthasayanam Ayyangar** : (a) Have Government got ratified the International Labour Convention of 1928 on the establishment of a minimum wage fixing machinery ?

(b) Is it not a fact that Mr. Ramaswami Mudaliar, workers' delegate of India, moved a resolution to draw the attention of the States for the establishment of a machinery for fixing minimum wages?

(c) Have Government taken any steps to organise such a machinery for India? If so, what are they and, if not, why not?

(d) Is it not a fact that this convention has so far been ratified by 18 countries including Australia, Canada, Union of South Africa and Great Britain?

The Honourable Sir Frank Noyce : (a) No.

(b) Yes.

(c) The matter concerns the Provincial Governments. A summary of the conclusions reached by them is given on pages 122-23 of the Fourth Report showing the action taken on the recommendations made by the Royal Commission on Labour in India, 1935, a copy of which is in the Library of the House.

(d) Yes.

Prof. N. G. Ranga : Is there no action that the Government of India can possibly take in order to persuade these Provincial Governments to fix this minimum wage?

The Honourable Sir Frank Noyce : I have explained that this is a matter entirely for the Provincial Governments. I would suggest to my Honourable friend that he might read what the Whitley Commission said on this subject on pages 211—214 of their report which explains the difficulties in the way of action.

Prof. N. G. Ranga : At the same time, is it not a fact that labour is the responsibility, not only of the Provincial Governments, but also of the Central Government, and, therefore, whenever the Provincial Governments fail to discharge their duty towards labour, the Central Government is at liberty and is bound to interfere in that affair and see that the Provincial Governments discharge their duties?

The Honourable Sir Frank Noyce : The Central Government does not recognise in this instance that there is any duty on the part of the Local Governments to establish wage fixing machinery. The Central Government realises much more fully than my Honourable friend appears to do the difficulties in the way of taking action.

STEPS TAKEN TO REDUCE THE CONSUMPTION OF OPIUM IN INDIA.

74. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government taking any steps to prevent opium eating and opium smoking in the province of Assam and the western districts of the Madras Presidency and, if so, what are they and, if not, why not?

(b) What is the policy of Government regarding opium production and its sales within British India?

(c) Are any steps being taken to reduce the consumption of opium in India on a progressive scale?

Mr. A. H. Lloyd : (a) and (c). I would refer the Honourable Member to the annual Memoranda on Excise (Opium) Administration in

India and the Report by the Government of India for the calendar year 1934 on the Traffic in Opium and other Dangerous Drugs, copies of which are available in the Library. The Government of India have no information beyond what is contained in these publications as the control of opium consumption is part of the provincial transferred subject of 'Excise'.

(b) The cultivation of the poppy in British India is permitted under licence and is confined to a limited area in the United Provinces that supplies the Government Opium Factory at Ghazipur. Sale of opium within British India is the concern of Local Governments.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that, on account of the Resolution passed in the League of Nations, the sale of opium to China is prohibited and has been absolutely stopped?

Mr. A. H. Lloyd : The export of opium to China from India was stopped six years before the League of Nations came into existence.

Mr. M. Ananthasayanam Ayyangar : If so, what progressive steps are being taken to abolish the consumption of opium in India?

Mr. A. H. Lloyd : I have already pointed out to the Honourable Member that the control of the consumption of opium in India is a matter for the Local Governments.

Pandit Lakshmi Kanta Maitra : Has not the Central Government got any policy with regard to opium consumption in India, to restrict the use of opium exclusively for medical purposes?

Mr. A. H. Lloyd : The Central Government have not adopted any such policy in advance of the decisions of the Local Governments.

Dr. N. B. Khare : Have Government more regard for the people of China than for the people of India?

Mr. A. H. Lloyd : That, Sir, seems to be asking for an expression of opinion.

Mr. M. Ananthasayanam Ayyangar : On what grounds was the export of opium to China given up?

Mr. A. H. Lloyd : I am afraid I cannot quote the reference but I will supply the Honourable Member with reference to the announcement made by His Excellency the then Viceroy, Lord Reading, on this subject, and to the debates in the Assembly and in the Council of State in which the decision of the Government of India in this matter was approved by Resolutions of those two Houses. I will give the Honourable Member those references.

Mr. M. Ananthasayanam Ayyangar : Is it not because it is an immoral traffic? If so, why is it pursued here in India?

Mr. A. H. Lloyd : The answer to the first part of my Honourable friend's question is in the negative. The answer to the second part, it seems to me, is that it does not arise.

Sir Abdul Halim Ghuznavi : Sir, I am not asking this question.

Mr. S. Satyamurti : May I ask that question, Sir, because we are discussing the Railway Ticketless Travellers Bill, and I think the information with regard to this question would be very important?

Mr. President (The Honourable Sir Abdur Rahim) : Yes.

Mr. S. Satyamurti : I put question No. 75.

ALLEGATIONS AGAINST THE STAFF AT THE KAMALASAGAR STATION ON THE
EASTERN BENGAL RAILWAY.

75. ***Mr. S. Satyamurti** : (a) Has the attention of Government been drawn to the report published in the *Star of India*, an English daily of Calcutta, in its issue of Monday the 18th May, 1936, to the effect that a passenger by name Abdul Ghani, holding third class ticket No. 7718, and travelling from Kulaura to Hajiganj on the Assam Bengal Railway, was roughly handled and forcibly detained by the station authorities at Kamalasagar for using the latrine on the platform and was also forced to clean it ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state what action has been taken against the Railway staff concerned for the forcible detention and for compelling the passenger to clean the latrine ?

(c) If the reply to part (a) be in the negative, do Government propose to make an enquiry and inform this House of the result of the enquiry ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The attention of Government was drawn to a report to this effect published in *The Sunrise* of the 23rd May, 1936.

(b) A criminal case was filed by the complainant against the Station Master, but was withdrawn.

(c) The Agent, Assam Bengal Railway, states that he is satisfied from the enquiries made that the complaint has no foundation in fact.

Mr. S. Satyamurti : Have Government made any inquiries since the receipt of this question, and are they satisfied that the facts alleged in clause (a) of this question are all untrue ?

The Honourable Sir Muhammad Zafrullah Khan : Government made an inquiry from the Agent of the Assam Bengal Railway, and the information that Government received from the Agent has been placed before the House in reply to the question.

Mr. S. Satyamurti : Have Government satisfied themselves that the Agent made any inquiry at all.

The Honourable Sir Muhammad Zafrullah Khan : Government have no reason to imagine that, when the Agent says he made inquiries, he has not made any inquiry at all.

Mr. S. Satyamurti : Have Government taken any action to prosecute this man for filing a malicious and false complaint, against a railway servant on facts which they now find are false ?

The Honourable Sir Muhammad Zafrullah Khan : Government are not concerned with the matter. It is a Company-managed Railway, as presumably the Honourable Member knows, and, therefore, the matter lies in the hands of the Station Master or the Agent.

Mr. V. V. Giri : Will Government advise the Agent to do so ?

The Honourable Sir Muhammad Zafrullah Khan : Certainly not.

Pandit Lakshmi Kanta Maitra : In view of the fact that a grave allegation is made against the railway, does the Honourable Member think, in the interests of purity of administration, that some action should be taken against the persons who brought forward these complaints against the railway ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid if, in every case, where a complaint is withdrawn, because it has no foundation, a prosecution were to be launched, there would be no end to these matters.

Mr. Lalchand Navalrai : May I know if the inquiry showed that every allegation that was made was false—even with regard to the cleaning of the latrines ?

The Honourable Sir Muhammad Zafrullah Khan : I understand that was the gravamen of the complaint.

Dr. Ziauddin Ahmad : On a point of order, Sir, when a question has not been asked by a Member, can supplementary questions be put on that question ?

Mr. President (The Honourable Sir Abdur Rahim) : The original question has been asked and certainly supplementary questions can be put.

Mr. Mohan Lal Saksena : Did the newspaper concerned express any regret for having published these allegations ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I have no information.

Pandit Lakshmi Kanta Maitra : Did Government inquire whether they were *bonâ fide* about the publishing of these false news about a railway company ?

The Honourable Sir Muhammad Zafrullah Khan : No.

PROPOSALS FOR EDUCATIONAL REFORMS AND MEASURES TO FIGHT AGAINST
UNEMPLOYMENT.

76. ***Mr. M. Ananthasayanam Ayyangar** : (a) Have Government received any proposals for educational reform, and measures to fight against unemployment from the various Provincial Governments ?

(b) If so, what are they and have Government formulated any general scheme for the whole of India ?

(c) Are Government considering the reform of female education with a view to prevent addition to unemployment among the educated ?

Sir Girja Shankar Bajpai : (a) and (b). The question of educational reform in relation to unemployment is under the consideration of the Government of India in consultation with Provincial Governments, and necessary steps are being taken in accordance with the resolution of the Central Advisory Board of Education, passed at its first meeting held in December, 1935.

(c) The steps contemplated to deal with the problem of educational reform which is referred to in part (a) of the question are not limited to the education of boys.

Mr. M. Ananthasayanam Ayyangar : May I know, with respect to female education in particular, what steps are being taken so as not to drive females also to run a race with men in pursuit of employment?

Sir Girja Shankar Bajpai : I am not aware that females in this country are anxious to run a race with men for the goal of unemployment. But, in so far as primary and secondary education of girls is concerned, that will come under review to exactly the same extent and in exactly the same way as the secondary and primary education of boys.

Mr. M. Ananthasayanam Ayyangar : As regards part (b), have any Local Governments formulated a scheme?

Sir Girja Shankar Bajpai : Local Governments are considering the scheme which was formulated by the Central Advisory Board of Education.

DENIAL OF FACILITIES TO INDIANS IN ADDIS ABABA.

77. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to an article headed "Facilities denied to Indians in Addis Ababa" in the *Indian Express* of the 13th May, 1936?

(b) Was any help rendered by the British Legation to afford protection to Indians against air raids and gas bombs from Italian air bombers, either by way of shelter within the Legation compound or by providing them with gas masks?

(c) Did any Indians take shelter in the Legation compound and, if so, how many?

(d) Were any Indians given financial assistance to repatriate their wives and children to India, and, if so, how many, and by what sum on the aggregate?

(e) Is it a fact that a cable was sent by the Association of Indians in Addis Ababa to Sriji Babu Rajendra Prasad, and that the same was suppressed and was not delivered to him?

(f) Have Government made any independent enquiries regarding the truth of the allegations contained in that article?

Sir Aubrey Metcalfe : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the statement which I made to the House yesterday in reply to question No. 45 by Mr. T. S. Avinashilingam Chettiar.

(d) No request had been received by the British Minister in Abyssinia for financial assistance. On the other hand, the British Consul on the 7th April reminded representatives of the local Indian community of the existence of normal facilities for repatriation of distressed British subjects. The representatives of the Indian community replied that they were aware of the existing facilities, but did not choose to avail themselves of them.

(e) Enquiries which have been made show that there is no trace of any such message having been withheld in India.

(f) No, as the allegation that the British Legation refused to afford protection to Indians is contrary to all the information in the hands of the Government of India.

Mr. M. Ananthasayanam Ayyangar : Was any such cable received?

Sir Aubrey Metcalfe : I have said that enquiries which have been made show that there is no trace of any such message having been withheld in India. I cannot say whether it was received or not.

APPOINTMENT OF INDIAN CONSULS AND TRADE COMMISSIONERS IN FOREIGN COUNTRIES.

78. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government prepared to consider the desirability of appointing Indian Consuls in countries where there are a large number of Indians with vested interests?

(b) Are Government prepared to consider the desirability of making the Indian Trade Commissioners in the countries where they are, also Indian Consuls in such foreign countries?

(c) Are Government considering the question of appointing any more Trade Commissioners in foreign countries during the coming year? If so, in what countries?

Sir Aubrey Metcalfe : (a) The Government of India are not prepared to consider the desirability of appointing Indian Consuls in foreign countries, since in present constitutional circumstances the appointment of Consuls in foreign countries is a function which vests in His Majesty's Government and not in the Government of India.

(b) No. Since the functions of Consular Officers are entirely different from those of Trade Commissioners, the latter would be hampered in the discharge of their legitimate functions if they were expected to undertake Consular duties in addition.

(c) Yes; in East Africa and Japan.

Pandit Lakshmi Kanta Maitra : Do Government propose to make recommendations to His Majesty's Government for appointing these Consuls since the matter is not in the hands of the Government of India?

Sir Aubrey Metcalfe : The constitutional position at the present moment does not permit of the Government of India appointing Consuls. There is no point, therefore, in making a recommendation for a thing which is constitutionally impossible.

Pandit Lakshmi Kanta Maitra : I am asking whether the Government of India is going to request His Majesty's Government to do this on behalf of the Government of India.

Sir Aubrey Metcalfe : Certainly not.

Pandit Lakshmi Kanta Maitra : Why not?

Sir Aubrey Metcalfe : Because it would be unconstitutional, and is, therefore, impossible.

Mr. S. Satyamurti : With reference to the answer to clause (c), may I know if Government will consider the claims of competent Indians to be appointed as Trade Commissioners and appoint them ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

PUBLICATION OF THE REPORT OF SIR OTTO NEIMEYER.

79. ***Mr. M. Ananthasayanam Ayyangar :** (a) Is it not a fact that Sir Otto Neimeyer's report was printed in India on the 23rd of April, just the day on which the Assembly Session was closed ?

(b) Why was not the report published at least a few days earlier, or the Assembly Session continued for a few more days so as to give an opportunity to the Assembly to express its opinion on the report ?

(c) Are Government aware that almost all provinces are dissatisfied with the report ?

(d) Is it not a fact that Government in answer to a question of Mr. Satyamurti, replied that they did not know when the report would be ready for publication ?

The Honourable Sir James Grigg : (a) and (d). Yes.

(b) Because the date of publication in India was dependent on the date on which His Majesty's Government decided to publish the Report in the United Kingdom.

(c) I would refer the Honourable Member to the White Paper containing the views of Provincial Governments, the Government of India and the Secretary of State.

Mr. S. Satyamurti : Are any Government satisfied with the report ?

The Honourable Sir James Grigg : I am unable to discriminate between their expressions and their real feelings. In some cases I have reason to believe that the expression of views was a little beyond their feelings.

WORK DONE BY THE CENTRAL MARKETING BOARD.

80. ***Mr. M. Ananthasayanam Ayyangar :** (a) What is the work that the Central Marketing Board has done during the year ?

(b) Has any report been published, and, if so, will Government be pleased to lay the same on the table of this House ?

(c) Were any facilities afforded during the year for marketing agricultural produce ? If so, what is the volume of additional trade that has flowed from them ? If not, why were no such facilities afforded ?

Sir Girja Shankar Bajpai : (a) and (b). The work of the Central Marketing Board is described in the Annual Report of the Agricultural Marketing Adviser for 1935. Besides the Annual Report certain other publications have also been issued by the Agricultural Marketing Adviser and copies of all of these publications are available in the Library of the House.

(c) The Central Marketing Office is still collecting data ; the development of marketing can only be attempted after its investigations are complete.

Prof. N. G. Ranga : Have they finished their survey of marketing facilities prevailing in the country for any of the crops grown ?

Sir Girja Shankar Bajpai : My information is that investigations in regard to wheat, linseed, tobacco, eggs, milk and cattle have been completed and that the reports ought to be published about October.

Mr. M. Ananthasayanam Ayyangar : How long have they been sitting at this ?

Sir Girja Shankar Bajpai : So far as I know, they have been most active.

Mr. M. Ananthasayanam Ayyangar : When do Government expect to have their full Report ?

Sir Girja Shankar Bajpai : You will have their Report in regard to individual commodities.

Prof. N. G. Ranga : Are they conducting any inquiries into the marketing facilities of either paddy or wheat ?

Sir Girja Shankar Bajpai : I have already informed my friend that investigation in regard to wheat is complete, and, speaking from memory, investigations in regard to paddy are also in progress.

Prof. N. G. Ranga : Do Government consider the advisability of taking up the necessary legislation for the organization of local markets all over India ?

Sir Girja Shankar Bajpai : I cannot anticipate the decisions of Government on consideration of Reports which have not yet reached them.

Prof. N. G. Ranga : Are they aware of the fact that the Indian Cotton Committee which was appointed somewhere about 1916 or 1918 had recommended the organization and development of open markets all over India, but up till now no action has been taken on their recommendation ?

Sir Girja Shankar Bajpai : My friend is referring to the activities of the Indian Central Cotton Committee which are in no way connected with the activities of Marketing Advisers.

Prof. N. G. Ranga : In view of the fact that the Committee was appointed, first of all, by the Government of India and the Indian Central Cotton Committee has come into existence as a result of their recommendations, will the Government of India be pleased to say why they have so far failed to take any action on the recommendation made so long ago, not by the Indian Central Cotton Committee, but by the Indian Cotton Committee—it was a Committee appointed long before my Honourable friend came to this Assembly ?

Sir Girja Shankar Bajpai : It is quite possible that my friend's researches into antiquity have gone further than mine, but the point is that I am answering questions regarding the Agricultural Marketing Adviser who was appointed by the Government of India only three years ago. If my friend wants information about the Indian Cotton Committee and is good enough to put down a question, I shall certainly undertake to answer it.

STATE CONTROL OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

81. ***Mr. M. Ananthasayanam Ayyangar** : (a) Have Government decided upon taking over to State management, the Madras and Southern Mahratta Railway, in accordance with the Resolution of the Assembly ?

(b) If so, when do they propose to give notice to the company ? If not, why not ?

(c) What is the attitude or desire of the company in the matter ?

(d) Is the Honourable the Commerce Member aware with regard to his apprehensions regarding the availability of cheap credit to pay off the company, that the Post Office Savings Bank rate has been reduced from $2\frac{1}{2}$ to 2 per cent. ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No decision has yet been reached.

(b) Does not arise.

(c) Government have no information ; but it is immaterial.

(d) I am afraid, the Post Office Savings Bank rate is not much use as a guide in estimating the rate which Government will have to pay for long term loans of any magnitude. The total sum required for the purchase of the three railways whose contracts fall due for termination in 1937, is nearly £17 million sterling or 23 crores of rupees.

Prof. N. G. Ranga : Is it not possible for the Government of India to float a Rupee Loan in India itself and raise the necessary money ?

The Honourable Sir James Grigg : It is no good raising rupees in India unless you can translate them into sterling.

Mr. M. Ananthasayanam Ayyangar : Has any difficulty been felt in raising a sterling loan in England ?

The Honourable Sir James Grigg : No difficulty has been felt in providing our present commitments.

Mr. S. Satyamurti : Does the Honourable the Finance Member anticipate, as a result of his operations so far in the loan market in London, any future difficulties ?

The Honourable Sir James Grigg : It depends entirely on the character and magnitude of the commitments.

Mr. S. Satyamurti : About buying up this Railway ?

The Honourable Sir James Grigg : I cannot anticipate events of the next twelve months ; even in the next 12 months there may be a change in the money markets of the world.

Prof. N. G. Ranga : Is it not a fact, Sir, that in view of the continued export of gold, it is still possible for the Government of India to raise a Rupee loan in India and convert those rupees into gold and send it over as sterling to pay this Railway company and take over its management ?

The Honourable Sir James Grigg : As I said, it depends on the magnitude and the time of the operation. This operation does not fall due for another 12 months. In any case another consideration which

has not been taken into account by my friend is that even when you raise the money, it will not remunerate you for the interest paid on it.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that the Reserve Bank of India has advertised that it will purchase large amount of sterling in India ?

The Honourable Sir James Grigg : Of course I am aware of it.

Mr. M. Ananthasayanam Ayyangar : Then does not the Honourable Member find it easy enough to raise money locally ?

The Honourable Sir James Grigg : It is no good talking about conditions over a year hence and arguing from what the conditions are now.

Mr. M. Ananthasayanam Ayyangar : What is the consideration that is weighing with the Government,—is it the consideration of raising money to be paid 12 months hence ?

The Honourable Sir James Grigg : All relevant considerations including the character of the investment.

Mr. M. Ananthasayanam Ayyangar : If it makes up its mind to purchase now then when has the loan to be raised—certainly a year in advance ?

The Honourable Sir James Grigg : Certainly not.

Mr. M. Ananthasayanam Ayyangar : I would like to know, Sir, what the considerations are which weigh with the Government which prevents them from taking up the management of this Railway ?

The Honourable Sir James Grigg : I have answered that one of the main considerations is the remunerative character of the investment which the Honourable Member is entitled to leave out of account, but the Government of India is not.

Mr. M. Ananthasayanam Ayyangar : How then is the company working at a loss ?

Mr. President (The Honourable Sir Abdur Rahim) : You cannot have a debate now.

AMALGAMATION OF THE MADRAS AND SOUTHERN MAHRATTA AND THE SOUTH INDIAN RAILWAY COMPANIES.

82. ***Mr. M. Ananthasayanam Ayyangar** : (a) Were any negotiations started regarding the amalgamation of the Madras and Southern Mahratta and the South Indian Railway Companies, and if so, at what stage are the negotiations ?

(b) What is the extent of saving expected by such an amalgamation ?

(c) Are the companies themselves moving in the matter, or does the suggestion entirely proceed from Government ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) No detailed estimates have been made.

(c) I am not aware of any proposals for amalgamation by the companies themselves.

Mr. M. Ananthasayanam Ayyangar : Was it not suggested by the Honourable the Railway Member in his Railway Budget speech that there is an alternative which the Government would consider ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. M. Ananthasayanam Ayyangar : Since then have no negotiations been going on ?

The Honourable Sir Muhammad Zafrullah Khan : No negotiations can be undertaken till some decision has been arrived at with regard to the acquisition of the Railways.

Mr. M. Ananthasayanam Ayyangar : I want to know whether any negotiations have been going on and whether any conclusions have been reached ?

The Honourable Sir Muhammad Zafrullah Khan : I said " No ".

Mr. M. Ananthasayanam Ayyangar : Why have not even negotiations been started ?

The Honourable Sir Muhammad Zafrullah Khan : Because it is not possible to start them till certain decisions have been arrived at.

IMPROVEMENT OF FINANCES AND REDUCTION IN THE DEFICIT IN THE RAILWAY FINANCE.

83. ***Mr. M. Ananthasayanam Ayyangar :** (a) Have any, and if so, what steps been taken so far and are being taken to improve the finances and to reduce the deficit in the railway finance ?

(b) Have Government considered the possibility of further economy by (i) abolition or amalgamation of departments, (ii) abolition or reduction of offices and officers, (iii) reduction of salaries, (iv) economy in working expenses, and (v) economy in stores purchase, since the beginning of this year and if so, with what result and if not, why not ?

(c) What, if any, are the recommendations of the Sub-Committee on Railways of the main committee of the Assembly, for retrenchment and economy given effect to or adopted during the course of the year ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Honourable Member is referred to the reply given to Mr. S. Satyamurti's question No. 37 on the 1st September, 1936.

(b) All the possibilities mentioned by the Honourable Member have been given due consideration, and the result is the reduction that has been effected in the working expenses since 1931-32, as will be evident from a perusal of the Administration Reports on Indian Railways.

(c) I would refer the Honourable Member to the reply I gave to Mr. S. Satyamurti's question No. 56 on the 5th February, 1936.

Mr. M. Ananthasayanam Ayyangar : With regard to the answer to clause (b) of this question, may I know whether, in any of those directions, namely, abolition or amalgamation of departments, abolition or reduction of officers or offices, reduction of salaries, economy in working expenses or economy in stores purchase, any steps have been taken at all ?

The Honourable Sir Muhammad Zafrullah Khan : I have replied to that. I have said that information will be found in the Volume to which I have referred in the reply.

Mr. M. Ananthasayanam Ayyangar : May I know if the Honourable Member has considered the question of the abolition of the Railway Clearing House which was recommended by the Railway Retrenchment Sub-Committee ?

The Honourable Sir Muhammad Zafrullah Khan : The matter is under the consideration of Government.

Mr. M. Ananthasayanam Ayyangar : How long has it been under their consideration ?

The Honourable Sir Muhammad Zafrullah Khan : I could not say that exactly without notice.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that the Committee reported so early as 1931 ?

The Honourable Sir Muhammad Zafrullah Khan : I am willing to take it from the Honourable Member.

Mr. M. Ananthasayanam Ayyangar : If so, has it taken five years for the Government of India to consider the matter ?

The Honourable Sir Muhammad Zafrullah Khan : It is a question of simple arithmetic.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that in the Railway Clearing Accounts Office a number of typewriters have been bought on hire purchase system which has cost nearly 50,000 or 60,000 rupees, and they have to pay up all that money, though all the work could have been done by a number of clerks ?

The Honourable Sir Muhammad Zafrullah Khan : How does that arise out of the question which the Honourable Member has put down ?

Mr. M. Ananthasayanam Ayyangar : Yes, Sir, in this way, it is one of the modes of reducing working expenses.

Then with respect to clause (c), what are the recommendations of the Railway Retrenchment Sub-Committee which the Honourable Member proposes to give effect to during the current year ?

The Honourable Sir Muhammad Zafrullah Khan : I have drawn the Honourable Member's attention already to a reply given by me in the last Session of the Assembly.

APPOINTMENT OF AN EXPERT FROM ENGLAND TO CONSIDER THE QUESTION OF IMPROVING THE RAILWAY FINANCES.

84. ***Mr. M. Ananthasayanam Ayyangar :** (a) Is there any proposal to appoint an expert from England to consider the question of improving railway finances ?

(b) Has the person been decided upon ? If so, what are his qualifications for the task and what are the conditions of his service regarding his remuneration and how long is he expected to work ?

(c) Are there no persons in service competent to undertake such a task ?

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(d) What are the subjects that are to be referred to the expert?

(e) Are Government aware that the railway administration and railway problems in America are similar to a large extent to those in India, and have Government considered the desirability of getting an expert from America?

(f) Have Government considered the desirability of sending Indian members in Railway service in India to foreign countries for studying their administration? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan : The question of instituting an expert enquiry into railway finances as suggested by Sir Otto Neimeyer is under the consideration of Government.

INTRODUCTION OF COMPULSORY MILITARY TRAINING IN INDIA.

85. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that as preparation for defence in any war the Australian Government is considering the adoption of measures to give compulsory military training to all the able bodied citizens?

(b) Are Government considering any such proposal to introduce similar measures in India? If so, when, and, if not, why not?

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

(b) No, because they do not think it necessary or desirable or financially feasible.

MOTION FOR ADJOURNMENT.

REDUCTION OF THE DUTY ON BRITISH TEXTILES WITHOUT CONSULTING THE LEGISLATIVE ASSEMBLY.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order.

12 Noon. I have received notice of a motion for the adjournment of the business of the Assembly to discuss a definite matter of urgent public importance, namely, the reduction of the duty on British textiles without previously consulting the Assembly. Does the Honourable Member wish to ask for leave to move that motion?

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any objection?

(No objection being raised.)

The motion will be taken at 4 o'clock.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Railways Act, 1890, for certain purposes.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, yesterday, while I was discussing this motion, I submitted that the defence of the Honourable the Law Member that this Bill makes no encroachment on the principles of criminal jurisprudence could not hold good. I then said that when a person boards a train he boards it with the intention of travelling and not with the intention of defrauding. It is only the act of boarding the train with the intention to defraud that can make him criminally liable, and we have to take the whole of the act as one and we cannot split it into two. So, according to the current conceptions of criminal jurisprudence, if the man goes before the magistrate, it will be presumed that the man boarded the train with the intention of travelling and paying the money afterwards, and it will be for the prosecution to prove that the action was a fraudulent one. I find that the very definition of the word "fraud", as contained in the Indian Penal Code, is :

"A person is said to do anything fraudulently if he does that thing with the intention to defraud, but not otherwise."

My submission is that the chief ingredient in making the act criminal or penal is that the intention must be proved, and by the present Bill criminal intention is presumed and so it is an encroachment on the principles of criminal jurisprudence. The other thing that I submitted yesterday was that travelling in a railway compartment gives rise only to a civil liability and a civil liability cannot be made a criminal one except for very good reasons.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not repeat what he has already said.

Qazi Muhammad Ahmad Kazmi : I am only summarising, Sir ; I am finishing. These are the two main grounds on which we are opposing this Bill so far as jurisprudence is concerned.

Now, I shall take up the case as to how far the present Bill, if enacted into law, can be helpful to the railway itself. My point is that it will not at all help the railways in getting greater revenue or in stopping ticketless travelling. For this purpose, let us see how this Act will actually work when it is put on the Statute-book. I will take the example of a third class passenger who boards a train without informing the guard and he is caught by a member of the railway staff. As soon as the passenger is caught by the railway servant, the latter has got the option of proceeding against the man under section 113 and demanding the amount of the fare for the distance he had travelled *plus* a penalty of one rupee. My Honourable friend, Mr. Mudie, says that this is not so. If we read section 113 as it stands—there is only an addition to it—it says :

"If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train..., etc., he shall be liable to pay, on the demand of any railway servant appointed by the railway administration on this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled....."

This is a clear provision. It has not been amended. The railway servant has got the authority to go to the passenger and ask him to pay the fare *plus* the penalty, that is, one rupee, and he will be allowed to go

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in the train. Supposing the traveller refuses to pay, then, under sub-section (4) of the same section, he can make a complaint about that passenger and hand him over to the police, produce him before a magistrate and ask the magistrate to realise this fare *plus* the penalty as a fine. This is at the option of the railway servant as the Act stands today and as the Act will stand even after this Bill has been enacted into law. There is another alternative for the railway servant provided by the amendment. Instead of proceeding under section 113 of the Railways Act, he can directly invoke the aid of section 131. Under that section he is entitled to get the man arrested even though the person is prepared to pay the fare and the penalty and is also prepared to give his correct address, and even though the railway authorities are convinced of the accuracy and respectability of the person. After the amendment of the Act by this Bill, they will be entitled to arrest the man at the option of the railway servant, and this result is secured by the provision of the Bill that "in sub-section (1), after the figures '101' the figures '112' shall be inserted". If we insert 112 after 101, section 131 will read as follows :

"If a person commits any offence mentioned in sections 100, 101, 112, etc., he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid."

The thing is very clear. After this Bill becomes law, it will be at the option of the railway servant either to arrest him in spite of the fact that he is prepared to pay, in spite of the fact that he is prepared to give his address and in spite of the fact that he is a respectable person, or if the railway servant wants, he can proceed under section 113 and take only the amount of fare and the penalty. What does this mean? It means that the railway official will exercise his discretion in favour of those persons from whom he can get money. He can very well threaten the man, "I shall take proceedings against you under section 112. Pay me some money". If the man is not prepared to pay and the man has really nothing from which to pay, he makes himself liable to criminal prosecution and for that kind of passengers you may proceed either under section 113 or section 131. What will be the result? The criminal prosecution shall be launched only against those persons who have not got enough money and they shall be sent to jail. Let us see what justification has the present Mover of this motion got for sending up to jail persons found travelling without a ticket.

This is what is said in the Statement of Objects and Reasons :

"In many cases such passengers are found to have no assets and are discharged. Where a distress warrant is issued against any person, the results are usually quite incommensurate with the time, trouble and expense involved in court proceedings, etc., as the amount payable is frequently not realised."

They are imposing this penalty only because they want to get money out of them and they themselves admit that distress warrants and proceedings against persons who cannot pay the money are absolute waste of money and it is no use sending them to jail. If they send them to jail, the only difference would be that the Railway company will not be able to realise the money and the taxpayer will have to pay for a period of two months for the maintenance of these persons. In my opinion so far as this provision is concerned, it cannot be justified on the basis of the

fact that the railway will get any further revenue on account of this enactment. So, I submit that on this ground also we are not in a position to support this Bill. If the Government had brought forward an amendment of the present Act and suggested that a period of imprisonment may be prescribed for the person who is fined under section 112 and makes a default in paying the amount, it would have been a much easier process for arriving at the result which this Bill aims at.

Now, having said that and being of opinion that this Bill is a useless waste, I have some suggestions to make as to how we can increase the revenue of the railways.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow a general discussion as to how the revenue of the railways can be improved.

Qazi Muhammad Ahmad Kazmi : There have been suggestions and counter-suggestions. Some suggestions have been made by the other side that this measure is intended to increase the revenue of the railways and that is my justification for making these suggestions. I maintain that the revenue is low on account of the slackness of control by the Railway Department.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow that. It is not relevant.

Qazi Muhammad Ahmad Kazmi : Then I submit that the very proposition which has been made the basis of this Bill, namely, that the railways will get further revenue on account of this Bill is without foundation, and, under the circumstances, we cannot but oppose the Bill.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I had no idea of taking part in this discussion, but my inclination to speak is due to the great provocation given to us by the speech of the Law Member yesterday on the legal aspects of the question. I shall examine the position taken up by the Honourable the Law Member in regard to the legal aspects. His case is that even under the proposed amended section 112, the onus will be on the railway and when we told him that the question here was about the initial onus, Sir Nripendra Sircar told us that even the initial onus was on the railway. My submission is that that is a position which is absolutely untenable.

As I read section 112 of the existing Act, there are two ingredients which the prosecution must prove, one ingredient being entering the carriage in contravention of section 68, that is entering into a carriage without permission or a pass or a ticket. That is one ingredient and the other ingredient under the existing section is the intention to defraud the railway administration. These are the two facts which the prosecution has to prove and the onus is on the prosecution. Now, the Honourable the Law Member says that even under the proposed section it will be for the railway to prove the entry into the carriage without a pass or ticket or permission. There are two essential elements to the offence. One is entry without ticket and the other is the intent to defraud. In other words, the fraudulent intention is the gist of the offence, and, therefore, it is for the railway to prove, not merely the entry without ticket, but also the intention to defraud. Under the amended section, there is only one ingredient which the prosecution

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will have to prove. As regards the second ingredient, *viz.*, the intention, on that point the onus is shifted to the accused. It will be for him to prove his innocent intention: and therefore, in laying down his proposition, the Honourable the Law Member overlooks the fact that under the existing section, the initial onus cast on the Railway is two-fold, *viz.*, to prove the two ingredients—the intention and the wrongful entry; whereas under the amended section they will have to prove only one ingredient, *viz.*, entry without ticket. Then, Sir, the learned Law Member invoked the aid of the principle contained in section 106 of the Evidence Act and contended that, as regards the circumstances in which the accused happened to enter the carriage without a ticket, that is a matter within his own especial knowledge and therefore he has got to prove it; the onus is on him under section 106. Now, there again, Sir, that is a most fallacious argument. If really the onus is upon the accused under section 106 on this particular question, *viz.*, the question of intention, then the difficult question arises—why do you change the law? You can leave it as it is and, on the question of onus, rely on section 106.

Then, Sir, in support of his contention he cited *Illustration (b)* of section 106, but what is that illustration? That illustration only says this that if the accused denies the charge that he had no ticket, if his defence is that, “no, I had a ticket”,—if that is the defence taken up by the accused, in that case section 106 comes in and lays down that the onus of proving that he had a ticket is on him. Now, I submit, Sir, that that is altogether irrelevant on the question of intention. There, the question is, had he or had he not a ticket?—and *Illustration (b)* of section 106 places the onus on the accused to prove that he had a ticket. *Illustration (b)* has absolutely nothing to do with the question of intention. So, Sir, as the main section 106 is irrelevant, so the *Illustration (b)* is equally irrelevant on the question of onus as to intention. But, Sir, I need not labour this point because later on the Honourable the Law Member said that section 106 of the Evidence Act is not sufficient for their purpose and that they were really going to change the law as regards the question of onus. So in that view of the matter, it is difficult to understand as to why the Honourable the Law Member was discussing this question of onus either under section 106 or under *Illustration (b)* to that section. On the contrary, I am prepared to concede that if the issue is whether the accused had a ticket or not,—on that question the Honourable the Law Member could very well say that the onus is on the defendant to prove that he had a ticket. But, strangely enough, there the Honourable the Law Member places the onus upon the railway. Therefore, my submission is this. He places the onus in either case on the wrong party. Where the onus is not on the railway, I mean on the question as to whether the passenger had a ticket or not, there he wrongly places the onus on the railway. On the other hand, on the question of intention, although, really, the onus is on the prosecution, he shifts it and places it on the accused. Now the Honourable the Law Member is absent and therefore I should not like to use any strong language. Had he been present, I was going to say that although he is a very great lawyer and I have got the highest respect for his knowledge of law, but I really think there was a lot of loose thinking and confusion of ideas in his mind about the burden of proof of these two ingredients.

Then, he made a very pathetic appeal to my friend who is also absent, addressing Pandit Lakshmi Kanta Maitra, the Honourable the Law Member said, “Supposing you are appointed Crown Prosecutor in a case under section 112 of the Railways Act, I ask you in all seriousness, how would you prove that the accused had any intention to defraud?” In a mood of absolute helplessness, he appealed to him to consider how difficult it is to prove such an intention? My answer is this—and that was the answer given by my friend, Pandit Lakshmi Kanta Maitra—“prove his intention by his conduct, by the conduct of the accused, by his previous conduct, by his subsequent conduct, and prove it by his statements, prove it by all possible collateral facts”. That is the answer to this question. Sir, the question of intention is not an isolated question which has arisen only in connection with section 112 of the Railways Act: the question of intention is there in almost every criminal case. There are hundred and one offences in the Indian Penal Code—in which the criminal intention is the gist of the offence—of course in the case of the Criminal Law Amendment Act no question of onus arises. (Laughter.) Now, Sir, so far as the question of intention is concerned, it is a very commonplace question arising in almost every criminal case of any importance.

Now, Sir, with regard to the Indian Penal Code, it would not be an exaggeration to say that from cover to cover the whole Code makes intention an essential element of the offence. The Honourable the Law Member made a most pathetic appeal to my friend, Pandit Lakshmi Kanta Maitra—how to prove a mental condition, a psychological fact, how to prove that the intention of the ticketless traveller was fraudulent or dishonest? Now, Sir, the question of intention and that question as regards the onus of proving intention is a most elementary question in criminal jurisprudence, and the Indian Evidence Act, which was quoted by the Honourable the Law Member, has answered that question in very many sections. Now how do you prove a case under section 302? You are going to hang a man, and you have got to prove the intention; it won't do for you merely to prove the act of killing, you must prove the further fact, *viz.*, intention to cause death. How do you do that? I wonder if the Honourable the Law Member in his career as a lawyer, as an Advocate-General, ever felt handicapped and helpless in proving intention of the offender. I wonder whether he ever felt any difficulty in proving the intention. Of course, there must be difficulty where there is no intention but if there is intention in point of fact there should be no difficulty in proving it in the vast majority of cases. I do not know if it ever occurred before to the Honourable the Law Member that the law of burden of proof of intention is defective and therefore the whole of the Penal Code and Evidence Act ought to be amended. I say, Sir, there is nothing in that argument. Every criminal practitioner knows how to prove intention. Apart from legal technicality take the commonsense view of the matter. Can you say as a matter of commonsense that merely because you prove that a man entered into a railway carriage without a ticket, it follows conclusively that he must have had a wicked intention, a dishonest intention? Sir, the intention is the gist of the offence under section 112 of the Indian Railways Act which was passed in 1890 and which is now about half a century old. Half a century before, the onus was cast on the railway to prove the intention. Now, what has

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happened after this half a century that you are resorting to this retrograde movement of placing the onus on the accused? The Honourable the Law Member says that it is not a violent departure from the elementary canons of jurisprudence on the question of onus. My submission is that he is absolutely wrong there. The law of burden of proof is this. He who asserts a fact must prove it. That fact may be a physical fact, namely, the entry into a railway carriage without a ticket or that fact may be a psychological fact, namely, the intention to defraud. Now, if the Railway alleges these two facts they must prove them. That is the well settled law of burden of proof. There is no trouble about it.

The Honourable the Law Member said: "Supposing it has been proved that the man was travelling without a ticket and supposing he had no explanation to offer, what would happen?" Does he mean to suggest seriously that because a man enters a railway carriage, it follows as a matter of course as the night follows the day that he must have entered with a fraudulent intention. If you are of that opinion, then, of course, the fact that he does not give any explanation will be conclusive against him. But a man may travel without a ticket either with a dishonest intention or without a dishonest intention and if no evidence is given by the prosecution as to the intention and no evidence is given by the defence about the intention, what happens? The law is clear on the subject: it is a most elementary question. There the Magistrate cannot but hold that it is not proved that he had a dishonest intention. There may be a dishonest intention, there may not be a dishonest intention. That being the position, in the absence of any evidence, unless a Magistrate is a puppet in the hands of the Railway or the Government, he cannot but acquit the accused. Sir, there is no substance in the argument of the Honourable the Law Member. He was, in fact, constrained to admit that the Bill seeks to make a material change in the existing law. The question is whether that is a change which can be accepted. What is proposed now is that the mere fact that a man enters into a railway carriage without a ticket is enough to make him liable to a sentence not only of fine but also of imprisonment. Is that a position which is acceptable to any right-minded people? Sir, I had no mind to speak but it was only this legal jugglery on the part of the Honourable the Law Member which impelled me to offer these observations.

Now, I wish to say a word or two on the merits of the Bill. It is stated in the Statement of Objects and Reasons that the present provisions are not effective and are not deterrent. In all humility and with all respect for the Honourable Member in charge of the Bill, may I ask this question? If the prospect of a fine of Rs. 100 under the existing Act could not prevent the ticketless travellers from travelling, is it seriously suggested that the mere addition of a sentence of two months will bring about a wholesale change in the character of the dishonest travellers and the moment they hear that the Indian Legislative Assembly has amended the law and that in addition to the fine of Rs. 100 there may be a sentence of imprisonment of two months also, they will never think any more of travelling without a ticket?

Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Then make it four months.

Mr. Akhil Chandra Datta: You may make it one year, but I tell you that will not change the mentality of these people who are really dishonest. A man travels a distance of, say, 100 miles and he has got to pay a fare of, say, Rs. 2. If, in spite of that provision of Rs. 100 fine, he takes the risk, I, for one, cannot believe that the addition of a sentence of two months or, for the matter of that, four months as suggested by my Honourable friend there, will make any difference. If you want to increase the revenue, that is another matter. But to talk seriously of an improvement of the position by this provision of sentence of imprisonment, my submission is that it will not in any way achieve the desired result. I, therefore, support the motion for circulation and oppose the motion for reference to the Select Committee.

Mr. R. N. Dey (United Provinces: Nominated Official): Mr. President, I should first attempt to deal with some of the objections raised against this Bill. The first is a mathematical one which has emanated from the eminent mathematician from my province, the United Provinces. His argument was that only about .5 per cent. travellers of the total number of the travelling public travel without ticket. What would you think of the argument that since criminals form but .05 per cent. of the total Indian population, therefore the jails should be abolished, law courts dismantled and all lawyers interned in the Andaman Islands, which, I believe, is shortly to become vacant?

An Honourable Member: It is paradise now.

Mr. R. N. Dey: Supposing the Honourable Member went to a tailor and he was placed against the Christ Church Tower and was informed that his cubic circumference was but .5 per cent. of the background, and, therefore, he was too insignificant to be tailored, what would he consider of the tailor's answer? We have to look at this question like practical men, that is we have to employ lower mathematics and not higher mathematics. At least to start with we have got to measure the evil in itself before we proceed to percentages. Let us not forget that it is lower mathematics that makes one and one, two, the best form of company that you require for making love. Higher mathematics would reduce that to an infinitesimal fraction of the lunacy that pervades the world at large. Now, Sir, figures and statistics were given by my Honourable friend, Mr. Mudie, and he stated that 17 lakhs 75 thousand persons were detected travelling without tickets. This number excludes beggars. The evil therefore is a very widespread one and I quite agree with the Honourable Member opposite who said that a very large proportion of the ticketless travellers come from the better class, and, therefore, travel in the higher class. Statistics do not always reveal the whole truth. They cannot take the place of administrative or economic realism. These numbers do not include the vast number of people who remain undetected while travelling without ticket. You often come across boasts made by people that they have cheated the railway by travelling without tickets, escaping scot-free. Another aspect is to be borne in mind. Since the evil is a growing one, we cannot wait till the evil has assumed very widespread dimensions. We have got to try and nip it in the bud. Therefore the law must be so framed as to have a deterrent effect before the evil becomes too large to cope with. Why is the evil growing? Obviously because railway travelling has become more and more necessary, while the social sense has not developed. When you get the perfect social sense, the payment of tax is regarded as the

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highest form of charity, but at present we find that the very shopkeepers, who make regular contributions to temples or mutts, have no qualms in cheating the Government in the matter of income-tax. Also we have to take into account that beggars are becoming a source of increasing nuisance. You may have heard of the incident as to how 400 *sadhus* entered a village in the Sitapur district in my Province and burnt a whole village because they did not receive fuel. Another argument raised against the Bill was an ethical one by Mr. Sri Prakasa. I will do him the credit to think that he did not mean it seriously. His idea was that the railway administration, for the good of their soul, should allow ticketless travelling as a matter of charity. This charity will help not the poor but the professional swindlers who form such a large bulk of ticketless travellers. The next argument also raised by the same Honourable Member was the pseudo-commercial one. It was said that the amendment turns a civil liability into a criminal one. It was argued that a grocer does not have the right to get a customer who has not paid his bill arrested. I submit, Sir, that the analogy is a completely muddled one. A ticketless traveller, who without the consent of the railway administration, makes use of the public utility of travel, afforded by the railway, is not to be compared with a *bonâ fide* customer of the grocer, but with a pilferer, who steals the goods of the grocer without his knowledge. Sir, it is surprising that some of the distinguished lawyers on the other side have never thought of the fact that even the grocer has the right to arrest a pilferer then and there and take him to the nearest *thana*.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : What about the policeman who does not pay his *ekka* hire or the motor bus fare ?

Mr. R. N. Dey : The railway administration should have the same right as the grocer, irrespective of what the policeman may do or what right the *ekka* driver may have.

Lastly, there was the sentimental argument raised by my Honourable friend, Mr. Lalchand Navalrai. This was buttressed by a story which was not lacking in a certain amount of pathos in it. The story was that twelve persons, six men and six ladies went for a picnic. Except for this distribution of numbers, the picnic would not have been possible. The young men were so conscious of their better halves or their about-to-be better halves that they became unconscious of the better halves of their tickets and the result was that at the end of the outward journey they returned to the railway the wrong halves, the return halves of the tickets. The wicked railway servant, regardless of the situation of the picnic party, arrested them and took them to the police. Well, Sir, that story is of considerable help to us, because it makes clear that the power of arrest and the possibility of its misuse exist even under the present law. The law as it stands at present is rather unintelligible. Section 132 lays down the condition that there must be a reasonable ground to believe that the name and address are wrong before arrest could be made. It is very difficult for an honest railway official to set out the reasons for believing that the name and address are wrong. Hence the honest railway servant is deterred from making arrests, while the dishonest railway servant certainly disregards this difficulty. The new law makes the power a little wider. I quite sympathise with the desire of Honourable Members opposite that corrup-

tion amongst the railway servants should be put down, though it has to be borne in mind that this corruption exists in other countries also. I can relate my experience in Italy. I never got to know the time of the departure of a train in a railway station unless I tipped the Station Master two liras for his macaroni.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Even under Mussolini.

Mr. R. N. Dey : That was before the days of Mussolini. If you desire to stamp out corruption, Honourable Members cannot do that without sympathy for the lot of the poor official. Nor can lack of understanding that it requires two parties to produce corruption do any good. Nor failure to give the devil his due, help. We should not, therefore, be too blatant and self-righteous and sweeping in condemning corruption amongst our officials. When any Indian public man condemns hosts of petty officials, let him not forget that they come from the same stock, that before they became officials they were non-officials. Similarly I would submit that when an Indian officer condemns any Indian public men, let him remember that we are all members of the same nation. The brush that tars one lot, indirectly tars the other also. Honourable Members on the opposite side are regarded as very big men by their constituencies, and quite rightly. They are all potential Ministers of the autonomous provinces. Their attitude now is being watched.

Now, Sir, an injustice has been done to the petty railway servants. I will show this by figures. Mr. Mudie gave the figure that thirty thousand passengers gave false names and addresses. Now these were persons who were not arrested by the railway servants, though they had the power to do so, because they had given false names and addresses. Therefore, it would be most unjust to say that the whole lot of the railway servants is corrupt and should be treated as an absolutely rotten lot. Sir, the *bonâ fide* traveller is protected even under the law as proposed to be amended. If he pays the excess on demand he cannot be arrested. Now the excess in the case of third class passengers is only two annas and in the case of higher class passengers it works out to an average of one rupee per head. Sir, I am authorised to state that it never is the intention of Government that those persons who pay the excess should be arrested.

One word about the onus of proof before I finish. Actually, under the present law, all that the prosecution has to prove,—I say actually,—is that the man has been found travelling without a ticket in view of section 106 of the Evidence Act, which was dealt with at length by the Honourable the Law Member. The reason is that the circumstances which can show that there was no intention to defraud are known only to the traveller himself, and therefore under section 106 it is for him to discharge the burden of proof. Now, Sir, actually the same principle applies in the case of those persons, who are found in possession of stolen property. All that the prosecution has to prove in their case is that the man has been found in possession of this stolen property. The burden then shifts on the accused to show that there was no dishonesty in the manner in which he received it. Also the power to evict ticketless travellers is not given under the present law. Section 120 allows eviction only in cases of drunkenness and in cases where a traveller makes a nuisance of himself, not in the case of the ticketless traveller. Therefore, the provision in the Bill that in the case of ticketless travellers there should be a power to

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evict is a right one. It has also to be borne in mind that the power to arrest is given in several other cases also, cases other than those of ticketless travelling, for instance, if a man is drunk or is obstructing railway servants or is making a nuisance of himself. It has also to be considered that there has never been any complaint that these powers have been misused by railway officials.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, the last speaker, I believe, is a District Magistrate, and he is the most powerful argument against this Bill. Some people must rush in, where angels fear to tread. We had a magnificent discourse on the law of evidence and the burden of proof by the Honourable the Law Member yesterday. I regret he is not in his place just now ; but, if the law as laid down by my Honourable friend, who just finished his speech, is the law as he understands it, when he administers these Acts or this Bill when it becomes an Act, woe betide the unfortunate passengers who are brought before him. I believe that is a conclusive argument, and that is all I want to say about his speech.

Sir, I rise to oppose the motion made by the Railway Member. I wish the House had had only that motion, and had a straight vote and rejected this Bill. And I will give you one general reason, before I deal with the Bill and the Statement of Objects and Reasons, and the arguments which have been advanced in support of the Bill. I am one of those who feel that ticketless travel is an offence as heinous as theft, that it ought to be punished, and that no Government ought to leave anything undone which is in its power to prevent such an offence being committed. But I feel, Sir, that this Bill ought not to be supported, for two reasons. The first is that it will not achieve the object which it proposes to achieve. It will defeat its own purpose, and I will tell you why. Those who are *bonâ fide*—if I may use that phrase,—ticketless travellers for any reasons beyond their control can be dealt with under the existing Act, as it stands ; and when they are confronted with the fact that they have not got a ticket they always pay if they have the cash ; if they do not, they give their names and addresses. I am talking of *bonâ fide* passengers from whom money is afterwards recovered. As regards the beggars, mendicants, and the other class of *mala fide* passengers, most of them are admittedly too poor to pay the fare. Then, what happens under the Bill ? You arrest them, prosecute them, and throw the burden of proof on them. You get them convicted and send them to the prisons of this country. Who feeds them there ? My Honourable friend said that is a matter between one branch of Government and another. I regret to say it is not. Whatever branch of Government may administer the jails, the taxpayer has got to pay for the jails and for the railways. And, therefore, to say that you will check revenues of the State through railways. On the other hand it adds to the expenditure of the State, I believe by Provincial Governments, under jails. I want to know what is the purpose of doing that.

My second reason against this motion is this. The railways are in a very bad and parlous state, so far as their finances are concerned. They owe to the State about 50 crores of rupees. They are losing about 4 or 5 crores a year. We have been suggesting to them in various places, by questions, by resolutions, to do something to set their house in order.

They will do nothing in the matter. They will not give up the Lee concessions, or more accurately, the Lee loot. They will not reduce their expenses ; they will not retrench. They will take no steps to set their house in order. And, if we tell them they are wrong, like incompetent insolvents they throw the blame on everybody except themselves. They have got two people on their heads just now, the ticketless traveller and the motor transport owner. The railways are not paying ; therefore, let everybody be compelled to travel in my control motor transport. Let everybody be compelled to travel in my railway. Secondly, let me have some power of sending to prison these ticketless travellers. It seems to me that the railways are erecting a perfect camouflage,—a word which became very famous during the last war,—in order to distract the attention of this House and of the public, from their own incompetency and inefficiency. That is the reason why I think this House ought not to be a party to this Bill. With that preliminary observation, let us look at this Bill.

The first clause leaves section 68 of the Act as it stands. May I ask my Honourable friend, the Railway Member, whether in drafting this Bill he or his advisers went into this section as it stands and examined the need for leaving it as it is ? The section reads like this :

“ No person shall without the permission of a railway servant enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.”

I draw his attention to the words “ without the permission of a railway servant ”. I want to know—I am asking in ignorance for enlightenment—why should this power of giving permission be given to a railway servant ? Why should not the section read simply : “ No person shall enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket ” ? I am asking that question because “ railway servant ” is defined in section 3 (7) in a very comprehensive manner—“ ‘ Railway Servant ’ means any person employed by a railway administration in connection with the service of a railway ”. I think even a porter will come under that definition. I think he will, because he is a person employed by a railway administration in connection with the service of a railway. Section 68 does not say, “ railway servant specially empowered in this behalf ”. It does not say that ; and, as I read this Bill, that section will remain as sub-section (1) of the proposed section 68 as redrafted in this Bill. I suggest, that if this is left as it is, it leads the way to gross abuse. The Honourable Member, who spoke just before me, pleaded eloquently for the unfortunate persecuted railway servants. I am not willing to say that all of them are equally black or black at all : many of them may be white ; but I think everybody will readily agree that, if you give this power to any railway servant to give permission to a ticketless traveller, taking it along with the subsequent sections which give a kind of exemption from arrest or punishment, this is liable to gross abuse : I do not want to put it higher than that. But the Honourable the Railway Member will, I am sure, realise that this is liable to gross abuse.

Then, sub-section (2) says :

“ A railway servant when granting the permission may, if empowered in this behalf by the railway administration, grant to the passenger a certificate, etc.”

I take it these words “ empowered in this behalf ” qualify only sub-section (2), and do not apply to sub-section (1). Sub-section (2),

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undoubtedly gives him the additional power of giving a certificate that the passenger has been permitted to travel upon condition that he subsequently pays the fare. No doubt that may be all right, because it answers my second point that you could include even porters, whereas this will only mean, specially empowered officers. But, taking section 68 as it is, which I submit has been left unamended, that undoubtedly gives the power to the ticketless traveller to enter a carriage without contravening section 68, if he has got the permission of any railway servant. It does not even say "permission in writing". A railway servant may say 'I orally permitted A or X to travel', and it is a complete answer. As I say, it is liable to gross abuse.

Again, take sub-section (2) ; it says :

"grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled."

What does the word "subsequently" mean there ? At what stage of time has he to pay the fare, and where is he to pay the fare ? Is it to be a year hence or a month hence ? It does not even say before the end of the journey, or within 24 or 48 hours after the end of the journey. Then, what is the meaning of the phrase "for the distance to be travelled" ? Is it for the distance actually travelled or distance to be travelled by the traveller until his destination ? These are merely verbal criticisms, it may be argued ; but, at the same time, as you are creating an offence and creating under this, an exception on the lines of the Indian Penal Code, I submit the wording must be much more accurate before this can be enacted into law. As it is, it is too vague and puts too large a power into the hands of the railway servants, and is therefore liable to gross abuse. At any rate, I do not see how, unless you want to create an exception to a new offence which you are creating, this section can at all be enacted.

Then, clause 3 seeks to substitute for section 112 a new section altogether. Section 112 is this : "If a person with intent to defraud a railway administration (a) enters in contravention of section 68 any carriage on a railway, he shall be punished with fine which may extend to 100 rupees in addition to the amount of a single fare for any distance which he may have travelled". In place of that the Bill reads :

"If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment which may extend to two months, or with a fine which may extend to one hundred rupees, etc., etc."

Pausing here, I want to deal, as best as I can, with the very brilliant, though unconvincing arguments of the Honourable the Law Member on the question of onus of proof. I entirely agree, if I may say so, with the Honourable Member's learned disquisition on the onus of proof ; but if any fault is to be found with the House for stressing that aspect of the matter, the boot is on the other leg : it is the lawyer or lawyers who wrote the Statement of Objects and Reasons, who were the first culprits in this matter. You will notice in paragraph 2 of the Statement of Objects and Reasons, these two brilliant sentences appear :

"In cases in which action is taken under section 112 the onus of proving intent to defraud rests on the railway staff, the discharge of which is not always practicable."

(That is, the onus is on us, but we cannot discharge it.) "It is proposed therefore that the onus of proving that there was no intent to defraud should rest on the person found travelling without a proper ticket."

Now, my Honourable friend, the Law Member, referred to section 106 of the Evidence Act ; but before I do so, I should like to refer to just one or two sections dealing with the burden of proof itself. I wish incidentally that the Indian Evidence Act were more used by judges and magistrates in this country than it is actually used. Section 101 of the Evidence Act lays down :

"Whoever desires any court to give judgments as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist."

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

Now, take section 112 as it is : it reads thus :

"If a person with intent to defraud a railway administration enters in contravention of section 68 any carriage on a railway....."

Therefore, the prosecution has got to prove two facts there (1) intent to defraud a railway administration, and (2) entry in contravention of section 68 into a carriage on a railway. Section 101 of the Evidence Act says that the prosecution has got to prove both these facts. But the Honourable the Law Member made a point yesterday that, in many cases when the prosecution has proved the fact of entry without a ticket or a permit of a passenger in a train, the Court may draw the inference from the facts that the man had dishonest intention, that is to say, an intent to defraud the railway administration. Now, Sir, I grant that this argument on the burden of proof can easily be over-stated. After all, when a case goes before a Court, any competent Magistrate or Judge will not bother as to on whom the burden of proof lies, because once evidence is let in, he has got to look at the whole evidence and come to a conclusion on the evidence as to the facts of the case. But, Sir, section 103 of the Evidence Act says : 'The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person'. That is the section, Sir, under which the Bill is sought to be drafted now. The section of the Evidence Act says that, normally speaking, when a prosecution alleges that a person has contravened section 112 of the Act as it stands, it has got to prove dishonest intention besides entry without a ticket, but the Act contemplates the burden of proving that fact may be placed by law on another person. The Bill, therefore, now says in section 112 :

"If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment",

but I feel that this argument on burden of proof is not really not conclusive on this matter. What is really conclusive is that section 112 as proposed to be re-drafted in the Bill creates a new offence altogether. That is the point which I should like the Honourable the Railway Member to answer. Section 112 as it stands makes it an offence, that is, ticketless travel, only if the prosecution can prove not only ticketless travel, but an intent to defraud ; but section 112 of the Bill creates

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a new offence, the only ingredient of which shall be ticketless travel and no more. The prosecution, on whomsoever the burden of proof may lie, has not got to prove dishonest intention at all. If the prosecution proves A is travelling in a railway carriage without a ticket, the offence is complete. Then it is for the accused, if he can do so, to satisfy the Court that he had no intention to defraud the Railway Administration. It is for him to lead evidence and satisfy the Court that he had no intention to defraud the Railway Administration. My point, therefore, is this, that whatever the Statement of Objects and Reasons may say, it is not so simple as it looks; it is not merely shifting the burden of proof from A to B. It may be that even that shifting may make the Bill thoroughly objectionable, as I believe it is; but my point is, that section 112 as proposed to be enacted in this Bill is not a shifting of the burden of proof, or at least not a mere shifting of the burden of proof, but the creation of a new statutory offence consisting only of one element, ticketless travel and no more. If that is so, I should like to ask the Honourable the Railway Member and those who support him as to why they want to create this new offence of merely ticketless travel, even if there be no dishonest intention.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can resume his speech after Lunch.

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

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

Mr. S. Satyamurti : Sir, I was saying, when the House adjourned for lunch, that this new section 112 as contemplated in this Bill creates a new offence, and that is the gravamen of my argument against this section of the Bill. I want to say, on the argument elaborated by the Honourable the Law Member, a point which was suggested to me by my Leader, that really if section 106 of the Indian Evidence Act which casts the burden of proof with regard to facts specially within the knowledge of any person on that person, read with section 112 of the Act as it stands, discharges the prosecution from proving more than the fact of travel under circumstances which will throw the onus on the accused, there is no need for this new section at all. Therefore, either the Honourable the Law Member is right in which case this section is at the best superfluous, or the Bill proceeds on the assumption that the Honourable the Law Member is wrong, and they are right; they have got to settle it between themselves, but so far as we are concerned, I put it to the House that the conclusive argument against this section is that it creates a new offence altogether, that is to say, ticketless travel simpliciter. The moment a man is found travelling without a ticket, he has got to prove that he had no intention to defraud. I want to ask my Honourable friend who is a distinguished lawyer, supposing he was appearing for the defence, in a case of ticketless travel, how will he set about proving to the satisfaction of the Court that he had no intention to

defraud the railway authorities? It may be one of several explanations; that is to say, he arrived too late in the station, nobody was available, he had lost the ticket, the purse was not with him, he had over-travelled by sleep or owing to forgetfulness. Mr. Deputy President, what is the kind of evidence which the man has to lead—that he came very late? Is he to summon a number of people in the railway station who got into the train or returned from an arriving train, to say that he came at two minutes to three when the train was due to start at three? Similarly, with regard to all these categories, it seems to me that it is casting an impossible burden on the accused to satisfy the Court that he had no intention to defraud. Ultimately, the Court will have to look at the facts of the case as a whole and come to the conclusion whether there was any intention to defraud or not. If that is so, the present section 112 is ample for the purpose. From the point of view of the railways themselves, Mr. Deputy President, I should like to ask my Honourable friend, what is it that he hopes to get out of this creation of a new offence? God knows, third class railway travel is becoming more and more unpopular, because of bus competition in many provinces, certainly in mine, and one of the reasons is that the third class passenger is still treated, in spite of my Honourable friend's *bona fide* attempts to instil some ideas of courtesy on the part of railway servants, as an unwanted guest in most of the railways. Their money is wanted, but not their presence. Every obstacle is put in their way; they cannot get their tickets without *bukshish*, they cannot get into the platform easily, and they cannot get any assistance whatever in boarding a train or in getting out of a train. And when the ticket collectors go to them, they look upon them as servants who are permitted as a matter of grace to travel by the railway and, as if they themselves are the lords and masters. I am not blaming the Honourable the Railway Member, but I am suggesting to him that to make ticketless travel a cognisable offence is about the worst way of attempting to add to the railway finances. If you want to have a draconian legislation and thereby think that you are asserting the majesty of the railways, by all means do so, but if the object of this Bill is, as my Honourable friend claimed it was, to add to the railway finances, I submit, Sir, that it is about the worst way of going about that business. So far as the class of *mala fide* passengers are concerned, I have already said there is no use arresting them and sending them to jail. Somebody has got to feed them and it certainly won't help the finances of the State.

Then, Sir, clause 3 (2) provides that "a person who uses or attempts to use a single pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket, a half thereof which has already been so used, shall be punished with imprisonment which may extend to two months, or with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance he may have travelled". You will notice, Sir,—I do not know if this is deliberate, if it is, it makes the thing worse—in section 112 as it stands, the obligation on the part of the prosecution to prove intent to defraud the railway administration governs both the class of cases, that is to say, entering a railway carriage in contravention of section 68, and also using or attempting

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to use a single pass or single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used. But you will notice, in the Bill as it stands, even the words, "unless he satisfies the Court that he had no intention to defraud the railway administration" are omitted in sub-section (2). I take it, therefore, that it means that, even if the person satisfies the Court that he had no intention to defraud the railway administration, if a person attempts to use a single pass or single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used, he shall be punished with imprisonment which may extend to two months, etc. I believe I am right in saying that. If that is so, I should like to have some explanation from the Government. I do not think my Honourable friend referred to this aspect in his opening speech. The present section 112 casts on the prosecution the duty of proving intent to defraud under both the clauses. In the first clause the Bill casts the onus on the accused to prove no intent to defraud, and in the second clause, irrespective of onus, irrespective of intent, a mere attempt is punishable with two months' imprisonment or with fine.

Then, we come to sub-section (3) of section 112. On that matter I was rather impressed by what Mr. Mudie said, that today the railway servants have no power to remove from the railway, passengers who are found travelling without tickets.

Mr. M. Asaf Ali (Delhi : General) : What about section 122 (2) ? They have.

Mr. S. Satyamurti : I thank my Honourable friend, the Chief Whip. Section 122 of the Railways Act, as it stands today, reads as follows :

"(1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

"(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person."

My Honourable friend, Mr. Mudie, shakes his hand, but I suggest that this is almost a conclusive answer against his position. You will notice, it says, "he may be removed". What does sub-section (3) of the Bill say ?

"Any railway servant authorised by the railway administration in this behalf or any other person whom such railway servant may call to his aid may remove from a carriage a person found travelling therein without having a proper pass or ticket with him, unless he then and there pays the fare and the excess charge which he is liable to pay under the provisions of section 113."

Here, the railway servant has got power to remove from the railway any person unlawfully entering upon the railway.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : I believe it has been held that "railway" in this section does not include a railway carriage. If you will kindly look at the definition of railway in section 3 of the Railways Act, you will find that there might be something in it. I am not sure whether that ruling is correct, but I am trying to get at the case.

Mr. S. Satyamurti : I shall not go into that. I have not looked at that decision. I suggest to my friend, if that is the only difficulty in the way, I should have thought the proper way of dealing with that would be to move an amendment to the definition of "railway" in section 3 of the Act, instead of having this inartistic legislation. If you will see the main definition, you will see that the railway means a railway or any portion of a railway for the public carriage of passengers, animals or goods, etc. I should have normally thought that a railway carriage is also included, but, if there is any doubt owing to a judicial interpretation, the best way would be to include "a railway carriage", instead of having two sections both dealing with removal.

Then, Sir, I come to clause 4 of the Bill which deals with section 113 of the existing Act. Under the existing Act, ticketless travellers are dealt with in two ways. If they are dishonestly travelling without ticket, then they come within the mischief of 112. If, on the other hand, they are merely travelling without tickets, then certain powers are given to the railways. Now, Sir, in 113, the railway gets the power of demanding from a person who is travelling without a ticket the excess charge mentioned in this section, in addition to the ordinary single fare, and the excess charge is fixed with regard to the various categories. If it is felt that this excess charge is too small in dealing with such people, the Government may consider revising it, but it seems to me, if it is a question of merely collecting revenue, section 113 gives them power, provided they have honest ticket examiners and properly control the ingress and egress, and booking offices are opened in time. There is no use saying 'We cannot do all that. We must only punish'. My friend, I think, said in his opening speech that experience has shown that all the money spent on increasing the staff for detecting the ticketless travellers amply pays itself in the way of increased revenue to the same extent. I think I have understood him correctly.

The Honourable Sir Muhammad Zafrullah Khan : More or less.

Mr. S. Satyamurti : If that is so, I suggest that one of the means of increasing revenue or decreasing the loss of revenue under this head is to make the approaches to the railway stations more difficult than they are today, and thereby control ingress and egress better. Secondly, they must not allow ticket examiners and ticket collectors to live and work under the cloud of corruption under which they work today. There is no use imagining that there is no corruption. There is, and there is no use asking the Opposition 'What do you suggest ?' My friends are there to do all that, and before they ask the public to swallow this Bill, they must provide facilities for the issue of tickets in time in all the railway stations.

Then, Sir, two amendments are sought to be made in this section. One is the addition of a proviso to sub-section (2) : Provided that the excess charge referred to in sub-section (1) and this sub-section shall not be payable if the passenger has with him a certificate issued under sub-section (2) of section 68. I say this will be a fruitful source of corruption. A railway servant may mean any class of railway servant, and you must specify that he must be specially empowered in this behalf and section 68 is left as it is.

The Honourable Sir Muhammad Zafrullah Khan : I have noted that argument.

Mr. S. Satyamurti : At the time when the man is detected, your railway servant specially empowered has got to threaten him—either you have to pay the excess or pay me half the excess, and I will give you a certificate. I believe I am right in saying that the certificate can be given at any time and the moment the man is detected, he is given the option. The fortunate or the unfortunate passenger either has to pay the excess fare, or pay half of it and get a certificate. You are simply adding to the difficulties and temptations of railway servants ?

Then, I find another rule of evidence enacted in this Bill. That is after sub-section (4) the following sub-section shall be added : “ An application made under sub-section (4) shall contain a statement, certified as correct by the railway servant, of the sum payable by the passenger and such statement shall, unless the contrary is proved, be proof that the sum so stated is recoverable from the passenger.” May I know why this is put in ? After all, the section elaborately gives the sums due from the passengers. What is the idea in putting in this sub-section and saying that such statement shall be proof that the sum so stated is recoverable from the passenger ? Why should not ordinary evidence be let in ? What is the difficulty which is sought to be met ?

The Honourable Sir Muhammad Zafrullah Khan : Sometimes it is a question of how much fare is due from the man and if it can be proved that he got in at a particular station, then the fare is due from that station and in the absence of proof of that kind from the last checking station.

Mr. S. Satyamurti : I quite agree. Therefore, when the railway servant applies to the magistrate, he has got to say that the ticket was checked at the last station, he started from a particular station, and that so much excess fare is to be paid. I do not see the point.

The Honourable Sir Muhammad Zafrullah Khan : If the passenger contends that he got in at a station after the last checking station, then he should show that he is not liable to pay from the last checking station.

Mr. S. Satyamurti : That is so even under the present Act. You just see.

This is what the section says :

“ If a passenger travels in a train without having a proper pass or a proper ticket with him, or being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, where last examined.”

Therefore, they have got to prove all this ; if this section means anything at all, it means this. The railway servant says, whatever the station was where the tickets were examined, pay from the starting station.

The Honourable Sir Muhammad Zafrullah Khan : That is not the intention. That can be made perfectly clear. In any case the charge cannot be more than is laid down in the Act. One way of proving the contrary will be : “ The last checking station was so and so, why is the man charging me from such and such a station ? ” The whole object is that a definite sum will be placed before the magistrate. It is open to the person who has become liable to pay it to show that in some respect it is incorrect ; otherwise the magistrate would not have to enter into an inquiry with regard to the rates and fares and last checking stations. I assure the Honourable Member that there is nothing sinister in it ; it merely avoids a protracted inquiry.

Mr. S. Satyamurti : Even as I read the Act as it is, the man says he has got to pay so much and the accused says, not so much, and the magistrate will decide.

Then, Sir, I come to the last but one clause of the Bill which deals with section 131. Now, this section 131 casts on the authorities the right to arrest without warrant certain classes of persons and this Bill wants to add to that class of offences. “ Any person who contravenes section 112 ”, that is to say, travelling without a ticket—and I want the House just to look at these sections. Section 131 says, “ if a person commits an offence under section 100, section 101, etc.”. I will just mention the classes of offences for which people can be arrested now. Then, the House will see the absence of any sense of proportion on the part of the Government when they want ticketless travellers to be thus arrested. Section 100 concerns railway servants being drunken ; section 101, endangering the safety of persons travelling by railway ; section 119, male passengers entering carriages reserved for female passengers ; section 120, passengers being drunken and using obscene language and gestures ; section 121, wilful obstruction of railways ; section 126, wrecking or attempting to wreck trains ; section 127, maliciously hurting persons travelling by railway ; section 128, endangering the safety of persons travelling by railway by a rash or negligent act or omission, and 131, committing acts endangering the safety of persons. This Act contemplates, in the case of these very serious and in some cases very heinous offences, that persons can be arrested without warrant. To this class of persons, my friend asks us very coolly to add the offence of travelling without a ticket, whatever the intention may be. Does he himself accept that ? Is it right ?

The Honourable Sir Muhammad Zafrullah Khan : It is an offence if there is a certain intention ; and my Honourable friend has himself in the opening part of his speech described it as a heinous offence, as heinous as theft.

Mr. S. Satyamurti : A theft is a theft, if there is a dishonest intention.

The Honourable Sir Muhammad Zafrullah Khan : A theft is a theft only if there is a dishonest intention but when a man is arrested for theft, nobody knows whether he is going to be acquitted or convicted. Nor, when a man is arrested under section 112, would anybody know whether he is going to be acquitted or convicted ?

Mr. S. Satyamurti : Section 112 as contemplated in the Bill creates, ticketless travel by itself as an offence. There is no question of dishonest

[Mr. S. Satyamurti.]

intention in it at all. At any rate section 112 of the Act says "dishonest intention". You say, "no, you can prove if you want that you had no dishonest intention of travelling without a ticket", and therefore he becomes guilty : and at that moment of arrest, there is no question of the accused wanting to prove.....

The Honourable Sir Muhammad Zafrullah Khan : Nor is there in the case of theft.

Mr. S. Satyamurti : But here, taking the offences of drunkenness, using obscene language or gesture, entering female compartments, hurting passengers, is it a right sense of proportion that you must put in this class men or women travelling without a ticket? And talking of women, Sir, I want to put it to my friend that there is a wide-spread fear in this country that this section, if it becomes law, will lead to unnecessary annoyance and molestation of women by railway servants. Sir, in this country, where our people are so weak and are not sufficiently courageous to stand up to public authority as they ought to, there is a danger of this abuse of power, especially in the case of women travelling alone. Then, we come to the other case. The section also provides : "if a person fails or refuses to pay any excess charge or other sum demanded under section 113 and there are reasonable grounds for believing that except by his arrest he cannot be placed before a Magistrate without undue delay, trouble or expense.....". Now who is to be the judge of this? The arresting authority ; and, any day, it is easier to arrest a person than to send a summons to him ; and another temptation will be to arrest a man, rather than to summon him to appear before a Magistrate. This also is liable to gross abuse.

Then the last clause of this Bill is an amendment of 132. They want to make this clause consistent with the amended section, and therefore they propose that the words "or fails or refuses to pay any excess charge or other sum demanded under section 113" shall be omitted, because they have got the word "arrest" elsewhere. But, I suggest, in answer to the charge that very often people give false names and addresses, and therefore that they lose revenue, that you are responsible for it, because the section gives you the power. If there is reason to believe (section 132) that the name and address given by him is incorrect, any railway servant or police officer or any other person may call to his aid and may without warrant or authority arrest him. Therefore, wherever a railway servant has reason to suspect that the name or address given is incorrect, he can arrest him. Now why does not he arrest him?

The Honourable Sir Muhammad Zafrullah Khan : Because, ordinarily, when a man says, "my name is A and my address is B", how can you decide that there is reason to suspect that this is false?

Mr. S. Satyamurti : Therefore, your people are incompetent, and you must have a better class of men.

The Honourable Sir Muhammad Zafrullah Khan : How? Supposing I myself were checking a particular compartment and a man found travelling without a ticket told me that his name was B. C. Roy and he belonged to No. 32 such and such a lane in Calcutta, and if, from his appearance, he looked to be a Bengali gentleman, what means would I have of deciding whether he gave me a wrong or correct address?

Mr. S. Satyamurti : Since you cannot decide that, you want to give the power of arresting everybody! Therefore, the remedy is to do something else. My answer is—today you have got the power of arrest in the case of persons who give wrong names and addresses. My Honourable friend, Mr. Mudie, said yesterday, that, if railway servants take the responsibility of arresting passengers, they may be liable to all kinds of actions. I want to point out that railway servants, for the purpose of this section, are defined as public servants in Chapter X of the Indian Penal Code, and you will see that that undoubtedly casts on these persons the duty of giving correct information ; and, if they do not give that, they become liable under various other sections of the Indian Penal Code ; and therefore I suggest that they have the power of arrest today. And, in any case, Sir, it seems to me that the Railways have not yet provided the elaborate arrangements which they must provide, and they have not yet eliminated corruption amongst their own servants ; and, therefore, it seems to me that this Bill, as it stands, does not deserve the support of this House.

I want to say only one word on the opinions which have been received. Somebody was saying that you will get no more opinions which will be useful. Very good. Take the opinions as they are. I have counted fifty opinions amongst them against the Bill as it stands. The Bihar Government, the Burma Government, many Judges of the Madras High Court, many Chambers of Commerce, have pointed out the dangers in this Bill, and it seems to me that if the House wants to decide on the opinions so far available, it can only vote against this motion. My Honourable friend, Dr. Ziauddin Ahmad's motion of course is a compromise. Personally, our feeling is that this Bill ought to be thrown out at this stage completely, and no more heard about it, but since Dr. Ziauddin Ahmad has moved this amendment, and since we feel that if we can effectively deal with ticketless travellers without placing arbitrary powers in the hands of certain people which will work great harm to our people, we are willing to send it out to circulation. I only want to read just one or two opinions. I am reading first from the Government of Burma at page 9 :

"The first criticism of importance directed at the Bill is that it is desirable to provide in the Bill a specific punishment for the aiding and abetting by officers of the railways of the offence of travelling without tickets."

My friend may take it from the Burma Government that the Railway
3 P.M. servants abet in ticketless travelling.

The Honourable Sir Muhammad Zafrullah Khan : You can move it in the Select Committee.

Mr. S. Satyamurti : First clean your Augean stables, before you come to this House with this Bill. If the Burma Government says that your servants are corrupt and aid and abet travelling without ticket, then take back this Bill. That is the least you can do.

The Honourable Sir Muhammad Zafrullah Khan : The Burma Government will soon cease to have anything to do with the Indian Railways.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Have they no railways at all?

The Honourable Sir Muhammad Zafrullah Khan : They have.

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Mr. S. Satyamurti : Then the Burma Government goes on :

"It is also feared that the provision, if adopted, may cause innocent persons who enter a railway carriage to talk to passengers at the many stations where platform tickets are not issued to run the risk of prosecution. It is further suggested that the clause in its present form may be likely to provide yet another inducement to railway servants to obtain illegal gratifications from ignorant persons. With these criticisms the Governor in Council is in general agreement."

Further on, they say :

"There is also obviously some considerable apprehension of abuse of the power proposed to be given to railway servants of arrest of persons travelling without a ticket."

The Honourable Sir Muhammad Zafrullah Khan : Perhaps you might read out the next sentence also.

Mr. S. Satyamurti :

"It is suggested that, as a condition of making section 112 cognizable the words 'if he fails or refuses to pay on demand the fare due *plus* the excess charge under section 113' should be inserted in section 131."

But I am taking advantage of the first sentence, that is to say, there is considerable apprehension of the abuse of power by railway servants.

Now, Sir, I would like to quote the opinions of two or three District Magistrates and Commissioners themselves. Several District Magistrates of Madras have protested against this Bill, and are of opinion that it will work great hardship. The Inspector General of Police in Madras has said :

"The existing Railway Police staff will probably not be adequate to meet the demands likely to be made on them without detriment to their legitimate duties, and if this is found to be the case, additional staff will have to be provided, the cost of which should, I think, be met by the Railway administrations concerned."

Therefore, the first fruit of this Bill will be to have additional expenditure thrown on your shoulders. The District Magistrates of Salem, Kurnool, Vizigapatam are against this Bill. The Advocate General of Madras and the Government Solicitor have also said that the present Bill is too drastic and may result in punishing innocent persons. You will notice, Sir, that the Honourable Mr. Justice Venkataramana Rao of the Madras High Court has said :

"I am not in favour of the amendment relating to onus. The effect of the amendment is to make it *prima facie* a criminal offence to travel without a ticket and in view of the amendment which seeks to impose a sentence of imprisonment, throwing the onus on the passenger would work hardship."

Mr. K. S. Menon, Mr. Pandrang Row, Mr. Cornish and Mr. Madhavan Nair are more or less in favour of the opinion of Mr. Venkataramana Rao that this Bill is too drastic.

Then, Sir, I would like to quote the opinions of the Bihar Government. They will be found on page 34 of the second volume :

"The opinions received, while supporting measures of some kind to check the evil of travelling without a ticket, are generally opposed to the detailed provisions of the Bill on the ground that they would give too many opportunities for dishonesty and extortion to railway subordinates. . . . The Governor in Council considers the provision that a written statement of railway subordinate should, unless the contrary is proved, be proof that the sum stated is recoverable from the passenger to be contrary to the principles of English Law, and pregnant with mischief. This provision, coupled with the power of arrest given by the amendment proposed in section 131 of

the Act, would enable a dishonest railway subordinate to arrest a passenger in the middle of a long journey and to send him before a magistrate with an application containing the statement that a certain sum is recoverable. The statement being *prima facie* proof, the railway servant would not be obliged to attend the Court in the first instance to support his charge. Consequently, if the passenger should deny the charge, the Court would be obliged to adjourn the case and summon the railway servant. The passenger, who has already had journey interrupted, would be obliged to make another journey to a Court, perhaps a thousand miles from his home, to rebut the charge. The Governor in Council apprehends that the result of such procedure would be that innocent passengers wrongly charged by dishonest railway servants would pay the amount claimed rather than subject themselves to the harassment of a defence, and that dishonesty among railway servants might thus be encouraged.

The Governor in Council is also opposed to the amendment proposed in section 131 of the Act in respect of section 113."

Therefore, on the whole, I think I am right in saying that most of the opinions so far received by the Government are against the major provisions of this Bill. I therefore feel that there is no point gained by sending the Bill to a Select Committee. The Honourable the Commerce Member said that these are all Select Committee points. I respectfully submit that they are not Select Committee points. They go to the root of this Bill. The three main features of this Bill are that you throw the burden of proof or rather, as I prefer to call it, you create a new offence. You make him liable to punishment by imprisonment, etc., and you give power of arrest to railway servants. All these are fundamental points. If they go, there is nothing in the Bill. It seems to me, therefore, that the House ought to reject the Bill or, in the alternative, it should at least support the motion of my Honourable friend, Dr. Ziauddin Ahmad, that the Bill be circulated for public opinion, the opinions to be received by the 31st December, 1936.

Babu Kailash Behari Lal (Bhagalpur, Purnea and the Sonthal Parganas : Non-Muhammadan) : Sir, I must thank you that after all I have got an opportunity to speak on this Bill. Before I speak on the Bill itself, I must tender my apology to the Honourable the Commerce Member lest I may be charged with discourtesy, because he has included my name in the list of the members of the Select Committee.

Sir, I would not have tried to speak on this subject had I not had my own grievance to narrate so far as this piece of legislation is concerned. I think a piece of legislation like this is a slur on our national character. It has been said in the Statement of Objects and Reasons attached to this Bill that as the present law is not sufficient to cope with the growing criminal tendency of the people to travel without tickets, so the proposed legislation is necessary. I submit it is a pity that this sort of legislation comes from persons who are our own countrymen. It is being defended by no less a person than the Honourable the Law Member in whom we should have felt some pride. I submit that the anxiety of the Honourable the Commerce Member to meet the deficit in the railway budget is the root cause of bringing up this piece of legislation. Here I am reminded of the proverb which is prevalent in our society that when a man loses his wealth he loses his sense of righteousness and his sense of truth as well. I appeal to the Honourable the Commerce Member that he should not have uppermost in his mind only the question of making up the deficit in the budget.

[Babu Kailash Behari Lal.]

As has been pointed out by so many Honourable Members on this side of the House, the Government should have some regard for right principles. The legal aspect of this Bill has been discussed threadbare and therefore I think I should not say a single word about that aspect. The Bill has been ably discussed by Honourable Members on both sides of the House, by Honourable Members like our Leader, Mr. Satyamurti, and by the Honourable the Law Member. I want to place the common-sense point of view before this House. Everybody knows with what extraordinary powers these ticket collectors are clothed at present. They are all little police officers. Whenever they enter a railway compartment for checking tickets, they are not less awful than police officers elsewhere. Whatever little power is given to these ticket collectors, they use it to tyrannise over the passengers. Several examples of the highhandedness of the ticket collectors have already been narrated in this House. I want to narrate a recent example relating to myself. I was travelling this time to Simla with my family, and when the train arrived at Aligarh station, the ticket collector, after checking the tickets of passengers in the compartment, checked my ticket and the tickets for my servants and of my wife. There was a little child with us, a girl below three years of age. The ticket collector demanded a ticket for the child. I told him that the child was below three years. He said he was not going to believe my statement. I told him that there was no help if he did not believe my word. Of course his intention was not to charge me excess fare for the child, but his intention was to over-awe me so that he might squeeze something out of me. I was not the person to yield to his threats, and I told him to take whatever steps he liked. He said he was phoning up to Delhi station asking them to keep a medical man ready to examine whether the child was below three years of age or above three years of age. I asked him to give me his name, so that if any man should come at the Delhi station to examine the child as to its age, I would be able to identify him. He did not give me his name. At the Delhi station, I found nobody turned up to examine the child. Thus the ticket collector escaped from being brought to book. I make a present of this instance to the Honourable the Commerce Member. What would have been my fate if the proposed law had been in force. I would have been harassed and arrested by the ticket collector and I would have been detained at the station without being allowed to proceed with my journey. I do not find any alternative to that which the Honourable the Railway Member could point to me as remedy.

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

On account of the law that is being enforced, there has sprung up a fourth class of passengers. The three classes of passengers have already been enumerated by my Honourable friend, Mr. Sri Prakasa. The fourth class of ticketless passengers are those ticketless passengers who are encouraged to travel without tickets by these railway servants themselves. There is a rule or some circular which requires that these ticket checkers should show some collection of extra fares and penalties from passengers. If they do not show some work every month, their services will be dispensed with. In order to get over this difficulty, these ticket checkers allow some people to travel without tickets and under the pretence of

checking, they collect fares from such people. Sometimes these ticket checkers promise the passengers that they would not collect more than the legitimate fare from them. In that way ticketless passengers are shown to exist. I submit it is because of the existence of such kind of circulars that the ticket checkers resort to this practice. In the Bengal and North Western Railway, some ticket collectors told me that on account of the existence of some such circular, they have to find out some work or other and thus save themselves from being axed. If no work is shown by them, their service is put an end to. It is, therefore, no wonder that on account of the existence of such a circular, a fourth class of ticketless travellers has sprung up. The Government should find out whether ticketless travel has increased on account of this circular.

Another point that I wish to submit is that the railway authorities are sometimes heartless and they do not do justice to their own sense of justice. Even this day at question time when some instances were brought to the notice of Government, it was said that an enquiry was held and it was found that it was not a true case. I may remind the Honourable the Commerce Member that I myself approached him and narrated to him about a case in which two ticketless passengers who had taken privileged passes that are meant for railway servants were detected by some ticket checkers. When they were hauled up it was found that the privileged ticket orders were obtained through a railway servant. Then that railway servant was not punished, but another man with the same name was punished. I brought this case to the notice of the Honourable Member for Railways and he promised that he would hold an enquiry personally.....

The Honourable Sir Muhammad Zafrullah Khan : If I might be allowed to interrupt, on the receipt of these particulars, I sent for all the papers connected with this case, personally read through the whole case and satisfied myself that there was enough evidence against this man which, if it was to be believed, found him to be guilty. I naturally could not discover from the papers whether these men who had given evidence against this man could or could not be believed. It was only when I was satisfied that there was enough evidence on the record which if believed would warrant his dismissal that I sent the papers back. I am afraid no Member could do more in the case than I did.

Babu Kailash Behari Lal : I have told the Honourable Member that the fact was that there was a regular case in the law Court and it was said in the judgment that it was not Karu Gope but rather Karu Mian who was guilty. When I represented that to the Honourable Member he said he would look into the case. Nothing was done and it was sent to the Advisory Board where the Agent about whom I have already told the Honourable Member.....

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am extremely sorry to observe that even after I have assured the Honourable Member that I went through the case myself he persists in making the allegation, that in spite of my assurance to him I did not look into the case. I personally looked into the case ; I read through the evidence, and found that one of these two men had actually identified this Karu Gope as the man who had passed on the privileged ticket order to them. On that evidence, unless I could say that I had some instrument in my possession by the use of which I could judge whether they were telling the truth

[Sir Muhammad Zafrullah Khan.]

or making a false statement, I was bound to hold that there was enough material to show that this man Karu Gope was at fault, and that, therefore, his dismissal was justified.

Babu Kailash Behari Lal : I had told the Honourable Member that there was a judgment of the law Court, which is now in my possession, and if that is not to be believed in preference to the statements of those who want to tyrannise over him and shelter another man, then things are very serious indeed. I have already told the Honourable Member that there are black sheep in their own fold. Unless they are taken to task there will be no end to this corruption. And I can promise the Honourable Member that if he takes up the case and holds an open inquiry, if he allows the victimised man to be present during the inquiry, the real thing will come to light. I know the name of the man who is taking the side of the real culprit and wants to victimise this Karu Gope. The law Court has held that it is Karu Mian who is guilty and not Karu Gope. If the judgment of the law Court is to be brushed aside before the obstinacy of the authorities or the red-tapism of the department, then there is no help. The Honourable Member should remember that in cases of complaints against railway servants we are as good men as the railway servants or those Honourable Members who are on the opposite side. The fault lies on their side. They think Congressmen have no sense ; they sometimes take those sides which they should not take. I myself have approached high Government officials and they always take the line that we have no sense at all. If that is to be their attitude towards those who look to the interests of the poor people there is no help. We have got quite as good sense as they have and if they look at it from that point of view, I think much justice can be done to the people.

In conclusion, I will deal with the case of the third class passenger. I will say that the condition of the third class passenger has been a thing of great concern even to men like Mahatma Gandhi who said.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member seems to be going beyond the scope of the Bill now.

Babu Kailash Behari Lal : It would react upon the third class passenger.

Mr. President (The Honourable Sir Abdur Rahim) : We do not want reactions ; we want a discussion of this Bill.

Babu Kailash Behari Lal : This piece of legislation will react more on third class passengers than on others. The higher class passengers will not suffer under it. I am not dealing with the law as that has been discussed by other Honourable Members but I am showing how it will practically affect that section of the people for whom even the Railway Member says he has got a warm corner in his heart. Even the present law, which according to him is insufficient, is working very hard on the third class passenger. And now if this power of arrest is given to ordinary ticket checkers, the third class passenger will be oppressed in a way which we cannot imagine. Even now the ticket checkers tyrannise over them ; how much they will be tyrannised over under the proposed legislation can better be imagined than described. I appeal to the Honourable the Commerce Member to think twice before he presses this Bill. If the

power of arrest given to the ticket checkers be taken out there will be very much less objection to this measure and it can be improved later. So this power should be taken away and this is my suggestion to the Railway Member.

Several Honourable Members : The question may now be put.

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

“ That the question may now be put.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan : Sir, in the course of this three days' debate, a very large number of points have been taken. I shall, however, confine myself to dealing with only some of the miscellaneous points taken first, and shall then go on to the main points which have been taken on the merits of this Bill.

So far as the motion of Dr. Ziauddin Ahmad to circulate the Bill is concerned, may I be permitted to say this : this Bill is of a character that affects all classes of the people of this country who have occasion to travel by railways. There is nothing very technical about it, and there is nothing about it with regard to which Honourable Members in this House do not possess either some experience or some knowledge gained from their own observation. As a matter of fact, one Honourable Member, who is included among the proposed members of the Select Committee, has assured the House that he has a great deal of experience of travel on the railways, almost as much as anybody else could claim ; and he has cited his personal experiences in support of some of the points that he sought to make. I therefore venture to submit that the Bill having already been officially circulated and opinions elicited upon it from people who have had something to do with the administration of the Railways Act, and it having been subjected to criticism during these three days from every point of view and every angle of vision, there is nothing to be gained by insisting upon further circulation of it. I think the variety of criticisms to which it has been subjected is alone proof of the fact that no further time need be lost in trying to elicit further opinions about this measure.

I shall now come to some of the miscellaneous points raised. To begin with it was said that the number of people who travelled without tickets was so small that it really was not worth while doing anything to strengthen the law in this respect. It was said that the highest number we were able to detect travelling without tickets was 29 lakhs—or, say, roughly 3 millions : the number of passengers travelling upon the Indian railways during a year is about 400 millions and therefore the number of people who have attempted to travel without tickets during a year does not exceed $\frac{1}{10}$ per cent. of the total number of travellers, and that therefore the extent of the evil is not such as to call for any further remedy than is contained in the Indian Railways Act. Now, Sir, the number of people detected travelling without a ticket is not anywhere near the number that do actually travel without a ticket. As I said in my opening speech whenever there has been any intensive check on a section of the railways with regard to the people who travel without tickets, it has been found that the normal number is exceeded sometimes by 200 and sometimes by 300 per cent. But take it roughly that the total number is double the

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number actually detected, it would then come up to 6 millions, that is, about 1½ per cent. I do not profess to know what percentage Honourable Members would require to be established before they think a case had been made out for checking the evil more effectively than it is possible to check it under the present law. But I do venture to submit that even the lower number—¾ per cent.—is a substantial number requiring more effective remedies. May I draw the attention of such Honourable Members who attach importance to this argument to the fact that the number of people who are charged with stealing articles from various shops which they enter on the pretence of making purchases is infinitesimally small as compared with the number of total purchasers from these shops : yet it has never been contended that these people should not be dealt with severely because the number is so small. (Interruptions.)

Mr. Sham Lal (Ambala Division : Non-Muhammadan) : But the burden of proof remains on the prosecution.

The Honourable Sir Muhammad Zafrullah Khan : If Honourable Member will not anticipate my reply to the different points that have been sought to be made from different sections of the House, I shall try to place my view with regard to them during the course of my speech. I am dealing at present only with the argument as regards numbers. Instances could be multiplied where it could be shown that the number of delinquents with regard to many classes of offences is extremely small as compared with the number of people who could possibly have committed them but have not committed them ; and yet it has never been argued that therefore the penalties for such offences ought to be reduced. The number is big enough from this point of view. As I have submitted, the most modest estimate of the loss of revenue to the railway in this respect is placed at Rs. 50 lakhs a year. That is an amount that the railways cannot afford to go on losing. Even if it were not the case that the railways are at present running at a deficit, even if they were making very good profits, the loss of such a sum would be an extremely good reason for removing such defects in the law which prevent the evil being effectively dealt with.

Dr. Ziauddin Ahmad (United Provinces : Southern Divisions : Muhammadan Rural) : May I ask one question in this connection, if I may ? The railway authorities are now having a regular census at various stations : will he be able to tell of persons who are travelling without tickets ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid it is a question of reading Zuleikha the whole night and not knowing the next morning whether it was a man or a woman. (Laughter.) I have said that figures have been kept since 1928 and are available up to the end of 1935, that the lowest figure during these years was 23 lakhs, that the highest was 29 lakhs of people who were actually detected travelling without tickets.

Another point taken by the same Honourable Member was that ticket checking to his knowledge on English, German and other continental railways was much more effective than it was in this country, and that, before any other remedies were resorted to, the system of checking on Indian Railways should be made at least as effective as it is in other

countries which the Honourable Member cited, or at least considerably improved. One Honourable Member did point out that effective check on the continent was due to the fact that a very large majority of continental trains were corridor or vestibule trains, which makes checking much easier and much more effective. It is true that if on Indian railways also it were possible to run corridor trains the checking could be made much more effective. But even if it were decided to convert our trains into corridor trains, I am afraid it would take a period of 30 years from today to attain to that ideal position ; and I am sure the Railways cannot afford to go on losing revenue on this account for another 30 years in the hope that by the introduction of corridor trains checking might be made much more effective.

Another suggestion was that approach to, and escape from, railway stations should be made more difficult, and one method of doing it would be to fence in the whole railway area and to compel people who want to get on to the platform or to get away from it to use only the authorised means of ingress and egress. An estimate has been made of the cost of fencing railway stations in such a way as to compel people only to use the authorised means of egress and ingress, and the most modest estimate amounts to 3 crores of rupees, on which the interest would be somewhere in the neighbourhood of 15 lakhs of rupees a year. That factor alone rules out the practicability of adopting that suggestion.

Then it was said, though this argument ran counter to the other arguments used, that the greater part of the Bill now before the House was redundant inasmuch as travelling without a ticket upon a railway with intent to defraud the railway amounted to the offence of cheating, and if it amounts to the offence of cheating, you already have very stringent provisions with regard to it in the Indian Penal Code and it is not much use making the present provisions of the Indian Railways Act a little more stringent in that respect. My reply to that criticism is that if the opinion of the Honourable Member who put forward this suggestion is correct in law, then it meets a very great deal of the criticism of this Bill which has proceeded along the line that this is a very drastic measure. If the act of travelling without a ticket upon the railways with intent to defraud the railways amounts to cheating, then the provision that we have put forward is very much less drastic than the provision that is applicable to the case, and therefore the criticism that this is a drastic measure falls to the ground.

A curious argument was then advanced by another Honourable Member who said : " O ! a man who is found on a railway without a ticket should under no certain circumstances be presumed to intend to defraud the railways, why should you presume such an intention at all ? His intention is to travel, not to defraud, and any loss that results to the Railways is merely subsidiary to the main object, which is to perform a journey from point A to point B ". I am afraid, Sir, that argument would destroy the criminal element in almost every act which is now regarded as an offence. If a man mainly with the object of making provision for himself and his family committed a theft or robbery or dacoity, could he plead that his main intention was to provide for himself and his family, and the fact that he has deprived somebody else of his property was merely a subsidiary thing done in order to achieve his main object ? People must be presumed to intend the natural consequences of their acts. When a man is found travelling without a ticket upon a railway and there

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are no circumstances,—I am not at the moment discussing the burden of proof, it does not matter upon whom the burden lies—indicating that he did not intend to defraud the railway, well the natural inference is that he intended to make the journey without paying for it, and that amounts to defrauding the Railways.

I now come, Sir, before I go on to the main features of the Bill which have been criticised, to some of the questions that have been touched upon by Mr. Satyamurti. He said that one of the reasons why he was opposed to this measure was that several suggestions had been put forward from that part of the House with regard to economy on the railways, reduction of expenditure and so forth, and inasmuch as the Railways had not accepted those suggestions, the Honourable Member and his party were not willing to support this measure. Now, Sir, apart from the merits of this measure, I have too much confidence in the practical good sense of the Honourable Member to believe that he really was serious in saying this,—that because with regard to some other matters Government did not see eye to eye with the Honourable Member and his party, therefore the Honourable Member and his party should give no support to a measure which is designed to check what the Honourable Member himself characterised as a heinous offence, an offence as heinous as theft. He went on, however, to offer certain specific criticisms of this measure, and those criticisms themselves are the strongest plea in support of the motion that this measure should be referred to a Select Committee. He first took up section 68 of the Railways Act as it stands at present, and pointed out that the section makes it possible for any railway servant to give permission, orally or in writing, to a person to travel without a ticket upon a railway with the consequence that when such a person has to make a payment in respect of his journey, he would not render himself liable to any penalty or excess charge. I will not criticise that position. I will say only this that if section 68 as it stands at present is capable of that interpretation, then it is high time that the Honourable Member's suggestions were accepted and the section amended in the manner suggested by him. That makes out a case for the amendment of the section in one respect. He then went on to criticise the proposed amendment of section 68 in the Bill which is now under discussion, and he pointed out that the proposed amendment says that a railway servant who is authorised in that respect may grant a certificate to a passenger who has not been able to purchase a ticket to the effect that the passenger is liable subsequently to pay the charge in respect of the journey ;—and his criticism was that the word "subsequently" is vague, that the clause does not specify when the payment is to be made, whether before the conclusion of the journey or within 24 hours or within 48 hours. Again, I will not enter into the merits of this piece of criticism at the moment, but accepting it at its face value, here is another case cited by Mr. Satyamurti where you have got to define the whole thing much more strictly than it is defined at present. I am extremely grateful to him for having made so close and so thorough a study of the measure before the House, and I will accept his criticism that these sections in the original Act as well as the proposed clauses are capable of considerable improvement ; and it is for this reason that the House is being asked to set up a Select Committee to go into these matters and to suggest improvements. Again, in criticising section 112 (3) as proposed in the amending Bill, Mr. Satyamurti pointed out that a

railway servant had already power to remove a passenger from the railway under section 122 of the Railways Act. It was pointed out to him that it had been held by the Calcutta High Court in 44 Calcutta, page 279, that this power given in section 122 did not extend to ejecting people from a railway carriage, inasmuch as the definition of "railway" in section 3 of the Railways Act did not include a railway carriage. Well, then his suggestion was, "if that is so, why don't you proceed by way of amendment of the definition of 'railway' in section 3 of the Railways Act rather than by adding this new sub-section to section 112?" There, again, that is a matter concerning which I am quite sure the Honourable Member does not expect an immediate and off-hand reply whether the amendment of section 3 of the Railways Act suggested by him would entirely meet the case, but if it is his contention that it would meet the case, that is another instance where both sides are agreed with regard to the object to be attained, and yet there is a difference as to the means to be adopted for attaining it. If the amendment of section 3 of the Railways Act as suggested by the Honourable Member would meet the requirements of the case, I am quite prepared to proceed by the method suggested by him rather than by the method which has been put forward in the amending Bill. Now, Sir, these are illustrations to show that there are several matters both in the original Act as well as in the amending Bill which is now before the House, which require careful scrutiny and which are capable of being improved upon, and so long as the main object is achieved, I am entirely indifferent as to whether it is achieved by amendment of one section or by amendment of another section.

I now come to the main criticisms that have been put forward with regard to the amending Bill. These are, briefly, the question of the burden of proof, the question of the enhancement of punishment, and the question of the power of arrest. I understand that, apart from some small matters to which reference has been made and some of which I have already dealt with, these are the three main obnoxious features of the amending Bill which are unacceptable to Honourable Members who have spoken against the merits of the Bill. And they are obnoxious because the fear is entertained that they would lead to undue harassment of *bonâ fide* travellers. With regard to a person who does intend to defraud the railways, again apart from the question of burden of proof, let us assume that it is established beyond doubt and to the satisfaction of everybody that a person was travelling upon the railway with intent to defraud—I understand that the view of Honourable Members opposite is that such a person ought to be dealt with and that he may even be dealt with with some severity.

Prof. N. G. Ranga : But not to be sent to jail, as is proposed by this Bill.

The Honourable Sir Muhammad Zafrullah Khan : The criticism was not that the dishonest traveller who has cheated the railways is not to be sent to jail ; the criticism with regard to that part of the Bill was that sending him to jail will do no good. I do not think it was contended that a man who is guilty of what one Honourable Member opposite described as the offence of cheating and another Honourable Member opposite described as an offence as heinous as the offence of theft, should not be sent to jail. I do not think any sympathy has been expressed on the opposite side with a man who deliberately intends to

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defraud the railway and does defraud the railway. I thought all the apprehension expressed was that these provisions might be utilised to harass or even to prosecute the *bonâ fide* traveller. That being so, let us look into the case of the *bonâ fide* traveller. A *bonâ fide* traveller has been described, say, as a person who arrives at the railway station at such a time that he finds, either owing to his late arrival or owing to rush of passengers, that he is unable to provide himself with a proper ticket before he commences his journey. That is the typical instance put forward and I accept that as an instance where a man may be compelled to commence his journey upon without first providing himself with a proper pass or ticket. Such a person, if his inability to provide himself with a pass or ticket was due to some such circumstance as I have indicated, would be a *bonâ fide* traveller who does not intend to defraud the railway of its dues. Now, assuming such a person arrived at the railway station and found that he could not provide himself with a ticket and boarded the train without a ticket, if he does not intend to deprive the railway of its just dues, what would he do? In the first place, he would try to get a certificate, either at that station, or at the next station from some person authorised to give such a certificate indicating that he was travelling without a ticket because he could not get one. Difficulties have been pointed out in this respect, and I shall try to meet them. It has been pointed out that recently some railways have withdrawn the authority from their servants to issue such certificates. That I shall also deal with. But that is the first stage,—assuming that it were possible for him to obtain such a certificate, he should obtain the certificate, because an honest man would be troubled all the time in his mind that he should find some means of paying the just dues of the railway to the railway. Supposing he could not get such a certificate, the next thing he could do would be to notify either a travelling ticket examiner or some other member of the staff travelling with the train that he was travelling without a ticket, that is to say, he should notify before detection; in which case, if he belongs to the class of persons for whom great anxiety has been expressed from the opposite benches, that is to say, if he is travelling in a third class compartment, the maximum excess charge or penalty to which he would subject himself would be two annas.

Mr. Sri Prakasa : Will the Honourable Member allow me to say that as a matter of fact, third class carriages are sometimes so overcrowded that it is impossible to get out of them to notify any one.

The Honourable Sir Muhammad Zafrullah Khan : It may not even be necessary to get out. All that is necessary in order to obtain the benefit of this provision of the law is to notify to a railway servant before detection, that is to say, it should be a voluntary notification and not detection by a railway servant that the man has no ticket.

An Honourable Member : How is it possible?

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : The mail trains stop one minute or two minutes at stations, and the third class compartments are overcrowded, and how can it be possible to come out of the compartment and notify anybody?

The Honourable Sir Muhammad Zafrullah Khan : The moment the travelling ticket examiner enters the compartment he can be notified.....

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Supposing I boarded a train at a wayside railway station and notified to some official there, and I meet the ticket examiner after four or five stations, and tell him that I mentioned the fact of having no ticket to some station official whose name I do not know at that station, now who is to come forward to appear as a witness and support my statement? The station official may say I do not remember or I do not know.

The Honourable Sir Muhammad Zafrullah Khan : That would not comply with the provisions of the law. Notification should be to some of the staff on the train.....

(It being Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Avinashilingam Chettiar.

MOTION FOR ADJOURNMENT.

REDUCTION OF THE DUTY ON BRITISH TEXTILES WITHOUT CONSULTING THE LEGISLATIVE ASSEMBLY.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore-cum-North Arcot : Non-Muhammadan Rural) : Sir, I move that the House do now adjourn.
4 P.M.

The specific matter which I want to raise by means of this motion of adjournment is the reduction of the duties on British textiles without previously consulting this House. In the short time that is left to me, I do not propose to go into the correctness or otherwise of the conclusions of the special Tariff Board but I propose to prove that not only has injustice been done to this House and a grave injustice has been done to the textile industry in this country but solemn undertakings and promises given on the floor of this House have been thrown to the winds. Page 3 of the report of this special Tariff Board gives the terms of reference to the committee. It says (paragraph 5) :

“To recommend on a review of present conditions and in the light of the experience of the effectiveness of the existing duties, the level of the duties necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom, etc.” (and the last sentence says) “By adequate portection is meant duties which will equate the prices of imported goods to the fair selling prices for similar goods produced in India.”

The next paragraph, paragraph 6, says :

“In the course of this inquiry, the Board will give a full opportunity to the cotton textile industry, whether in India or the United Kingdom, to present its case and, if necessary, to answer the cases presented by other interested parties.”

From these passages it will be clear that the method of inquiry that has been proposed is specifically and directly that which has been covered by the Indo-British Agreement. Let me for the recollection of this House just read a few lines of the Indo-British Agreement from which these lines have been directly taken. Article 3, paragraph 2 says :

“The Government of India further undertake that the measure of protection to be afforded shall be only as much as and no more than would equate the prices of imported goods to the fair selling prices for similar goods produced in India and

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when the question of the grant of substantive protection to an Indian industry is referred for inquiry to a Tariff Board, the Government of India will afford an opportunity to any industry concerned in the United Kingdom to state its case and to answer the case presented by other interested parties."

It is clear that the method of inquiry suggested to this special Tariff Board is one under the Indo-British Agreement which was brought before the Assembly early last year. Honourable Members will remember what a tough fight the Assembly had to put up against the Government in this matter of the Indo-British Agreement and finally the Government were defeated in that matter. The Members on this side of the House expressed their apprehensions that this method of inquiry would be to the disadvantage of the Indian textile industry, but the Honourable Sir Joseph Bhore, in trying to dispel our fears, said :

" Secondly, the inquiry is to be our inquiry, ordered by ourselves and entrusted to those whom we consider suitable to carry out the investigation. Thirdly, the conclusions on that enquiry are to be our conclusions and lastly if the substantive level of protection granted by the Legislature is to be reduced, it is the Legislature that will reduce the level of protection."

It was specifically given to understand that any reductions recommended by a Tariff Board inquiry will be brought before the Legislature and then it should be done with the consent of the Legislature and it will be only the Legislature that will reduce the rate of protection that might be given and now the Government have acted under section 4 (1) of the Tariff Act. I have nothing to say against section 4 (1) of the Tariff Act except this. If we study the circumstances that have attended this case, some of us think that this action has been deliberately planned. We know that the Imperial preference under the Ottawa Agreement has been opposed tooth and nail and notice of termination of the Agreement has been given. This House also knows that the Indo-British Trade Agreement was thrown out by this Assembly and suspicion has of late been growing that the Government feel sorry for the policy of discriminating protection that they had embarked upon in one of their lucid moments and on the top of this comes this special Tariff Board. The composition of this Tariff Board was questioned both in the press and by the public as well as in this House and after it had published its recommendations, they were questioned by the various chambers of commerce. They had submitted memoranda and stated that these recommendations if given effect to would deal a great blow to the textile industry of this country. I have not the time or the intention to refer to the various memoranda that have been submitted by the various chambers of commerce, the Federation of Chambers of Indian Industry and Commerce, the Calcutta Chamber of Commerce, and so on. They have all expressed the opinion that these are not in the best interests of the textile industry of India. Let me put their views in brief : If it is remembered that the extent of protection now afforded is the result of an arbitrary averaging, and that the goods, which are sufficiently dissimilar to stand in the way of comparison of costs and prices, are, at the same time, sufficiently similar to take them essentially competitive, it will be realised that there is the gravest risk in reducing the duty on plain grey piecegoods to 20 per cent. *ad valorem* or 34 annas per lb. whichever is greater and the duty on bordered grey bleached and coloured piecegoods to 20 per cent. *ad valorem*. Business leaders have expressed their apprehension that the reductions in the

scale of import duties might not only cut into the profits of the more efficient mills, but would have the effect of sending into liquidation a number of other units which may be considered to be reasonably efficient.

These fears were expressed, and what did the Government do ? The Government rushed along. There is an English proverb which I do not want to repeat. I must thank the Honourable the Commerce Member in supplying me with a copy of this Resolution. On page 2, para. 3, they state their reasons for the decision outlined above. They say :

" In taking the decision outlined above, the Government of India have given the fullest consideration to the possible reactions of the reduction of duties on customs revenue and the budgetary position. It has already become clear that with the continuance of the present uncertainty as to the future level of the cotton textile duties, the revenue from imports of British cotton piece goods must fall far short of the amount included in the current estimates. The interests of the revenue required an early termination of this uncertainty and the Government of India are satisfied not only that the yield of the duties at the present level will not be appreciably less in the current year than it would have been if the former duties had been continued but also that there is no reason to anticipate that in future years revenue will be deleteriously affected."

In the first place, Sir, I should rather feel sorry that questions of revenue should have cropped up more prominently in deciding a matter like this. Not only that, but I should rather doubt the very argument in the latter part of this order. It seems to go against the very reason why they should not have arrived at a decision. They say : " We have reduced the duties ". At the same time, they say that the revenues will not suffer. Sir, if twenty articles of import are taxed at the rate of eight annas each, we get a revenue of ten rupees, and if we get the same amount of revenue, is it not common sense and common mathematics that the imported articles should be forty instead of twenty ? That being the case, this very argument proves that this goes to the root of the protection that has been given to the textile industry.

One word more, Sir, and I have done. The real reason why they have taken this action is that the Government have been demoralized to a certain extent. They feel that they are faced with defeats when they come forward day in and day out, they feel that their proposals are not in the best interests of the country, and they feel that their recommendation will never be confirmed by this House and so they come forward by the back-door and they want to face us with an accomplished fact because they dare not come to this House and face it. It is mere callousness. The demoralization, I fear, has gone so far—and more examples may be given. I heard that this change in the rules with regard to the I. C. S. recruitment was decided upon and made even when the Assembly was sitting but it was announced much later to avoid discussion in this Assembly. So I am really sorry that this callousness and this demoralization in the Government ranks should have gone on so far. They ought to have, if they were honest, placed this matter before the Assembly and got their opinion in a matter which concerns vitally one of the biggest and one of the most organized industries in this country. Sir, I move.

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

" That the Assembly do now adjourn."

Sir Abdul Halim Ghumanvi (Dacca cum Mymensingh : Muhammadan Rural) : My Honourable friend, who has moved this motion this

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afternoon, was not unfortunately a Member of this House in 1934. Therefore, he is not aware of the statement made on the floor of this House when the Mody-Lees Pact was ratified by this Honourable House.

Mr. M. S. Aney (Berar Representative) : Are they not published in the proceedings ?

Sir Abdul Halim Ghuznavi : But my Honourable friend has not taken the trouble of reading those proceedings.

Now, Sir, the first point I wish to make out is this—did the Government take the power of increasing or decreasing these protective duties into their hands apart from the Assembly's vote ? I find, Sir, that power was taken at the time the Steel Industry (Protection) Bill of 1927 was passed into law. You will find that in the report on the Inquiry into the Steel Industry they say :

“ Though we do not contemplate that the additional duties should be varied to meet slight or temporary changes in the prices of continental goods when circumstances indicate that a change in duty is required, there should be no unnecessary delay in arriving at a decision giving effect to it.”

Now, Sir, you raised from the floor of the House a very important question, while discussing the Steel Industry Bill of 1934. You moved an amendment to the effect that the action taken under this power should cease to have effect after two months unless approved by the Legislature. That amendment, Sir, was negatived by this Assembly. So that power stands, and the Assembly approved of a power being given into the hands of the Government.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : That has nothing to do with the textile industry.

Sir Abdul Halim Ghuznavi : That power is in the hands of the Government apart from the textile industry or any other industry. (Interruption by Mr. B. Das.)

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member (Mr. B. Das) wishes to put any question, he must rise in his seat.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, may I ask.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member does not give way.

Sir Abdul Halim Ghuznavi : Sir, when this Mody-Lees Pact was ratified in this Honourable House, Sir Joseph Bhore, in his speech, as reported in the Legislative Assembly Debates of the 13th March, 1934, said :

“ The tariff rates on British goods will remain in force for two years in accordance with the terms of the Agreement between the Lancashire Delegation and the Millowners Association, Bombay, that is, the present rate of 25 per cent. *ad valorem* or 4 3/8 annas per pound on plain grey goods, and 25 per cent. *ad valorem* on other goods will, during this period, continue until the second surcharge comes off as a general measure. If and when this happens, the duty will be reduced to 20 per cent. *ad valorem* or 3 1/2 annas per pound on plain grey goods, and 20 per cent. *ad valorem* on other goods.”

That surcharge did not come off and the duty remained at 25 per cent. *ad valorem* or 4 3/8 annas per pound. Then he said :

“ On the expiry of the two years covered by the Agreement, the duties on British goods for the remaining period of protection will have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained.”

What he said was, therefore, this, that the duties would remain, but it would have to be decided on a review of the conditions then existing, and in the light of such experience as may have been gained. In pursuance of that statement on the floor of this House, they had to ask the Tariff Board to go into the matter once again as on the expiry of the two years that undertaking was given by the then Commerce Member. The Tariff Board, consisting of the following Members—Sir Alexander Murray, Diwan Bahadur Ramaswami Mudaliar, and Sir Fazl Ibrahim Rahimtoola—examined this matter, and they have recommended to the Government that from 25 per cent. the duty should be reduced to 20 per cent. In pursuance of their recommendation and the power which the Government possess, they have decided to give the remission of five per cent. as soon as they saw it was practicable and possible. The Honourable the President himself wanted to amend this power which was refused by this House.

An Honourable Member : It was not the Honourable the President, but the Honourable Sir Abdur Rahim.

Sir Abdul Halim Ghuznavi : Yes, it was the Honourable Sir Abdur Rahim, and he moved a very reasonable amendment. Sir, this is the position. Government have done nothing whatsoever for which they can be censured.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : They have done something illegal.

Sir Abdul Halim Ghuznavi : They have done nothing illegal. What they have done is this,—the then Commerce Member gave an undertaking on the floor of this House that, after the expiry of two years, the Tariff Board would examine the position, and, whatever might be the result of their examination, Government would give effect to their recommendations, and, by the power which is vested in the Government, they have given effect to those recommendations.

Mr. N. M. Joshi (Nominated Non-Official) : Not without the consent of the Legislature.

Sir Abdul Halim Ghuznavi : My friend, Mr. Joshi, says “ not without the consent of the Legislature ”. But you have yourself given the power to the Government.

Mr. N. M. Joshi : That is an emergency power.

Sir Abdul Halim Ghuznavi : No, it is not an emergency power. Sir Abdur Rahim wanted to cancel the power if it was not before the House in two months' time. Unfortunately, it was not accepted by this House, otherwise Government could not have exercised the power which they have exercised today.

Now, Sir, the position is this. If anyone has been affected, it is the Bombay millowners, and they do not object to this, because they are sensible people. They understand their own business. It is not business to oppose this, because, after all, you have to understand this that India

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cannot yet supply her requirements and that there must be good feeling subsisting between England and India. I would remind the House of what I said in my speech when the Mody-Lees Pact was being discussed in this House. I am going to read only a few sentences from that speech. You must bear in mind that we cannot displease Lancashire, because they are the largest buyers of our cotton. What I said was this :

" I shall say now a few words in regard to the two Agreements, one with the United Kingdom.....".

An Honourable Member : You are quoting yourself.

Sir Abdul Halim Ghuznavi : Yes, I am quoting from my own speech.

Mr. M. S. Aney : That is not permissible.

Sir Abdul Halim Ghuznavi : Unless the President gives his ruling to the contrary, I am going to read it.

Some Honourable Members : Go on.

Sir Abdul Halim Ghuznavi :

"and the other with Japan. Firstly, after all, their operation is confined to two and three years, respectively. It is only for two or three years. Secondly, you have to bear in mind that India has to find a market for nearly four million bales of surplus cotton."

Mr. N. M. Joshi : How much England takes ?

Sir Abdul Halim Ghuznavi : I will tell you how much they take and what they are taking now, and what they used to take before. Let me continue with the quotation :

" You must be friendly with these two countries, England and Japan. England can buy our cotton, and she has promised to buy Indian cotton more and more. Thirdly, it would be some years before India will be able to manufacture enough to clothe her entire population. In matters textile, we must think nationally, and if we do so, India will be able to assert her rightful position. India refuses to recognise inter-provincial jealousies in this connection."

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhamadan Rural) : A magnificent speech !

Sir Abdul Halim Ghuznavi : It will not please you, because you have got the wrong vision.

Now, Sir, what I say is that the Government have done nothing whatsoever for which there can be a censure motion brought against them. They have acted exactly on the undertaking given by the then Commerce Member on the floor of the House. They had the Tariff Board's report, and they gave effect to their recommendation by using the powers vested in them.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhamadan Rural) : Behind the back of this House.

Sir Abdul Halim Ghuznavi : The power has been given to them, and they can exercise that power whether behind the back or in front of this House. Sir, I oppose this motion.

Mr. J. Ramsay Scott (United Provinces : European) : Mr. President, I would like to call the attention of the House to the Press Communiqué

of the 16th of October, 1935, giving the terms of reference to the Tariff Board :

" To recommend on a review of present conditions and in the light of the experience of the effectiveness of the existing duties, the level of the duties necessary to afford adequate protection of the Indian Cotton Textile Industry against imports from the United Kingdom of (a) cotton piecegoods, (b) cotton yarn, (c) fabrics of artificial silk, and (d) mixture fabrics of cotton and artificial silk. By adequate protection is meant duties which will equate the prices of imported goods to the fair selling prices for similar goods produced in India."

You will note that adequate protection is used twice to emphasise it. I am very glad to have the opportunity of congratulating Government on taking immediate action on a Tariff Board Report. In the past, we have had numerous cases where, when Government took action, the report was out of date and when new conditions had arisen which the Tariff Board could not foresee. My Group and I have always asked for quick action to be taken on Tariff Board reports, and although in this case we may not agree with the action taken in every respect, we see no reason to blame Government for taking quick action ; but, as I have said before, we would rather thank Government and hope this means that they have turned over a new leaf.

There is nothing new or extraordinary in this action. There have been at least four cases that I know of where Government have taken action, and the action can be either to lower duties or increase duties. The action to increase duties is, however, only possible where the industry is a protected one and where imports lower the protection awarded to the industry by this Honourable House. The outcry against the lowering of the duty on cotton piece goods from the United Kingdom and its damaging effect on the industry is " all rot ". The supposition has been that the lowering of the duty by five per cent. on cotton piece goods would mean the swamping of Indian markets by goods from the United Kingdom. For several years imports from the United Kingdom have been dwindling until they have practically stopped and the reduction was an attempt to help conditions and in my opinion, and in the opinion of those who really know the conditions of the textile trade, it was nothing more than a friendly gesture which will cost the country next to nothing. I maintain that a friendly gesture which costs this country nothing and which will not harm this country is all important at the present moment. You may tell me that we ought to have got something in return from the United Kingdom but I know that when the negotiations start for a new treaty between India and the United Kingdom, this will be a wonderful bargaining counter to show the goodwill of this country towards the United Kingdom. There are several cotton magnates who are going Home to advise Government and I feel sure that they will make the most of this kindly and friendly action of our Government and I also feel sure that it will have very far reaching effects to promote better relations between India and Great Britain. Although I am not in agreement with the Government action on cotton yarns, as cotton yarns are not properly protected, I can see no reason to censure the Government in any shape or form.

Sir Srinivasa Sarma (Nominated Non-Official) : Sir, exactly this time twenty-four hours ago, this House listened to the very eloquent speeches from Honourable Members opposite on the importance to this country of having a permanent Tariff Board and of Government carrying

[Sir Srinivasa Sarma.]

out the recommendations of that Board. Within twenty-four hours of those eloquent speeches.....

An Honourable Member : Forty-eight hours.

Sir Srinivasa Sarma : No, twenty-four hours. This is another specimen of the kind of exaggerations which Honourable Members opposite indulge in. It is only an indication of how things are exaggerated in this House ! Well, Sir, within twenty-four hours, we see those very Honourable Members waxing eloquent condemning the Government for giving effect to the recommendations of the Tariff Board, consisting of.....

An Honourable Member : A special Tariff Board.

Sir Srinivasa Sarma : That does not make any difference, whether it is ordinary Tariff Board or a special Tariff Board. Sir, within twenty-four hours we see Honourable Members opposite taking Government to task for giving effect to the recommendations of the Tariff Board consisting of very eminent men. (Hear, hear.) Nobody can dispute, in spite of the usual interruptions of my Honourable friend, Mr. Satyamurti, that the Tariff Board was constituted of very eminent men. Sir Alexander Murray, a name very well respected in Calcutta, and who was very well-known all over Bengal as a pro-Indian European in Calcutta, was the Chairman of the Tariff Board. He was one of those who tried very hard, during his business career in Calcutta, to improve the relations between Europeans and Indians in this country. Such a person was the Chairman of the Board. Then, there was Diwan Bahadur A. Ramaswami Mudaliar,—whatever Honourable Members opposite may say about him, I am sure, those who were Members of the last Assembly will remember that on practically all popular measures, he voted with the popular side and voted against the Government. The third Member was Mr. Fazl Ibrahim Rahimtoola. Everybody here will admit that he is more interested in textile industry of Bombay than any Member sitting opposite. I submit that the recommendations of a Board consisting of such three eminent men are recommendations that will carry weight with the industry in this country as it has done. But that is beside the point. (Laughter.) I mean it is beside the point to the discussion raised by my Honourable friend, Mr. Avinashilingam Chettiar, whose adjournment motion is to censure the Government for taking a particular action without consulting this House. Whether Government have done rightly and whether they did not go beyond their jurisdiction is the only matter before the House, and Government had not only exercised their power by the right conferred upon them by this very Legislature, but I think it will be news to those Honourable Members sitting opposite that Government have exercised similar powers on three or four occasions in the past without the Assembly then existing taking them to task for it.....

Pandit Nilakantha Das (Orissa Division : Non-Muhammadan) : It is no news to us.

Pandit Lakshmi Kanta Maitra : Very excellent justification.

Sir Srinivasa Sarma : This Assembly has given the right and the power to Government to act on the recommendations of the Tariff Board, and, it is in pursuance of that, that the Government have acted in this case. Whether the Assembly agrees with them or not is another matter.

If the Assembly does not want it, it is open to raise that point in a hundred and one other ways. But to condemn the action of Government for taking action in pursuance of the power vested in them by this very Assembly is a thing which no sensible man can support.

An Honourable Member : You are the only sensible Member in this House.

Sir Srinivasa Sarma : Well, Sir, I do not believe in undue modesty, and I accept the compliment of my Honourable friend. I am a sensible man, and may I ask whether any sensible man will condemn the Government for taking an action which they did under the powers given by the Assembly itself. The Government took action on the recommendations of the Tariff Board,—can any sensible man condemn the Government for that ? In view of this, I do not think that Government can be censured at all. Sir, I oppose the motion for adjournment.

Pandit Krishna Kant Malaviya : Sir, I have been listening most attentively to the speeches that have been delivered by my Honourable friends opposite, but it appears to me that all along they have been shirking the main issue before the House. My Honourable friend to my left was telling us that it was very good friendly gesture so far as the British Government and the English people are concerned. What I want to know is this. It may be a friendly gesture so far as the British people are concerned. But where is the friendly gesture to the Members of this House and to the representatives of the people in this House. Why were they not consulted ? As regards the Tariff Board, as my Honourable friend, Mr. Satyamurti, pointed out yesterday, we want a permanent Tariff Board and that every thing should be done by Government only on the recommendations of such a Tariff Board. But we never wanted that the recommendations of the Tariff Board should not be placed before this House or that we should not be consulted or that matters should be finally decided behind our backs. We want that Government should show to this House some friendly gesture. What is the good of showing friendly gesture to people who live beyond the seas ? You cannot afford to be friendly with us, but you want to be friendly with the British people. This can be no consolation to us.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I have no interest in Lancashire or in the millowners of Bombay, Ahmedabad or of any other place. They are all rich people, and they can very well look after their interests themselves. The people in whom I am interested and whose interests I would always like to safeguard are the millions of poor people of this country and of consumers, and it is only from their point of view that I should like to judge the proposition before the House. The first question that was raised was whether Government had any power to act in the manner they did. I have got a copy before me of the Indian Tariff Act. It refers to the power of the Governor General in Council to alter protective duties. There is no mention of emergency. It is not an emergency power. The section says :

“ Where in respect of any article chargeable under the First Schedule with a duty characterised in the third column thereof as protective, the Governor General in Council is satisfied, after such enquiry as he thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India, he may, by notification

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in the Gazette of India, increase or reduce such duty to such extent as he thinks necessary either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification."

That is the power which this House has conferred in 1926 on the Governor General in Council, and if any one is to blame, we have to blame the Assembly as it was then constituted which gave this particular power, and my Honourable friend, Mr. Joshi, was a Member of that Assembly which gave the power to the Government. This power was given to them and given, to my mind, wrongly, because I could never vote in favour of this particular amendment. But it is a fact that the Legislative Assembly gave them this power, and we cannot blame Government for using the power which this House gave them.

There is one other point. This section says that the Governor General in Council has to be satisfied after such inquiry as he thinks necessary. In this case I find the matter was referred to the Tariff Board. I do not go to the personnel of the Tariff Board, because I believe in the maxim that we should think of what the person says and not think who said it. Therefore, I do not go to the personnel of this Board. Of course two of them are ex-Members of this House, and they were both very prominent Members. Here I have before me all their facts and figures and their conclusions. If you think their calculations are wrong, somebody should get up and find out the flaw in their argument. After going through all these figures which are outlined here, and I spent one hour in studying them, I find they have given their main conclusion from the data obtained by personal enquiry. This is what they say in section 37 of their recommendations :

"The Board recommends that on cloths of bordered grey bleached goods and coloured goods (excluding prints) the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem*."

This is the conclusion they have arrived at as a result of their own calculations. If we object to their calculations, our primary duty is to find out the flaw in their argument on the basis of which this conclusion has been drawn. I have no basis on which to object to their figures, because I have got no figures at my disposal. So I have to take their figures, and then it is a case of simple arithmetic to arrive at their conclusion. What more searching enquiry could the Governor General make on this point ?

Now, I come to my arguments on general grounds, and I first refer to the recommendations of the Fiscal Commission and I will then point out the general economic position of the country. As regards the quantum of protection, the Fiscal Commission said :

"We cannot shut our eyes to the fact that in protectionist countries considerable difficulty is experienced in reducing and removing duties even when they are no longer required ; and it is probable that such an industry will impose on the whole a greater burden on the consumer than its conditions really require."

I look at it from the point of view of the consumer. I am quite prepared to put a special burden upon myself in order to develop an Indian industry. But the duty which ought to be imposed upon me as consumer should be just adequate and as much as may be necessary to

keep the industry in flourishing condition, and it should not be more than what is really required for protection, because the same Fiscal Commission at another place also clearly outlined the disadvantages of excessive protective duties. A duty which is less than necessary for adequate protection is as bad as a duty which is imposed in order to give excessive protection. We must have just enough protection in order that the capitalists may have a profit which may be justified according to the circumstances prevailing at that particular time. So the Tariff Board by a calculation has seen that the duty was excessive and they have reduced the duty by five per cent. The other argument which I would very much like to press today is this. I have repeatedly said on the floor of this House that we are suffering at present under the maladjustment of prices between raw materials and manufactured articles. Taking the figures of 1914 as 100, we find that the price index of raw cotton has gone down from 100 to 74, but the price index of manufactured textile articles has gone up from 100 to 114. The price index of raw products has gone down and the price index of cotton textile has gone up. Therefore, it is the duty of Government, if they care for the interests of the people of this country, that they should try to raise the price index of agricultural products and lower the price index of manufactured articles in order that these maladjustments may no longer exist.

Now, I have been pressing time after time that we should make every effort to reduce the price level of these manufactured cotton textiles, and the only way in which it can be done is that we should reduce the import duty on these artificial articles. No one will question that reduction in import duty leads to the reduction in prices and reduction in price index. I have been here for six years, and for six years I have found that time after time import duties have been increased and increased on all kinds of articles including textiles. This is the first time during the last six years that the Government have lowered the duty, although by a small amount of five per cent. This really means that the price index of 114 of other textiles comes down by at least three or four per cent. ; and this will reduce the balance of maladjustment between manufactured articles and raw materials. Therefore, any attempt, which may be made in order to reduce the price index of manufactured articles and to increase the price level of cotton, will be welcomed by the teeming millions of the population who are the children of the soil and who have really to buy manufactured articles by selling their cotton. This is really the problem. At the same time I must say that it should be reduced to such an extent that the industries may not suffer. In this case I understand the industries have not been affected. Had the industries been affected there would have been strong protests from the millowners of Bombay and Ahmedabad and other places. But I see no sign of protest from anywhere. The protest comes only from those persons whom the Fiscal Commission described as always opposing the reduction of duty whether the persons affected protest or not. Had these protests come from the millowners and had they given their arguments that they cannot afford to reduce the duty by 5 per cent., that the figures given by the Tariff Board are wrong and the basis of their calculations is incorrect and the conclusions they have arrived at are not justified, then I would have come forward and said that we cannot afford to destroy our mill industry, however undesirable it may be for me to continue to pay up higher cost of my manufactured articles. In the

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absence of any protest, we can conclude that evidently this action of the Governor General in Council has satisfied all the parties. After all, when we imposed this protective duty, it was clearly pointed out by the Tariff Board that it is not for ever. It is for a limited period, and we always look forward to the time when it will be reduced, and ultimately removed altogether.

As I pointed out, this increased duty is in the shape of a loan from the consumers to an industry. If I pay higher duty for my cloth, it is really a loan which I am giving to the mill industry on the security of the Government. I am carefully calculating the cost of sugar, how much more money I have paid on sugar, and, at the end of seven years, I will bring forward a suit against the Finance Member for the increased cost, because he has promised me, when giving this protection, that after the year 1939, that industry will stand on its own legs, and they will be able to reduce the price of sugar; and if these prices are not reduced, protection was not justifiable. In the case of textiles, we find that, after all, the time has arrived after giving them protection for fourteen years that they are in a position to reduce the taxation by five per cent. *ad valorem*. This is really something to our advantage, and I think we should welcome it. The Fiscal Commission promised us that, as soon as an industry progressed, the burden on the consumers would continue to diminish and that it should not continue indefinitely on the consumer. (Interruption.) I have no interest for anybody under the sun except the consumers. (Laughter and Cries of "Oh".) It is their interest that I am pleading. As regards the handloom industry, there is one complaint I have to make. There are definite proposals of the Tariff Board on this point, and I hope that the time will soon come when the burden on the cottage industries in the shape of excessive duty on yarns will also be removed, and they will be in a better position. My inclination is always to vote for the reduction of duty on any protected article, provided it is justifiable, provided it is based on the report of a Tariff Board. I also welcome reduction of the duty as it would tend to reduce the maladjustment of the prices which I just pointed out.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, before dealing with the real issue that is before the House, I should like to say a few words with reference to the arguments that have been advanced by some of the speakers who have opposed this motion. With apologies to Dr. Ziauddin Ahmad and the gentleman who preceded him, I feel that both of them have betrayed a confusion of thought. They say that there is no occasion for finding fault with the Government, because they have only exercised a power which they possessed under the Tariff Act. If they had done something against the law, then we would have gone to a law Court and obtained an injunction and perhaps damages against the Member in charge. We in this House are seldom concerned with the unlawful acts of the Government : unlawful acts ought to be the subject of action in another place which is above the influence of this Government. We are always concerned here with an abuse of discretion. When we argue that the Government should not have imprisoned—say, for example, Dr. Ziauddin Ahmad—without any trial, the Government have the power under the law, but we say that it was an abuse of power. When we say that a certain person should not

have been confined as a State Prisoner, it is not because there is no Act under which the Government did not possess that authority, but because we feel that the Government had misused the discretion and the authority vested in it; of course, whatever authority the Government possess under an Act is by virtue of some enactment of this House. So, it is not a valid argument that because the Government possess a power under an Act, therefore we are not entitled to raise—it is not even open to us to raise—an objection for gross abuse of that power. Then, the Honourable Knight—I do not know his full name, and it would not be proper to call him "Mr. Sarma"—twitted us for raising an objection today against action which had been taken by the Government in conformity with the recommendations of the Tariff Board while we had been pressing for a permanent Tariff Board yesterday. Exactly. This is an illustration which shows the danger of an *ad hoc* committee. It shows how conclusions are manipulated, how data are distorted, and the facts are misinterpreted, how pre-determined courses are adhered to by means of the subtle device of getting some sort of decision from a manipulated Tariff Board; and what I am saying will be borne out if I am allowed to proceed further.

Those of you who have seen the Indo-British Trade Agreement must be knowing that there was a suggestion there that the *ad valorem* duty should be reduced from 25 to 20 per cent., and specific duty from 4½ annas to 3½ annas per pound. It is rather a strange coincidence that, after all this elaborate inquiry, this Tariff Board should have arrived exactly at those very conclusions, namely, that the *ad valorem* duty should be reduced from 25 to 20 per cent., and the specific duty to 3½ annas per pound, which was desired by British manufacturers in the Indo-British Trade Agreement. It is rather suspicious and amazing how the prophets could have foretold the decisions of the Tariff Board about two years before its appointment. This is a genuine case of inspiration. That, Sir, shows the danger of *ad hoc* Tariff Boards.

These are, however, not the main points with which we are concerned today. The point is this : whether the Government have acted faithfully, or faithlessly, honestly or dishonestly, with candour or with hypocrisy in the matter; and I use these words designedly. I will tell you what has happened. This is what we were told by Sir George Schuster in the year 1930-31 on an occasion more or less like this :

"We made it clear to the British Government that in a matter of this kind, giving preferential treatment to British goods by putting additional duty of 5 per cent. on non-British cotton textiles after frankly stating our conclusions, we should desire to put our carefully considered views before the Legislative Assembly. *With them the final decision must rest.*"

That was the definite declaration made by Sir George Schuster on the floor of this House in 1930-31—that any proposals for the reduction of duties on British goods must be placed before this House *with whom the final decision must rest*. We have already been reminded of the definite promise, the solemn pledge and undertaking that Sir Joseph Bhore gave when the Indo-British Trade Agreement was discussed. I will quote his exact words :

"The conclusions of the inquiry are to be our conclusions and if the substance and level of the protection is to be reduced it is the Legislature that will reduce the level of protection."

[Pandit Govind Ballabh Pant.]

That was an unequivocal promise given by Sir Joseph Bhore with reference to this very proposal about the reduction of import duty on British textile goods from 25 to 20 per cent. and from 4½ annas to 3½ annas per pound. You have contravened every solemn undertaking. Official memories are short, but I think the Government of India may not have quite forgotten what it published only few months back. When they issued their notification appointing this Tariff Board, what did they contemplate, and what did they tell the country? Sir, I will read out to the House paragraph 4 from their own notification by virtue of which this blessed Tariff Board was appointed. I am reading from paragraph 4,—and I will ask Honourable Members to note just a few words that appear in this paragraph :

“ In the course of the debate on the Bill, the then Commerce Member, Sir Joseph Bhore, in moving that the Bill be referred to a Select Committee, stated on behalf of the Government that, though it was intended to afford the textile industry protection for a period of five years, the tariff rates on British goods would remain in force for two years in accordance with the terms of the Agreement between the Lancashire Delegation and the Millowners' Association. On the expiry of the two years covered by the Agreement, the duties on British goods for the remaining period of protection would have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained.”

Now come the important sentences :

“ The period of the Agreement will expire on the 31st December, 1935, and it will be necessary to introduce, in the course of the next Budget Session, legislation to give effect to any changes in the duties which may be found necessary.”

This was, Sir, the unequivocal declaration made by the Government of India in the body of the very notification by which the Tariff Board was appointed,—from which Tariff Board we have these erratic recommendations which cannot stand the test of even a moment's examination, but I have no time to deal with those recommendations at the present stage. The Government of India have really lost all sense of decency and have thrown to the winds promises made by their responsible spokesmen in this House again and again, and I will tell the House the reason for it. The reason was this. If the proposals that emanated from this Tariff Board had been placed before this House, they could not have stood the light of reason and scrutiny even for a second, and the Government would have found it impossible to support the conclusions of the Tariff Board. Sir, the Government should know one thing,—and they know it,—that whenever there is a proposal for preferential treatment of Great Britain, there is naturally a widespread suspicion in the country. The Government of India are subordinate to the Government of Great Britain and cannot resist the pressure exerted on them by the British Government ; and when any preference is given to Great Britain, the man in the street jumps at the conclusion, even if it be not justified, that the action of the Government must be due to alien influences and extraneous considerations. Now, was there any special reason for the appointment of this Tariff Board? This Tariff Board, Sir, is supposed to have been appointed in consequence of the Agreement of January 1934, but that Agreement itself was appended to the Ottawa Agreement, and it was laid down in that Agreement itself that it should remain alive only so long as the Ottawa Agreement remained alive. The Ottawa Agreement having been denounced, having been burnt and buried, why did the Government follow the erratic footprints and of the dead devil which had no trace left at the

time? I repeat that there was no occasion for taking action on this Agreement then. Then, Sir, the House having thrown out the Ottawa Agreement, why did the Government grant one sided preference? Even at the last Session in Delhi we had a Tariff (Amendment) Bill relating to fents, and the Government wanted some sort of preference for British articles imported into India. This House threw it out, and it reiterated that it would not be a party to any kind of unilateral preference to British imports. Now, let us go further and see if this was an appropriate occasion for action of this sort. Well, the Commerce Member, I believe, is carrying on or contemplates starting negotiations with the British Government about a bi-lateral agreement. Was it proper to grant a preference to one side without any *quid pro quo*? Could you not have waited for a few days more and seen to it that if England got any advantage from India, India also got something in return from the United Kingdom? Don't you remember, Sir, that when in England some questions were raised recently about imports from India, then the Member in charge of the Board of Trade said that as the whole matter was to be reviewed it was not an occasion for dealing piecemeal with anything. Sir, we on our part have been showering benefits on United Kingdom one after another. I think Honourable Members of this House are aware that while the import duty on imports from other countries stood at 50 per cent., on British textiles this import duty did not go beyond 25 per cent., and England was enjoying an advantage of 50 per cent. as against other countries even before the reduction ; and even that was not considered enough. Why should we go on giving fresh advantages? If the Government of India were candid and told us that they are only a subordinate wheel in the mill, and, as such, cannot do anything better, it would be intelligible, but they lack candour and honesty, and in trying to defend the indefensible look ridiculous. Sir, the attitude the Government of India have adopted in this matter is not only anti-national and detrimental to the interests of this country, but amounts to a distinct breach of faith.

Mr. M. Asaf Ali (Delhi : General) : Sir, I move that the question be now put.

Mr. F. E. James (Madras : European) : Sir, after the vitriolic speech of my Honourable friend, Mr. Pant, in which he has not concealed his hatred of everything emanating from, or to the benefit of, the United Kingdom, I desire to place before the House as dispassionately as possible, my reasons for voting against this motion. Before doing so, I should like to congratulate the Honourable Pandit on making his first public declaration that he, and I presume his Party, are no longer concerned with unlawful acts. I suppose that is the result....

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : In this House, he said.

Mr. F. E. James :of the “ parliamentary mentality which has come to stay ”.

Well, Sir, as far as this motion is concerned, I must trouble the House to go back a bit into the history of the appointment of this special Tariff Board. This Board was appointed to investigate the adequacy of protective duties applicable to cotton and artificial silk fabrics and cotton yarns of British manufacture. Admittedly, it was a difficult task,—and I

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must protest against the disgraceful terms which were applied by the Pandit to the Tariff Board which undertook this work a year ago,—their task was an extremely difficult one, and it was discharged with great efficiency and impartiality. (*Some Congress Members*: “Oh, oh”.) Conflicting claims were placed before the Tariff Board both from the United Kingdom and from this country, and as usual they were pitched extremely high. If Lancashire’s case had been admitted, there would have been no duty; if India’s case had been admitted, the existing duties would have been doubled. On the whole, a middle course was followed by the Tariff Board in its recommendations. I am not going to discuss those findings except to point out that in the words of one eminent mill-owner, which are very significant indeed, the result of the findings of the Tariff Board and their acceptance by Government would force the Indian mills to improve their efficiency. If that is the case, the whole country should be grateful to the Tariff Board for their recommendations. Now there was delay in the appointment of this Tariff Board and there was delay in the submission of its report. As a result, there was a considerable period of uncertainty as to what the duties were going to be in the future. This period of uncertainty was detrimental not only to trade, but also to the revenues of the country and the consumers in the country whose interests in this debate have not so far been considered. I claim in the first place that it was the duty of the Government, having in view the trade of the country, the consuming public and the revenues of the Government, once their mind was made up with regard to the recommendations of the Tariff Board, to take immediate action under such powers as they had. I have often wondered during the course of this debate whether this adjournment motion would have been brought forward if the recommendation of the Tariff Board had been for an increase instead of a reduction of duty. I shall deal with that matter a little later.

Now, Sir, under section 4, sub-section (1) of the Indian Tariff Act, the Governor General in Council has power to reduce or raise duties after enquiry. Therefore, under Statute there was no obligation to consult the Legislature. I may here perhaps compare the position in this country under this Act with the position in the United Kingdom. The procedure set out in the United Kingdom Import Duties Act of 1932 is briefly as follows. The Import Duties Advisory Committee has power to recommend to the Treasury that in respect of goods of any class or description any commodity should be admitted free of duty, or the existing duties should be reduced or increased. These recommendations go to the Treasury, and the Treasury after receiving them may, if it so thinks fit, make an order either for the reduction of the duty or for the increase of the duty or that any particular commodity should be admitted free. Such an order is, under the Act, laid before the House of Commons and it ceases to have effect unless, within 28 days of its passing, the necessary resolution is passed approving this particular order by the House of Commons. I may say that in reckoning the period of 28 days no account is taken of any time during which the Parliament may be adjourned or dissolved or even prorogued. It may, of course, be argued that such reference to the Legislature would be advisable in connection with the power now possessed by the Governor General in Council. That

is a matter which is open to argument and serious consideration. The point at the moment, however, is that no such condition is laid down in the Act as it stands, and therefore from the legal point of view the Government of the day are perfectly justified in taking the action that they did.

Now, Sir, it may be argued, as it has been argued, that, although that is the case, there was an undertaking given by the previous Commerce Member that these matters should be placed before the Legislature. I will read the words which govern this undertaking. Sir Joseph Bhore, during the discussion on January 30th, 1935, referred to article 4 of the Indo-British Trade Agreement and said:

“We undertake under this article, in the event of a radical change in the conditions affecting a protected industry, to order a re-investigation in order to see whether the existing duties are appropriate or not.”

That is an entirely different situation which is contemplated there in that governing sentence, from the situation which arose out of the finding of this Tariff Board. A proposal to reduce duties, for example, by five per cent., could hardly be described as a radical change in the conditions affecting a protected industry. Therefore from that point of view I do not consider that the undertaking of Sir Joseph Bhore need be quoted in this connection. There is some inconsistency in the argument of the Opposition that in this connection the findings of the Tariff Board should, first of all, receive the approval of the Legislature. I have always understood that they have argued in favour of a Tariff Board whose findings should be almost judicial in their character. I suppose under those circumstances they would not expect those findings to be placed before the Legislature. But I do not think it is only the findings of the Tariff Board to which my Honourable friends object: it may be, of course, to its composition; possibly, it is to the authority of the Tariff Board. But it was never the intention of the Indian Fiscal Commission that the Board, which they envisaged with almost independent authority, should be dependent upon the vote of the Legislature for the acceptance of its recommendations by the Government of the day. Therefore, from these three points of view, namely, public interest, the constitutional position of the executive and the authority of the Statute under which they have operated,—from these three points of view Government have been entirely justified in their action. Sir, I have been a little disturbed at the attitude of the Opposition in this matter, and particularly, after the speech of my Honourable friend, the Pandit. They seem to take this line; we do not want under any circumstances any reduction of any duties against Britain whatever the economic justification for that reduction may be. We have seen how in the last Session they persisted in describing differential duties as preferential duties; and it found its way into the Pandit’s speech again today where he used the same confusion of thought to emphasise his own argument that a differential duty arrived at after a scientific investigation is Imperial preference. They call for an authoritative Board. When that authoritative Board recommends a reduction, which was more than justified by the facts of the case, they speak of the “manipulation” of the Tariff Board. That is a disgraceful term to use with regard to that body. Similar action has been taken by Government before. Why did not the Opposition then complain? Probably because another country was affected. Why do they take this line

[Mr. F. E. James.]

on this particular occasion ? I would repeat, they cannot bear the thought that possibly, owing to a scientific investigation of the duties which are necessary for this country, a British industry may benefit. They cannot bear to think of any Tariff Board that is so independent, so fair and so just that it cannot under any circumstances be subservient to the Tammany Congress. That is the real secret of this motion. I suggest that on the eve of the opening of negotiations of very great importance between this country and the United Kingdom, to show this spirit in this House is bound to be misunderstood by the country to which our delegates will shortly be going, on the basis of complete equality, to negotiate what we hope will be an agreement which will redound to the lasting benefit of both countries.

Some Honourable Members : Let the question be now put.

Mr. N. M. Joshi : Sir, I rise to support the motion of my Honourable friend, Mr. Avinashilingam Chettiar. The speech of my Honourable friend, Mr. James, if he will allow me to call him so, has shown one thing very clear to me, and it is this. If the British trade in India stands the risk of being reduced by one particle, then the Indian people must, along with that, take the risk of the hostile attitude of our European friends in this country. My Honourable friend, Mr. James, said that the speech of the Honourable the Deputy Leader of the Congress Party was full of hatred. Unfortunately for Mr. James, I am speaking after him. I do not know what he will think of my speech, but, Sir, I would like to assure you, if my assurance has any value, that when I speak on this question, I am not actuated by any hatred of the British people. Not only that. I will give you a further assurance, that in my heart there is absolutely no hatred towards the British people. I am frankly an admirer of the British people ; but, Sir, I love my people more.

Sir, the Government have taken advantage of the general power given in the legislation passed by the previous Assembly, I shall not say whether it was wisely or unwisely, to alter the tariffs in emergencies. The power which was given by the Legislature, in my humble view, was given in order that the Government of India should be able to take action in an emergency. Sir, I feel that if the Legislature wanted to give power to the Government of India to fix the tariffs on British goods or other goods, as they like, after making any inquiry as they like, they need not have passed that legislation at all. They could have passed one clause and said that the Legislature empowers the Government of India to alter tariffs to any extent by making whatever kind of inquiry they choose to make. That one clause would have been absolutely sufficient, but the Legislature took the trouble of passing an enactment at the same time giving the general power to the Government of India to enable them to take action when action was urgently necessary. I think, therefore, that the Government of India have misused power given to them under that legislation, unless the Government of India can show why action under that clause was urgent. I feel, Mr. President, that there was no urgency of any kind in lowering the duties on British goods. The duties had existed for some years. The Legislature was to meet after a few months, and nothing would have been lost if the Government of India had delayed their action by a few months. Unless the Govern-

ment of India can show what urgency there was in giving effect to the recommendations of the Tariff Board, they have misused the power given to them by the Legislature. I feel there was no case for urgency. A few months' difference would not have put Great Britain to a very serious loss. I do not wish to speak at length on the merits of this question, but, the Government of India, by the action which they have taken, have deprived me of an opportunity of dealing satisfactorily with the problem of the protection of the textile industry. I cannot say all I want to say in fifteen minutes' time. If there had been a Bill, I could have spoken for an hour in dealing with the question of the protection of the textile industry. It is an unsatisfactory method of discussing the report of the Tariff Board when you have to confine your speech to fifteen minutes. I, therefore, feel that the Government of India have done injustice to the Legislature by preventing it from expressing its views on the question of the tariff policy in the matter of the textile industry. My Honourable friend, Dr. Ziauddin, said that he is not a millowner, but that he stands for consumers. I am not a millowner myself. It is a great pity that the representatives of the millowners in Bombay are not here at this discussion today, but, Sir, the millowners of Bombay are not very much affected by this. They do not depend upon tariffs. They have found a very good weapon for protecting their industry against the attacks from foreign countries. That weapon is to reduce the wages of the textile workers in Bombay. So long as the Bombay millowners are free to reduce the wages of the textile workers, they will not object to the reduction of the tariff on British goods by five per cent. When the report of the Tariff Board was published, I saw at least one prominent millowner in Bombay coming out with a threat that by this action of the Government of India there is a danger of the wages in Bombay going down. That is my interest in this question, and it is for this reason that I support the motion of adjournment.

Mr. President, I do not wish to go on with the other arguments, but I shall deal only with one or two, and give a few figures. My Honourable friend, Sir Abdul Halim Ghuznavi, talked of reducing the duty in order to induce Great Britain to take our cotton. He does not know what quantity of cotton Great Britain takes. I shall give him the figures. In the year 1930-31, Great Britain took 274 thousand bales out of 6,750 thousand cotton bales. In the year 1934-35, the latest figures are 374 thousand bales. Now, Sir, it has been said that Great Britain has doubled and even quadrupled her imports of Indian raw cotton. Great Britain does not take more than five per cent. of our cotton. What is the use of making much of the cotton being taken by Great Britain ? Great Britain takes 45 per cent. of its cotton from the United States of America, and it is no good talking of Great Britain taking our cotton.

Then, Sir, my friend, Dr. Ziauddin, said that he looks to the interests of the consumers. Sir, I also try to look to the interests of the consumers even when I try to protect the interests of the working classes. In this case, there is absolutely no reason to believe that the interests of the consumers will suffer at all. The prices of Indian textile goods are governed by the duties levied on Japan, which are higher, and not on the duties levied on British goods, which are much lower. By the reduction of five per cent. duties on British goods, the prices of British goods in India are not going to be lowered. The British people are merchants ; if they can

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[Mr. N. M. Joshi.]

get higher prices, they will get higher prices, and they can get higher prices, because the duties on Japanese goods are much higher. I, therefore, feel that there is absolutely no sense in talking like that the consumers' interests will suffer if the duty is not lowered. Mr. President, I support this adjournment motion.

Several Honourable Members : Sir, I move :

"That the question be now put."

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable the Commerce Member has not yet spoken, and the Chair does not know whether he will take part in the debate.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : I intend to reply to the debate, but only two people from the Opposition Benches have so far spoken.

An Honourable Member : Mr. Joshi also has spoken.

The Honourable Sir Muhammad Zafrullah Khan : Mr. Joshi is not on the Opposition Benches.

Mr. President (The Honourable Sir Abdur Rahim) : It is, perhaps time that the Government should now put forward their case.

The Honourable Sir Muhammad Zafrullah Khan : Sir, let me first clear the position with regard to the origin of this question. It has been said that this Tariff Board was appointed with the purpose of giving away some benefit to Lancashire. We are, Sir, daily reminded of the policy of discriminating protection laid down by the Fiscal Commission, and it is an integral part of that policy that, where protection is granted, it shall be adequate but no more than adequate; and it is the duty of Government, whether there is or is not any super-imposed agreement reinforcing that duty, that, when it finds that protection to a particular industry is more than adequate, it shall take action to reduce the degree of protection, just as much as it is its duty, if it finds that the degree of protection in any particular has ceased to be adequate, to take action that it shall again be made adequate. That is the first point I wish Honourable Members to keep in mind in this connection,—that though, starting from the Clare Lees-Mody Agreement and based upon that, there was a specific obligation laid upon Government to make an inquiry into these duties, and if they found that the level of these duties was higher, so far as the United Kingdom was concerned, than would be adequate for the protection to be given to this industry, they must take action; but even apart from that Agreement, Government are bound in respect of every protected industry to take such action.

Now, the Tariff Boards, with the reports of which Government may have to deal, may for this purpose be divided into two categories. The first category would comprise Tariff Boards which are called upon to make inquiries into the conditions of different industries in order to see whether claims for protection on behalf of such industries have or have not been established. When a Tariff Board, which is inquiring into a matter of that kind, submits a report and finds that protection is necessary and Government are in a position to accept that report, action can only be taken by way of legislation and, therefore,

Government are bound to come to this House in order to put the recommendations, to the extent to which Government are able to accept them, into force. On the other hand, there may be a Tariff Board—and there have been Tariff Boards of that kind before this last one—which has only to deal with the question of the quantum of protection, and when such a Tariff Board makes its report, it is possible, legally, and, therefore, open to the Government to take action under section 4 of the Tariff Act of 1934, which specifically lays down that when the Governor General in Council after such inquiry as he thinks necessary finds that the protection in respect of a particular industry requires an enhancement or a reduction, he can take action under that section up to the necessary extent with regard to all foreign countries or with regard to some of them. That is the broad position. I was not quite clear from the language of the motion set down for discussion whether the objection was that legislation had not been undertaken, or whether the objection was that this House had not been in some other manner consulted. The language of the motion leads one to imagine that the objection is that the House was not previously consulted. Those are the words used. Had it been that Government did not enforce these duties by means of legislation, as is now being contended, I would have taken objection that this was not a matter which could be discussed by way of an adjournment motion, as there are rulings, Sir, both by you and by your Honourable predecessors that where the object of an adjournment motion is to condemn Government for not having taken action by way of legislation or to compel them to undertake legislation, such a matter cannot be discussed by way of an adjournment motion. As regards previous consultation with the Legislature, the position is this. The Clare Lees-Mody Agreement, to which reference has already been made in the course of the debate, laid down—and it must not be forgotten that that was an agreement between the textile industry of the two countries, arrived at without any kind of pressure from anybody, a perfectly voluntary agreement—that :

"The tariff duties on British goods will remain in force for two years in accordance with the terms of the agreement between the Lancashire Delegation and the Mill-owners' Association, Bombay, that is, the present rate of 25 per cent. *ad valorem* or 4 3/8 annas a pound on plain grey goods and 25 per cent. *ad valorem* on other goods will, during this period, continue until the second surcharge comes off as a general measure. If and when this happens, the duty will be reduced to 20 per cent. *ad valorem* or 3 1/2 annas per pound on plain, grey goods and 20 per cent. *ad valorem* on other goods. On the expiry of the two years covered by the agreement, the duties on British goods for the remaining period of protection will have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained."

These two years expired on the 31st December, 1935. Long before they expired—and therefore Government cannot be charged with any unreasonable delay in the matter—long before these two years expired, the special Tariff Board was set up and when this Tariff Board was set up, everybody expected and certainly Government expected that their report would be received by the end of the year at the latest and it might then have been possible in some manner, more especially if their recommendations had been of a character different from the ones that Government had actually to deal with, and to that I shall come in a moment, to ascertain the views of the House in the Budget Session. When, however, the report was made the question undoubtedly had become an urgent one and I am afraid Mr. Joshi has not approached it from the proper angle.

[Sir Muhammad Zafrullah Khan.]

It could not be said that there was no urgency in the situation. The Clare Lees-Mody Agreement had expired; this undertaking had been given by Government; everybody desired that whatever new scales of duties had to be introduced, whether the duties were to be enhanced or reduced, or whether for the rest of the period of protection they were to continue on the existing level, trade in both countries ought to know what the decision of Government was going to be. But owing to factors over which Government had absolutely no control—and it cannot be argued that Government could in any way force the Tariff Board to report by any particular date—the report was delayed as long as till the end of March. It thus became absolutely impossible to come to this House in any manner whatsoever, by legislation or otherwise, during the Budget Session. In the meantime the position both with regard to the trade and with regard to revenue was rapidly deteriorating; there was uncertainty at both ends; there was accumulation of goods in the Customs Houses, and the revenue position itself was being affected. So far as the revenue position is concerned, may I give these figures to the House. In the months of April to June in 1934-35, the duties in respect of goods, with regard to which these recommendations had been made, had amounted to 74,15,000, in 1935-36 to 68,71,000, and in 1936-37 to 52,52,000. Sir, it has been said why did Government take the revenue position into consideration. Government, I am afraid, are concerned with the revenue position at least just as seriously as they are concerned with the question of adequate protection of certain industries.

Mr. N. M. Joshi : The surplus budget. They are throwing away crores.

The Honourable Sir Muhammad Zafrullah Khan : The budget is not in a condition where the Finance Member could, with equanimity, face a decline in receipts owing to the uncertainty which prevailed with regard to these duties. The report was received, and it did not recommend anything very drastic. Now, what was the report? I have already read out to the House the scale of duties that were contemplated in the Clare Lees-Mody Agreement when the second surcharge should come off as a general measure. It did not come off, but if it had come off, the duties would have been reduced by five per cent. all round in respect of cotton piecegoods. The recommendations of the Tariff Board did not go so far as the industry in the two countries had contemplated going under certain eventualities. It has been urged by Pandit Govind Ballabh Pant that the fact that the recommendations amounted to a reduction of five per cent. indicates in some way or the other that the recommendations of this Tariff Board were manipulated. I am afraid he was wrong in assuming that the duties were as contemplated in the Mody-Clare Lees Agreement. They were not. They did not go as far as that. In respect of a considerable portion of these goods no recommendation whatsoever was made by the Tariff Board. I am afraid, the Honourable Pandit overlooked the fact that with regard to printed goods there has been no reduction of duties. On the other hand, between the two industries it had been agreed that in the case of the second surcharge coming off as a general measure, all these duties would be reduced. Finding that the recommendations of this Board did not go even as far as the two industries had agreed they should go under the Clare Lees-Mody Agreement and

having regard to the other character of these recommendations, Government came to the conclusion that inasmuch as there was extreme urgency on account of uncertainty with regard to these duties and having regard to revenue position, it could not afford to wait in taking action till the Legislature should be in session again. As a matter of fact, this position had already developed during the Budget Session, and Honourable Members were informed, and, therefore, they cannot now make a grievance on that score, that Government would come to the Assembly only in case legislation was involved. May I draw the attention of the House to the report of the proceedings of the Legislative Assembly on the 24th February, 1936? On that date in reply to supplementary questions put to me on question No. 746, I replied as follows. **Mr. Satyamurti asked :**

“ May I know with regard to clause (c) of the question whether Government propose to place their recommendations before this House before they make up their minds one way or the other ? ”

My reply was :

“ No, Sir.”

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

Mr. M. Asaf Ali and several other Honourable Members : Sir, I move that the question be now put.

Mr. President (The Honourable Sir Abdur Rahim) : There seems to be a desire on the part of several Honourable Members that the closure be accepted, but the Chair understands that the Finance Member wants to speak, and it cannot refuse to give him a chance to take part in the debate in view of the fact that his Department is also concerned.

Professor N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : May I have your ruling, Sir? Is it not a fact that when you called upon the Honourable the Commerce Member, it was understood that you would close the debate after his speech was concluded? Once a Government Member has spoken, no other Government Member can speak.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. The Chair said just now that the Honourable the Finance Member wanted to speak, and the Chair must allow him to speak.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : If any Member of this House of the position of either the Commerce Member or the Finance Member wanted to speak, he had ample opportunity. It is pure subterfuge on the part of the Honourable Member to say that he now wants to take part in the debate, and the Chair must not fall into it.

Mr. President (The Honourable Sir Abdur Rahim) : All that the Chair can say is that it does agree that Government Members ought to speak at an earlier stage, but now that the Honourable the Finance Member wants to speak, the Chair cannot refuse him the permission to do so.

Several Congress Party Members : Shame, Shame.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order.

(At this stage, all the Honourable Members sitting on the Congress Party Benches and on the Nationalist Party Benches, followed by a few

Members belonging to the Independent Party, left the Chamber loudly crying "Shame, Shame".)

The Honourable Sir James Grigg (Finance Member) : Sir, as has so often happened in the case of these motions for adjournment, it has been found that a quarter of an hour is not sufficient to allow of a complete statement of the Government case. Therefore, at the risk of being accused, as I am so often accused, of being a commercial traveller from Lancashire or of being, unlike my Honourable colleagues who, as one heard from Pandit Govind Ballabh Pant who was opposite a few minutes ago but is no longer there, are accused of being the passive agents of His Majesty's Government, an active agent of His Majesty's Government, I intervene for the purpose of making the Government case on this matter, at any rate, a little more complete. Perhaps, before I come to my main contention, I can deal with one or two points which have been raised and which my Honourable colleague had not time to deal with either at all or to deal with adequately. We have heard a good deal from the representatives opposite, who speak so often for the poor toiling masses of this country, that the decision which has been taken by Government is detrimental, if not disastrous, to the Indian mill industry. Well, Sir, perhaps I can give a comment or two on that, quoting from memory from one of our livelier daily papers. At the time, the day after the decision was published there appeared in a certain newspaper an interview with one of the prominent Ahmedabad millowners who proceeded to prophesy all sorts of disaster to all sections of the mill industry and to all the interests concerned in it, financial, employer and otherwise. In another column of the same paper on the same day, in the stock exchange column there was an account of the reception on the Bombay stock exchange of the announcement of the Government decision, and that report of the Bombay stock exchange for the day before made it clear that shares of practically every mill quoted on the stock exchange had risen sharply in value so that obviously the Bombay millowners themselves and the Bombay speculators or investors did not think that the decision of the Government was likely to do any harm to the Bombay mill industry.

Sir, perhaps I might now deal at a little more length with the revenue aspects of this question which were touched upon by the mover of the motion and in answering which my Honourable friend, the Commerce Member, was engaged when the time allowed to him came to an end. As the Honourable the Commerce Member pointed out, there is no doubt that the delay in arriving at a decision on the future duty to be placed on Lancashire piecegoods was deleteriously affecting the revenue. There is no doubt that uncertainty in fiscal matters always is damaging to the revenue. It will be within the recollection of the House what the course of imports of Lancashire or English piecegoods has been in recent years and what the effect of that has been on the revenue. There is no doubt that the imports of Lancashire piecegoods have been showing a persistent decline and the revenue from them has been showing also a persistent decline. That decline was being very greatly accelerated by the uncertainty as to the future course of the duties. It was a situation which no Finance Member could view with equanimity and from his point of view, at any rate, and also from the point of view of those engaged in the trade, whether they were domestic producers or whether they were those

who were engaged in the import of piece goods from abroad, there was no doubt that both in the interests of revenue and in the interests of trade, the removal of the uncertainty was an extremely important matter. When my Honourable colleague, the Commerce Member, was making that point that the uncertainty itself was damaging the revenue, I think Mr. Joshi interrupted and said something about there being a surplus budget. Mr. Joshi seems to know all about the future course of the budget, which is a little clever of him, seeing that there are still eight months of the year to which it relates to go. Of course I am not going to anticipate what the end of the year is going to show or what the budget will show at the end of the year. But there is no doubt of one thing that if sugar revenue goes on at its present rate there will be a decline of well over a crore on sugar alone, and if that is the case, I do not think that the prospects of a surplus budget are such that we could afford to take Mr. Joshi's word for it. So much for these two particular points.

Now, I should like to raise a few general thoughts which come into my mind from the two exhibitions which we have had on the Adjournment Motions of yesterday and of today. We have had from the Leaders of the Congress Party a series of manifestos on behalf of big business. Their whole cry has been, make the tariffs higher and higher, do not on any account lower them, in order that you may preserve the profits of big business. Now, there are a variety of possible explanations of this anxiety on the part of the Leaders of the Congress Party to promote the good fortune and wealth of big businessmen. Naturally it would not be in order for me to suggest the less respectable explanations. But there are one or two possibilities which I shall have to mention. The first is that the anxiety shown by the Party opposite on behalf of big business.....

An Honourable Member : Does the Honourable Member refer to Major Nawab Ahmad Nawaz Khan who is the occupant of the Benches opposite ?

The Honourable Sir James Grigg : The Nawab Sahib is a host in himself. As I was about to say one possible explanation of this series of manifestos on behalf of big business is that shall I say, the Right Wing or the Centre of the Congress Party is very much concerned to attenuate the effect of Pandit Jawahar Lal Nehru's speeches on those who have hitherto been foremost in providing the Congress Party with the sinews of war. Another possible reason is that the Leaders of the Party opposite unlike what they say when they are touring the country have no real affinity with the poor toiling masses, but are merely concerned to promote the interests of the rich and well-to-do. Anyhow the whole organization and conduct of the Congress Party in this matter is another example of their intense desire to have it both ways. Simultaneously they try to pose as the friends of the poor and at the same time to act as the protectors of the rich and no wonder, people like my Honourable friend, Professor Ranga, feel some discomfort at the inconsistency in the attitude of their Party. He is continually trying, not with much success, to be allowed to raise his voice on behalf of the really poor, but I do not think his efforts receive all the encouragement they might do from the Front Bench Members of his Party. There is no doubt that sooner or later the Party opposite will have to declare which horse they choose to win, or which is their first string. Incidentally I do not think that either of the horses is going to win in the long run. If they are going on as they are

[Sir James Grigg.]

doing acting for the rich industrialists, they must not expect that they will be able to bamboozle the poor much longer. Even now I should not be a bit surprised if the President of the Congress, Pandit Jawahar Lal Nehru, is not busily engaged in sharpening his tongue to comment on the anxiety of the Leaders of the Congress Party in this House to promote the interests of those whom he has said he will eradicate from his socialist State. It really is a question, the old question for the Party opposite—though I hope I shall not be misunderstood in making this quotation—that they have the lie in the soul. They are fundamentally divided among themselves. They are simultaneously trying to be the friends of the rich as well as of the poor.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think the Honourable Member need discuss the Party opposite.

The Honourable Sir James Grigg : Well, Sir, sooner or later, the lie in the soul will receive its due punishment. I was going on to try to expose the inconsistency of Mr. Joshi which I don't like doing in his absence. I regret that he is not here.....

Mr. President (The Honourable Sir Abdur Rahim) : It being six of the clock, the debate must now terminate automatically.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 3rd September, 1936.

LEGISLATIVE ASSEMBLY.

Thursday, 3rd September, 1936.

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

STATEMENT *RE* DEMONSTRATION AGAINST THE RULING OF THE CHAIR.

Mr. President (The Honourable Sir Abdur Rahim) : Before proceeding with the business before the House, it is necessary, for the proper conduct of proceedings in the Assembly, that I should make a statement with reference to the incident of last evening. The incident was of an unusual character, and as Honourable Members remember, all that happened showed that the walk-out accompanied with shouts of "Shame, shame" was a demonstration against the ruling of the Chair, if not against the occupant of the Chair himself. I wish to clear the position, not because I want to give any explanation regarding the ruling I gave yesterday, and I may say at once that on further reflection I am confirmed in the view that my ruling was absolutely correct. But I do not want to go into that and I do not want to raise any further question regarding it. The ruling is there ; I gave it and I abide by it. What happened yesterday, the House will remember, was this. The motion of adjournment was moved by Mr. Chettiar to the effect that the House should censure the conduct of Government in reducing the duties on textile imports from the United Kingdom without consulting the Legislature. In that debate, after Mr. Chettiar moved the motion, Sir Abdul Halim Ghuznavi, who does not belong to any particular group or political party in the Assembly, spoke, mainly on the constitutional issue. Then, Mr. Ramsay Scott spoke on behalf of the European Group against the motion. He was followed by Sir Srinivasa Sarma, a nominated Member, who does not belong to any particular group. He was followed in turn by Pandit Malaviya, and, after him, spoke Dr. Ziauddin Ahmad. Then, one of the leaders of the Congress Party, Pandit Govind Ballabh Pant, spoke. His speech was replied to by Mr. James of the European Group. Mr. Joshi who represents labour in this Assembly next spoke on the motion, and then there were several shouts for closure, and I from the Chair pointed out to the Treasury Benches that, if any of the Members of Government wanted to speak, it was time that they should rise and take part in the debate. Thereupon, Sir Muhammad Zafrullah, the Member in charge of Commerce, replied to the debate as had gone so far. In the meantime, the Chief Whip of the Congress Party, Mr. Asaf Ali, had come to me more than once. He had come to me first almost immediately after the Mover had spoken and informed me that the Congress Party did not propose to put up any other speakers, implying thereby that they wanted a division on the motion and that the debate

[Mr. President.]

should be closed as early as possible. I told him plainly, not only then, but also afterwards when he spoke to me again, that I must see how the debate goes on, because it was a debate on an important matter involving very important issues. Then, what happened was that after Sir Muhammad Zafrullah spoke, Mr. Satyamurti, one of the leaders of the Congress Group, also approached me and intimated that the closure should be accepted and that it was the intention of Government Benches that the Honourable the Finance Member should ask for leave to speak so that there might be no division. I told him that if the Finance Member wanted to intervene in the debate, I would have to give him an opportunity, specially as his Department also is affected by the motion. I may also mention that Mr. Spence, Secretary of the Legislative Department, had also intimated to me that the Finance Member wanted to take part in the debate. Therefore, when I saw Sir James Grigg rise in his seat, I called upon him to speak. At that moment, the Leader of the Congress Party rose and said that this was a mere subterfuge so that there might be no division. Whatever is the attitude of the two parties towards each other, the Chair is not concerned with that, and the Chair is not in a position to impute motives to any party in this Assembly or to any individual Member. When on an important motion like this the Finance Member wanted to speak, I made it clear from the very beginning, as soon as the matter was brought to my notice, that I was bound, according to the Rules and Standing Orders, and according to common sense, to give him an opportunity to take part in the debate. I need hardly remind the House again that the motion was a very important one. Its object was to censure Government for having reduced certain import duties. It raised certain constitutional issues, and various parties were interested in it,—the textile industries of the country, the British commercial interests, the consumers in this country, the general public and tax-payers, and the two Departments of Government. That being the nature of the motion, I cannot say that the time of the House was unnecessarily taken up by too many speakers. In fact, I find that those who took part in the debate stressed special points of view, and raised certain issues in which they were specially interested, and, as I have already said, on a motion of this character I was bound to give to Government every opportunity to put forward their case. I pointed out to the Government Benches at the time that I expected the Members of the Government, who are concerned with the subject, to take part at an early stage of the debate. I made that absolutely clear, and then I made it equally clear that as things happened, I was bound to give a chance to the Finance Member when he rose in his seat. I have stated this to make my position as occupant of the Chair quite clear. Whether any group of Members chose to remain in the Chamber during the particular debate or not is no concern of the Chair, but the demonstration of yesterday was against the Chair and the ruling of the Chair; and I want to make it clear that once the Chair, which is always willing to listen and does listen to any points of order raised, has given a ruling on any particular point, it is up to every Member and every section of the House to accept that ruling with good grace; and I need hardly assure the House that so long as I happen to occupy the Chair, I shall do my best to uphold the dignity of the Chair and to enforce the Rules and Standing Orders which are there to guide me in the discharge of my duties.

I may also mention that latterly I received and my office received two or three letters from Members of the Congress Party specially, calling in question my decision on admissibility of questions or other rulings couched in very disrespectful language.....

Sir Muhammad Yakub : Shame.

Some Members on the Congress Benches : Shame, shame on you.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : I have ruled that it is not a proper parliamentary expression.

An Honourable Member : But he started it.

Mr. President (The Honourable Sir Abdur Rahim) : My ruling is binding on both sides, and I want both sides to abide by it.

Sir Muhammad Yakub : I hope it will be followed in future.

Honourable Members on the Congress Benches : You follow it first.

Mr. President (The Honourable Sir Abdur Rahim) : Having regard to what has happened and to the tendencies that I have observed recently, I want to make it clear that there is a procedure open to the House by which they can express their want of confidence in the Chair if they want to do that. But it is up to the Members, so long as that procedure is not adopted, to accept the rulings of the Chair, if not cheerfully, at any rate to submit to them without raising any further question. Personally, so far as I am concerned, every Member of this House knows that I was not at all eager to come to the Chair, and I can assure the House that it will not cause me a moment of regret if I find that the House as a whole would rather have me on the floor of the House than in the Chair.

I do not want any debate on this statement. I wanted to make my position quite clear, and I want Honourable Members to think over the situation calmly. They will have ample opportunity to think over what I have said, and I will give them as early an opportunity as I possibly can to express their views on the situation, if they so desire.

Mr. S. Satyamurti : Sir, as my Leader is not here, I hope, when we have considered your statement, as becomes us when it comes from you, you will give us an opportunity to make a statement.

Mr. President (The Honourable Sir Abdur Rahim) : I will give as early an opportunity as possible. I give them time now to think over the situation calmly and dispassionately.

QUESTIONS AND ANSWERS.

REDUCTION OF FREIGHT ON YARN ON THE SOUTH INDIAN RAILWAY.

86. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that the President of the Coimbatore Chamber of Commerce represented to the Agent, South Indian Railway, the need for the reduction of freight on yarn with a view to helping handloom industry ?

(b) Have any steps been taken to reduce the freights by means of recommendation to the Railway, or otherwise ?

(c) If so, with what result, and, if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Agent of the South Indian Railway states that the Coimbatore Chamber of Commerce asked for a reduction in the rates for piece-goods and yarn booked from Coimbatore and Singanallur to Madras and subsequently their representatives discussed the matter with him.

(b) and (c). The Agent asked the Chamber for certain information regarding the anticipated traffic before considering the question of quoting reduced rates but he has not yet received this information.

INAUGURATION OF FEDERATION.

87. ***Mr. M. Ananthasayanam Ayyangar :** (a) What is the earliest date when the Federation will be made to function according to the preparations made at present ?

(b) Is His Majesty, the King Emperor, expected to inaugurate the Federation ?

The Honourable Sir Nripendra Sircar : (a) It is not possible at this stage to make a forecast as to the date of the inauguration of Federation.

(b) The Government of India have no information in the matter.

Mr. M. Ananthasayanam Ayyangar : Is it not possible to state even approximately what the time may be for the introduction of the Federation ?

The Honourable Sir Nripendra Sircar : No, Sir.

Seth Govind Das : Is it not possible to state even the year ?

The Honourable Sir Nripendra Sircar : No.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that in the papers it appeared that His Majesty the King Emperor is expected to inaugurate the Federation ?

The Honourable Sir Nripendra Sircar : I cannot help what appears in the papers. I may assure my friend that it appeared in the papers that I was dead when I was very much alive.

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

Mr. K. Ahmed : Is it not a fact that the Government of India are making preparation for receiving the King Emperor when he comes here in 1938 before the 1st April for inaugurating the Federal Legislature ?

Mr. President (The Honourable Sir Abdur Rahim) : The next question has been called.

CORONATION OF HIS MAJESTY THE KING EMPEROR.

88. ***Mr. M. Ananthasayanam Ayyangar :** (a) Is the Coronation of His Majesty, the King Emperor, going to take place at Delhi and, if so, when ?

(b) What might be the probable cost of such a ceremony to the Indian exchequer ?

The Honourable Sir Henry Craik : (a) No decision has yet been taken in the matter.

(b) Does not arise.

Mr. M. Ananthasayanam Ayyangar : Has not the cost been calculated even approximately in case it happens here ?

The Honourable Sir Henry Craik : No.

Sardar Mangal Singh : Will the Indian States also be asked to contribute some share of the expenses ?

The Honourable Sir Henry Craik : To what ?

Sardar Mangal Singh : To the Coronation expenses here ?

The Honourable Sir Henry Craik : I have said that no decision has yet been taken as regards the Coronation Durbar.

Mr. Lalchand Navalrai : May I know, if no definite decision has been arrived at, whether there is any communication on this point, and at what stage it is ?

The Honourable Sir Henry Craik : I have nothing to add. No decision has been arrived at.

Mr. Lalchand Navalrai : My question is different. Is there any correspondence going on over this coronation taking place in India between His Majesty's Government and the Government here ?

The Honourable Sir Henry Craik : The decision clearly depends upon His Majesty's pleasure : there will be no question of correspondence.

Mr. Lalchand Navalrai : Has any opinion or advice been asked from the Government of India on that point ?

The Honourable Sir Henry Craik : No.

Mr. Lalchand Navalrai : Is the cost or expenditure one of the considerations that will weigh in fixing the coronation here or not ?

The Honourable Sir Henry Craik : That is a hypothetical question.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

89. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are negotiations going on between Japan and this Government regarding the revision of the trade agreement, and have any items been settled so far ? If so, what are they ?

(b) Have Government considered the effect of the agreement on the handloom weaving industry in India ?

(c) Have Government taken any measures, and if so, what for the absorption in India of all the raw cotton ? If not, why not ?

(d) Have Government considered the desirability of prohibiting the import of all cloth from Japan of and below 40 counts, with a view to protecting the handloom industry ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

(b), (c) and (d). The views of all interests concerned are receiving the careful consideration of the Government of India in connection with

the negotiations for the renewal of the Indo-Japanese Trade Convention and Protocol, which are now in progress.

Mr. T. S. Avinashilingam Chettiar : May I know, Sir, what is the percentage of imports from Japan of cloth below 40 counts ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

Prof. N. G. Ranga : Is it not a fact that handloom weavers in Southern India have been asking for an increase in the import duties on Japanese cloth ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

Sardar Mangal Singh : Is it a fact, Sir, that there is a deadlock in the Indo-Japanese negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : That question was put two days ago, and I gave a reply to it.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that a conference of handloom weavers was held in Southern India at which resolutions were passed asking the Government to prohibit the entry into India of cloth below 40 counts ?

The Honourable Sir Muhammad Zafrullah Khan : I have just replied to that question which was put by Prof. Ranga.

Mr. M. Ananthasayanam Ayyangar : I have not been able to follow that answer.

The Honourable Sir Muhammad Zafrullah Khan : I said I would require notice of that question.

Prof. N. G. Ranga : Are Government considering the desirability of importing cloth from Japan below 40 counts with a view to protecting the handloom industry ?

The Honourable Sir Muhammad Zafrullah Khan : That is part (d) of the question, to which I have already given a reply.

EXHIBITION OF INDIAN PRODUCTS IN THE THIRD ANNUAL EXHIBITION OF MOMBASA.

90. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government interesting themselves in the third annual exhibition of Mombasa in East Africa to be held from the 19th to the 21st August ?

(b) Are any products from India being exhibited there ? If so, who is in charge of the arrangements ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Government of India are not participating officially in the third annual Exhibition at Mombasa but a notice relating to the Exhibition was published in the *Indian Trade Journal*, dated the 23rd April, 1936, for the information of persons likely to be interested.

(b) Government are not aware of the extent to which persons interested in products from India have complied with the invitation to take

part in the Exhibition, the arrangements for which are in charge of the Honorary Secretary of the Exhibition.

Mr. M. Ananthasayanam Ayyangar : Why are not Government interesting themselves in this matter ? Would it not increase the export trade of India in various articles ?

The Honourable Sir Muhammad Zafrullah Khan : Government are of the opinion that the kind of article that is exported to East Africa from India does not lend itself easily for purposes of exhibition.

Mr. M. Ananthasayanam Ayyangar : Has the Agent General taken any steps in this matter, apart from the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : Which Agent General has the Honourable Member in mind ?

TRADE LICENSE BYE-LAWS PASSED IN MARIKBURG, SOUTH AFRICA, CURTAILING INDIAN INTERESTS.

91. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to a leading article in the *Hindu* of the 18th May, 1936, regarding the oppressive Trade License Bye-Laws passed in Marikburg, South Africa, to kill Indian trade there ?

(b) What steps have Government taken to get the laws repealed, and with what result ?

(c) Is it a fact that under the bye-laws Europeans are prevented from patronising Indian feeding houses, tailoring shops, or their clothing stalls ?

(d) Are Government aware that under the bye-laws the Durban Licensing Officer refused to renew a licence for a mess house to an Indian and that the said order was set aside by the Supreme Court of Natal as it would inevitably lead to racial discrimination ?

(e) What steps has the Agent taken to prevent the passing of such measures as to curtail the Indian interests ?

Sir Girja Shankar Bajpai : (a) Yes.

(b), (c) and (e). The Bye-law regarding 'eating houses' referred to in the article has not yet been confirmed or promulgated by the Government of Natal ; representations regarding it have been made to the appropriate authority. The new bye-laws do not prohibit Europeans' patronising Indian tailoring shops and clothing stalls. As regards the provincial licensing laws, it is understood that these are being examined by a special committee.

(d) No.

Mr. M. Ananthasayanam Ayyangar : Have they come into immediate operation or they have been suspended ?

Sir Girja Shankar Bajpai : As I have already informed my friend, they have not even been confirmed by the Government.

Mr. Lalchand Navalrai : May I know if this new law will really kill the Indian trade ?

Sir Girja Shankar Bajpai : That is a hypothetical question.

DELAY IN GIVING NOTICE OF TERMINATION OF THE OTTAWA TRADE AGREEMENT.

92. *Mr. T. S. Avinashilingam Chettiar : It is enough, Sir, if part (c) of my question† is replied.

The Honourable Sir Muhammad Zafrullah Khan : " No, Sir."

Mr. T. S. Avinashilingam Chettiar : What is the reason for the delay ?

The Honourable Sir Muhammad Zafrullah Khan : That is part (b) which the Honourable Member has not asked.

Mr. T. S. Avinashilingam Chettiar : Then, may I have an answer to that part (b) ?

The Honourable Sir Muhammad Zafrullah Khan : Not having put it, how can he ask for a reply now ?

Mr. T. S. Avinashilingam Chettiar : I am putting it now, Sir. I am putting clause (b) now. What is the reason for this long delay ?

The Honourable Sir Muhammad Zafrullah Khan : There was no undue delay ?

Mr. S. Satyamurti : What was the reason for the due delay ?

The Honourable Sir Muhammad Zafrullah Khan : Due delay is time which is requisite for the necessary action to be taken.

Seth Govind Das : Are the Government of India aware that on account of this delay the trade of India has been very much affected ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

EFFECT OF THE VICTORY OF ITALY ON THE INDIANS SETTLED IN ETHIOPIA.

93. *Mr. T. S. Avinashilingam Chettiar : Will Government state :

(a) the effect of the victory of Italy in the Italo-Ethiopian war on the Indians settled in Ethiopia ;

(b) the attitude of the new Italian Government in Ethiopia over the Indian settlers and traders in Abyssinia ;

(c) whether any Indian properties were seized or Indians sent out, and

(d) whether they are making arrangements with the present Government of Abyssinia to allow the Indians the same status and privileges of trade as allowed by the previous Emperor ?

†92. *Mr. T. S. Avinashilingam Chettiar : (a) Will Government state whether it is true that notice of termination of the Ottawa Pact was given only on the 13th May, 1936, long after the Resolution was passed by the Assembly ?

(b) What is the reason for this long delay ?

(c) Were any consultations going on with the British Government over this matter in the interim period, and what was the nature of these consultations ?

Sir Aubrey Metcalfe : I have here a statement which answers all the parts together. I propose, with your permission, to read it to the House.

There have been only two instances in which British Indian subjects have been involved in difficulties with the Italian authorities. On June 9th, an Indian carpenter was arrested at Addis Ababa on the charge of having instigated men working under him to abstain from work and not to resume it unless they obtained an increase of wages. His Majesty's *Chargé d'Affaires* requested an immediate investigation of this case by the Italian authorities and, if possible, the release of the accused man. The latter was visited in prison by His Majesty's Consul, who reported that his treatment there gave no cause for complaint. The prisoner (for whom, at his own request, counsel had been retained) was released on June 25th.

In the second case, two employees of Messrs. Mohamed Aly were condemned by the Italian authorities to pay a fine of 20,000 lire, on the ground that they had clandestinely exported 80,000 lire on June 10th, contrary to the provisions of an Italian decree of the previous day. His Majesty's *Chargé d'Affaires* entered a protest against these proceedings on the grounds of competence.

The situation in Addis Ababa is becoming increasingly difficult for foreign merchants, who find themselves obliged under the Italian regulations to accept Bank of Ethiopia notes and subsidiary nickel coinage in unlimited amounts but cannot dispose of them owing to the suspension of banking and legal exchange facilities. Furthermore, a rigid system of foreign exchange control has been instituted and the export of lire from Ethiopia is forbidden. These restrictions are bound to have a very serious effect on all import and export trade otherwise than with Italy or Italian possessions.

As regards Jimma, His Majesty's *Chargé d'Affaires* has received a report that banditry is reported to be rife in that province, which has not yet been occupied by the Italian forces. His Majesty's *Chargé d'Affaires* has been instructed to endeavour to communicate with them and to suggest that if in their opinion the local situation renders it advisable and practicable they should endeavour to arrange for their own evacuation to Addis Ababa by caravan. It must be assumed that disturbances will continue in Jimma until the Italian forces have occupied that province.

Disturbed conditions also prevail, though possibly to a lesser extent, in other parts of Western Ethiopia (including Nekempti, Wallega and Kambata), owing to the friction between the local Galla tribesmen and their former Amhara governors, and the bands of Amhara soldiery who have arrived in the country from the East and are engaged in looting, marauding and murdering.

His Majesty's Consul at Gore has been instructed, at his discretion, to take such steps as he can to facilitate the evacuation of British subjects and foreigners from Western Ethiopia. It appears however that the majority of these prefer to remain.

It is reported that the trade of Western Ethiopia with the Sudan has not been interfered with in any way by the course of hostilities, and that in fact the district enjoyed a particularly prosperous trading season. It is not anticipated that this trade will be sensibly modified unless or until this district is occupied by the Italian forces. Should such occupation

take place, it is naturally impossible to forecast what effect this would have on local trading interests, but regard should be had in this connection to the regulations which the Italian authorities have introduced in Addis Ababa and other places where their occupation is effective.

REFUSAL OF THE BRITISH LEGATION TO GIVE PROTECTION TO THE INDIANS IN ADDIS ABABA.

94. *Mr. T. S. Avinashilingam Chettiar : Will Government state :

(a) whether they are aware of the press statements made on page 11 of the *Hindu*, dated 13th May, 1936, regarding the refusal of the British Legation to give protection to the Indians in Addis Ababa during the recent Italo-Abyssinian War, even when asked by the Association of the Indians ;

(b) whether it is true ; and

(c) if so, what action they have taken in the matter ?

Sir Aubrey Metcalfe : (a) Yes.

(b) No.

(c) Does not arise.

Mr. T. S. Avinashilingam Chettiar : Will Government inquire from the person who published this news in the paper as to the real facts of the case ? Have Government inquired of the gentleman, who wrote this news in the newspaper, the grounds for his writing like that ?

Sir Aubrey Metcalfe : No.

Mr. T. S. Avinashilingam Chettiar : Why did they not ?

Sir Aubrey Metcalfe : Why should they ?

Mr. T. S. Avinashilingam Chettiar : To get information. I want to know if the Government of India are aware that a gentleman who had come from South Africa had written a piece of news quite contrary to the Government reply ; did Government inquire the grounds for his writing like that ?

Sir Aubrey Metcalfe : It is not their business to inquire why lies are published in the press.

Mr. S. Satyamurti : Is the word " lie " a parliamentary expression, Sir ?

Sir Aubrey Metcalfe : I would say untrue statements if you like. (Laughter.)

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

Mr. T. S. Avinashilingam Chettiar : I do not propose to put the next question. I will put No. 96.

†95*.

DISCRIMINATION BY MALAYA AND CEYLON AGAINST INDIA.

96. *Mr. T. S. Avinashilingam Chettiar : Will Government state :

(a) in view of their answers during the last Session, whether they have considered what action they should take against Malaya and Ceylon for their discrimination against India ; and

(b) what is the result of this consideration ?

The Honourable Sir Henry Craik : (a) and (b). The matter is still under consideration by the Secretary of State and no final decision has yet been reached.

Mr. T. S. Avinashilingam Chettiar : For how many years has this been under consideration ?

The Honourable Sir Henry Craik : I think we first referred the question to the Secretary of State as long ago as 1933, but I do not suppose he was able to do anything till the passing of the Act of 1935.

Mr. T. S. Avinashilingam Chettiar : Have the Government of India sent any proposals in this matter to the Secretary of State ?

The Honourable Sir Henry Craik : Yes, we have stated our views.

Mr. T. S. Avinashilingam Chettiar : May I know the views of the Government of India in that matter ?

The Honourable Sir Henry Craik : No. It is not in accordance with the usual procedure to disclose the views of the Government of India communicated to the Secretary of State, at any rate, until orders are passed by the Secretary of State.

Pandit Lakshmi Kanta Maitra : Is it favourable to Indians ?

Prof. N. G. Ranga : Have Government received any replies from the Secretary of State ?

The Honourable Sir Henry Craik : No final reply as yet.

Seth Govind Das : When is a decision expected ?

The Honourable Sir Henry Craik : Our last letter was written about three weeks ago—it was a reminder.

Mr. T. S. Avinashilingam Chettiar : Will Government kindly expedite a reply ?

The Honourable Sir Henry Craik : We are doing our best.

†This question was not put by the questioner.

ENCOURAGEMENT OF THE COTTAGE AND SMALL INDUSTRIES.

97. *Mr. T. S. Avinashilingam Chettiar : Will Government state :

- (a) whether they have considered the Resolution passed by the Assembly on the necessity of giving protection to the cottage and smaller industries ;
- (b) whether they have enquired as to which of the smaller industries require support ; and
- (c) what is the result of this investigation ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). The Honourable Member is referred to the reply given by me to starred question No. 39 by Mr. S. Satyamurti on the 1st September, 1936.

Prof. N. G. Ranga : Have Government ever considered the effect of the Japanese and other imports of cloth upon the handloom weavers, if so, when, and what were their conclusions ?

The Honourable Sir Muhammad Zafrullah Khan : Government have the position constantly under review.

Prof. N. G. Ranga : For how long have the Government of India considered the effect of the Japanese imports upon the handloom weavers ?

The Honourable Sir Muhammad Zafrullah Khan : They have the matter under consideration even now.

Sardar Mangal Singh : Have Government forwarded the Resolution to the Provincial Governments ?

The Honourable Sir Muhammad Zafrullah Khan : Yes. I said so in my reply to question No. 39.

Mr. T. S. Avinashilingam Chettiar : Have they received any replies from the Provincial Governments as to the steps that they have taken or propose to take ?

The Honourable Sir Muhammad Zafrullah Khan : I should require notice of that question.

Prof. N. G. Ranga : Have the Madras Government made representations to the Government of India during last year that the South Indian handloom weavers were very much affected by the Japanese imports, and, therefore, additional protection should be offered to them ?

The Honourable Sir Muhammad Zafrullah Khan : I have already stated that all these matters are under consideration with reference to the negotiations that are now proceeding between India and Japan.

Prof. N. G. Ranga : What other additional steps do the Government of India propose to take in order to assist these handloom weavers ?

The Honourable Sir Muhammad Zafrullah Khan : Those were detailed in the debate on the Resolution last Session.

Prof. N. G. Ranga : The details that were given last year by the Honourable the Commerce Member in regard to the help that the Government of India were rendering to the cottage industries concerned with steps being taken by Provincial Governments. I want to know what additional steps the Government of India themselves propose to take in order to help this handloom industry.

The Honourable Sir Muhammad Zafrullah Khan : Speeches on behalf of the Government on that occasion also detailed the steps that the Government of India had taken or proposed to take.

STRENGTH OF CLERKS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

98. *Mr. Muhammad Azhar Ali : Will Government be pleased to state :

- (a) what the total strength of clerks was, before reduction, in the Opium Agent's Office at Ghazipur, United Provinces this year ;
- (b) what their serial numbers were according to seniority, names, designation, substantive pay, acting allowance, total of pay and nature of appointments ;
- (c) how many of them were Muslims and how many non-Muslims ;
- (d) how many Muslims there should have been according to the minimum percentage fixed by Government in 1934 ;
- (e) what the total strength of the clerical staff is after the reduction ;
- (f) what their serial numbers were according to seniority, names, designation, substantive pay, acting allowance, total of pay and nature of appointments ;
- (g) how many of them are Muslims and how many non-Muslims ; and
- (h) how many Muslims there should be in accordance with the orders of Government ?

Mr. A. H. Lloyd : (a) Eighteen.

(b) and (f). The Government do not consider that the compilation of such detailed information would serve any public interest.

(c) Three Muslims, 15 non-Muslims.

(d) and (h). The orders of 1934 apply to new recruitment and not to the total numbers in the establishment, much less to the total numbers in one particular section of the whole clerical staff in the department.

(e) Fifteen.

(g) Two Muslims, 13 non-Muslims.

EMPLOYMENT OF MUSLIM CLERKS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

99. *Mr. Muhammad Azhar Ali : (a) Is it a fact that there was no permanent Muhammadan clerk in the Opium Agent's Office at Ghazipur, when Mr. Gaskell revised the establishment in 1928 ?

(b) Had Mr. Gaskell made S. Fasihul Hasan permanent and left a note for his successors that two or three Muslims in Agent's Office should be made permanent ?

(c) Was that order also observed by Mr. A. P. Collet, the then Opium Agent, when M. Afzal Uddin was appointed in 1929 ?

Mr. A. H. Lloyd : (a) Yes.

(b) The Government of India have no definite information as to the first point in this part of the question but are willing to accept it as a fact that Mr. Gaskell did make such an appointment.

As regards the second point in this part of the question and part (c), the Government of India are not prepared to discuss confidential office notes, the existence of which could only have come to the Honourable Member's knowledge as a result of a breach of Rule 17 of the Government Servants' Conduct Rules.

EMPLOYMENT OF MUSLIM CLERKS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

100. *Mr. Muhammad Azhar Ali : (a) Is it a fact that Government have been issuing instructions repeatedly for the increased employment of Muslims in the Government services from time to time, from 1926 to 1934, and were those Government orders endorsed by the Central Board of Revenue, New Delhi, to the Opium Agent, Ghazipur ?

(b) Will Government be pleased to lay before the House the copies of all those Government orders and Mr. Gaskell's orders, such as Home Department, Government of India Office Memorandum No. F. 176/25-Ests., dated the 5th February, 1936, and F-21/2/30-Ests., dated the 22nd March, 1930, etc.?

(c) Is it a fact that Government had adopted the policy of 1925 of reserving a certain percentage of vacancies with the object of increasing the representation of the Muslim community in the Public Service ?

(d) Is it a fact that, in 1934, Government, after having satisfied themselves by the inquiries they had made that Muslims were not getting their due share, fixed 25 per cent. of the vacancies for Muslims in order to safeguard their legitimate interest ?

The Honourable Sir Henry Craik : (a) Yes.

(b) A copy of the Office Memorandum No. F. 176/25-Ests., dated the 5th February, 1926 (and not 1936 as presumed by the Honourable Member) is already in the Library of the House. I lay on the table a copy of the Office Memorandum of 22nd March, 1930. Government are, however, not prepared to lay on the table a copy of Mr. Gaskell's orders.

(c) The object was to increase the representation of the minority communities, including the Muslims.

(d) Yes.

No. F. 21/2/30-Ests.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

New Delhi, the 22nd March, 1930.

OFFICE MEMORANDUM.

SUBJECT :—Increased employment of Muslims in Government service.

A deputation of Muslim Members of the Legislative Assembly who waited on the Honourable the Home Member on the 1st instant represented to him the following grievances of the Muslim community :

- (i) that some Departments of the Government of India tend to regard the general instructions in the Home Department office memorandum No. F. 176/25-Ests., dated the 5th February, 1926, as being sufficiently observed if one-third of the appointments are given to any members of minority communities without special regard to the position of the Muslim community ;
- (ii) that in appointing the staff both superior and inferior, but particularly superior, of the numerous Commissions and Committees appointed by Government, Muslims do not receive adequate consideration and they seldom receive the higher Secretariat appointments ;
- (iii) that there is only one Assistant Secretary in the whole of the Secretariat who is a Muslim and this handicaps the community in its effort to obtain offices.

2. As regards the first complaint the undersigned is directed to say that though it has always been recognised that there are practical objections to any hard and fast apportionment of the one-third reservation among the several minorities, it is clear that the Muslim community is far the most important of the minority communities and should receive in consequence very much the greater share of the reservations made for the benefit of these communities. It is not possible to attempt any mathematical division of the posts reserved and there must be latitude to apply the principles in order to secure generally equitable results. But in the opinion of the Home Department the results will not be equitable, unless the Muslims receive the consideration which their very preponderant position among the minority communities entitles them to. The undersigned is accordingly to request that this point may be most carefully borne in mind in applying the instructions of the 5th February, 1926.

3. The second complaint has also been the subject of interpellations in the Legislature. The complaints which appeal to be justified, may have arisen from the fact that such staffs are usually selected from the Secretariat, in which there is comparatively speaking, a paucity of Muslims in the higher grades. But in making such appointments, there is no necessity to restrict selection to the Secretariat and selections have in fact been made freely from outside it. In these circumstances there should be no difficulty in finding a reasonable number of well-qualified Muslims for such appointments and the undersigned is to request that this fact should be given due weight whenever the question of selecting the staff of Commissions and Committees arises.

4. As regards the last complaint, in cases where Assistant Secretaries are appointed by selection from the Secretariat Staff, the selection must be made on grounds of merit. But it may occasionally be desirable to go outside the Secretariat in making selections for these appointments, and in such cases, I am to suggest that the question of appointing well qualified Muslims should be considered. It would undoubtedly give

the Muslim community a sense of greater assurance were there more Muslim officers of this class, which has a great deal to do with selection for, and promotion in, the clerical establishment.

(Sd.) S. N. ROY,

Deputy Secretary to the Government of India.

To

All Departments of the Government of India.

REDUCTION OF MUSLIM CLERKS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

101. ***Mr. Muhammad Azhar Ali** : (a) How many clerks were reduced in the Opium Agent's Office at Ghazipur this year ?

(b) How many of them were Muslims and how many non-Muslims ?

(c) Will Government please state their names, seniority, designation, substantive pay, acting allowance, total of pay and nature of appointments ?

(d) Is it a fact that instead of increasing the percentage of Muslims in the Agent's office, their percentage has further been decreased by reducing one more Muslim ?

(e) Is it a fact that the share of Muslims in the reduction of clerks in the Agent's office this year was 50 per cent. ?

(f) Is it a fact that in the reduction of the District staff on the abolition of Opium Divisions, the share of Muslims was always one-third and not half, as in the Agent's office this year ?

(g) With regard to the reduction of the District staff, excluding low paid servants such as Ziladars, etc., will Government please lay on the table a statement showing, since the year 1928 uptill now, (1) year, (2) name of Opium Divisions abolished, (3) name of the Opium Agent, (4) existing percentage of Muslims before reduction, (5) number of Muslims and Hindus proposed by office, (6) number of Muslims and Hindus reduced by the Opium Agent, and (7) percentage of Muslims in each reduction ?

(h) Will Government please lay on the table a statement showing the same information as called for in part (i) above, regarding the reduction of clerks in the Agent's Office this year ?

Mr. A. H. Lloyd : (a) Three.

(b) One Muslim and two non-Muslims.

(c) The Government do not consider that the compilation of such detailed information will serve any public interest.

(d) It is not correct to say that one more Muslim has been brought under reduction, since the Muslim clerk recently discharged was the first to be so discharged from the Agent's Office.

(e) No.

(f) It is not a fact.

(g) and (h). Two statements are laid on the table. The names of the Opium Agents have not been given and the Government are not prepared to give any information regarding office notes, which are confidential documents.

Statement showing Reductions in the District Ministerial Staff from 1928 up to date.

Year.	Name of Opium divisions abolished.	Existing strength before reduction.		Number of Muslims and Hindus reduced by Opium Agent.		Percentage in each reduction.	
		Muslims.	Hindus.	Muslims.	Hindus.	Muslims.	Hindus.
1928	Partabgarh division and Harsaiya and Zamania sub-divisions.	27.6	72.4	5	16	23.8	76.2
1929	No reduction ..	..	..	..	..	..	..
1930	Bahraich and Rai Bareilly divisions ..	30.0	70.0	3	13	18.8	81.2
1931	Moradabad division ..	32.0	68.0	..	8	..	100.0
1932	Akbarpur sub-division ..	33.9	66.1	3	3	50.0	50.0
1932	Mainpuri division and Utraula sub-division ..	32.7	67.3	4	10	28.6	71.4
1933	Dataganj sub-division ..	32.6	67.4	1	6	14.3	85.7
1934	Basti and Fatehgarh divisions ..	34.1	65.9	4	9	30.8	69.2
1934	Budaun, Barsa Banki and Fyzabad divisions ..	34.7	65.3	9	18	33.3	66.7
1935	No reduction.	..	..	29	83	25.9	74.1
1936							
	Totals	..	..	29	83	25.9	74.1

Statement showing Reduction of Clerks in the Opium Agent's Office from 1928 up to date.

Year.	Existing strength before reduction.		Number of Muslims and Hindus reduced by Opium Agent.		Percentage in each reduction.	
	Muslims.	Hindus.	Muslims.	Hindus.	Muslims.	Hindus.
	Percentage.					
1932	15.8	78.9	..	1	..	100.0
1936	16.7	77.8	1	2	33.3	66.7

Note.—No reductions in 1928 to 1931 and 1933 to 1935.

REDUCTION OF MUSLIM CLERKS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

102. *Mr. Muhammad Azhar Ali : On what principles was the reduction made in the Opium Agent's Office at Ghazipur this year ? Will Government please lay a copy of those principles on the table for the information of this House ?

Mr. A. H. Lloyd : There were three clerks to be retrenched. Of these, the first two to be selected were : one clerk who was on leave preparatory to retirement and one clerk of more than thirty years' service. For the other reduction, one of the two junior men, both provisionally appointed, had to be selected. This selection was made on merits.

These decisions were reached in accordance with generally accepted principles and there are no definite orders to lay on the table.

Mr. Muhammad Azhar Ali : Is thirty years' service not to be counted by Government favourably ?

Mr. A. H. Lloyd : I understand that, when the general arrangements governing retrenchments were made and they provided that amongst the first to be selected should be the very senior officers, the consideration was that they had practically earned their full pensions, so that they were not exposed to any very severe hardship in being retrenched.

Sir Muhammad Yakub : The Honourable Member just now said that the orders of the Government of India were restricted to new recruits, and he now says that these two new recruits were regarded on their merits. If that is so, how can any effect be given to the orders of the Government ?

Mr. A. H. Lloyd : The Honourable Member did not hear me correctly. It was not a question of recruitment on merits ; but of the two men (they were not really new recruits, they were the two most junior men), one had to be selected for discharge, and that selection was made on merits.

Pandit Lakshmi Kanta Maitra : Why was he not taken on nomination ?

Mr. A. H. Lloyd : For all I know, he was taken on nomination. We are not talking about his recruitment, we are talking about his discharge.

LOW PERCENTAGE OF MUSLIMS IN THE OPIUM AGENT'S OFFICE, GHAZIPUR.

103. *Mr. Muhammad Azhar Ali : (a) Will Government please lay on the table a statement showing names, caste, date of appointment and qualifications of the clerks in the Opium Agent's Office at Ghazipur ?

(b) What is the reason for Muslims being less in percentage in the Agent's Office ?

(c) Will Government please lay on the table a statement showing the names, qualifications and caste of the candidates who were given chances and thereafter removed from 1928 upto now ? What is the Muslim percentage among such candidates who were removed ?

Mr. A. H. Lloyd : (a) The Government do not consider that the compilation of the detailed information asked for will serve any public interest.

(b) The Honourable Member has not specified the standard with which he invites me to make a comparison, and I regret therefore that I am unable to answer the question.

(c) If by 'chances' is meant temporary or officiating vacancies the number, by communities, of candidates who were given chances and thereafter removed from the waiting list is six Hindus and one Muslim.

INDIAN LABOUR IN MALAYA.

104. *Mr. Ram Narayan Singh : Has the attention of Government been drawn to an article published in the *Hindustan Times* of the 21st May, 1936, by Mr. M. N. Nair, M.A., LL.B., on Indian Labour in Malaya and if so, will Government make a full statement on the subject with special reference to the following items dealt with in the same article :

- (i) standard minimum wage ;
- (ii) constitution of the Immigration Committee which fixed the minimum wage ;
- (iii) labour settlement ;
- (iv) housing problem ;
- (v) abolition of toddy shops ;
- (vi) co-operative movement ;
- (vii) estate schools ;
- (viii) Kapoo and Koottoo ;
- (ix) sex ratio ;
- (x) marriage registration ;

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- (xi) free emigration ;
- (xii) steamer convenience ;
- (xiii) medical help ;
- (xiv) representation in Legislatures ;
- (xv) repatriated labourers ; and
- (xvi) proposed Overseas Department ?

Sir Girja Shankar Bajpai : (i) to (xv). A statement is laid on the table. Such of the points as need attention and can be usefully looked into by the proposed deputation to Malaya will be remitted to that body.

(xvi) The attention of the Honourable Member is invited to the reply given by me to Mr. Satyamurti's question No. 420 on the 17th September, 1935, and to the supplementaries arising out of it.

Statement showing briefly the position of Indian Labourers in Malaya.

(1) *Standard Minimum Wage.*

Standard rates of wages for Indian labourers in Malaya were fixed for certain key areas after an elaborate enquiry. They were not only based on a labourer's daily and monthly family budget but included provision for dependents, passages and old age.

(2) *Immigration Committee.*

This is a statutory body composed of—

1. The Controller of Labour, Malaya,
2. The Deputy Controller of Labour, Malaya,
3. The Director, Medical Services,
4. The Director, Public Works,
5. The Director, Drainage and Irrigation,
6. The General Manager, Federated Malay States Railways,
7. The Chairman, United Planting Association of Malaya,
8. A planting representative from each of the States or settlements of Kedah, Province Wellesley, Perak, Selangor, Negri Sembilan, Malacca and Johore,
9. An Indian member representing the Colony,
10. An Indian member representing the Federated Malay States, and
11. A prominent business man usually living in Penang.

Out of 17 members only 7 represent planting interests. It has also been invested with the functions of a wage board. In all enquiries relating to fixing of wage rates, the Agent of the Government of India in British Malaya was closely associated and the rates were settled in consultation with him.

Labour settlements.

There are a few successful Indian settlements in Malaya, e.g., at Bagan Serai in the Perak State, near Chua and in Sungei Ujong in Negri Sembilan, and it is understood that the question of inducing Indian labourers to settle down permanently in Malaya is receiving attention.

Housing of labourers.

Under the labour laws of the Colony, employers are required to build separate lines for labourers of different races according to standard designs. The usual back to back barrack lines type of housing is falling into disfavour and slowly yielding place to single line barrack type and to detached and semi-detached single room and

double room cottages for married labourers. The housing conditions are reported to be, on the whole, satisfactory.

Toddy shops.

The sale of foreign liquor and Samsu (a Chinese liquor) to Indian labourers is prohibited but they are allowed to have cocoanut toddy.

Co-operative movement.

The Co-operative Department has been doing excellent work, so far as estate labourers' societies are concerned and gives promise of great advance in the future. The number of such societies has already increased from 172 to 198 and the number of members from 26,322 to 31,577. There are now seven Indian Co-operative officers.

Estate schools.

Under the local labour laws schools have to be maintained by employers in estates where there are 10 or more children between the ages of 7 and 14. There are 581 Tamil schools (including one Malayalam and 3 Telugu aided schools) with 20,240 pupils of the labouring classes in Malaya. The number of aided estate schools has increased from 314 to 356 in the Federated Malay States and the grant-in-aid paid by Government which had been reduced to \$6 per year per pupil in Tamil schools has been restored to the original figure of \$8 per year per pupil.

Kappoo and Koottu.

Every effort is made to discourage these practices.

Sex ratio.

Under rule 23 of the Indian Emigration Rules, men who are unmarried or unaccompanied by their wives cannot be assisted to emigrate to any one country in any one year to a number exceeding one in five of the total number of persons so assisted. The rule has not so far been applied to Malaya but there is no evidence that this has resulted in increasing the sex-disparity in that country. As the Honourable Member is aware the exemption of Malaya from this rule is not permanent.

Hindu Marriage Registration.

There exists in the Federated Malay States and in Kedah an enactment for the registration of Hindu marriage but advantage has not been taken of this law to any appreciable extent by the Hindus of the labouring class.

A Bill to provide for registration of marriages among persons other than those professing the Christian or Mohammedan religion has already been published by the Straits Settlements Government.

Free emigration.

Recruitment of assisted emigration has been done by the headman of Indian labour gangs who are known as Kanganies but in recent years only voluntary assisted emigration has taken place.

Steamer convenience.

On board the steamers of the British India Steam Navigation Company which runs a fortnightly service between India and Malaya, there are inspectors and inspectresses to look after the emigrants. There are also food inspectors and there have been no serious complaints about feeding, etc., during the last year. Nor have there been any complaints about the treatment of females in the quarantine camps maintained by the Malayan Governments in Malaya.

Medical relief.

Hospitals are maintained by estates either singly or conjointly with a group of estates for the treatment of labourers. They are generally in charge of dressers, the majority of whom hold pass certificates for the local tests of 1st, 2nd or 3rd grade dresser. Where no qualified registered medical practitioner is employed, arrangements are made for periodical visits by such practitioners. Serious cases from estates are sent for treatment to the nearest Government hospital at the cost of the estates.

The labour laws provide for maternity allowances to working married women in case of child birth for one month before and after confinement. Women are often

reluctant to go to hospitals for confinement and the provision of maternity wards in some estates themselves has proved of great advantage.

Creches are provided in most estates where young children are kept in charge of *ayahs* when the mothers go out for work and some estates provide free milk for children in the creches.

In some cases orphans are removed to the Indian Labourer's Decrepit Home in Kuala Lumpur where they are looked after and sent to school. Christian orphans are generally handed over to the nearest convent. In most cases orphans continue to remain on the estates in which their parents worked where they are adopted and looked after by other labourers.

Representation in Legislatures.

There is no political franchise in Malaya and members of all public bodies are nominated by Government. There is one Indian member nominated to the Legislative Council and one member to the Federal Council. There is also one Indian member nominated to the Negri Sembilan State Council. There have been nominations of Jaffna (Ceylon) Tamils to the Perak, Selangor and Johore State Councils to represent Indians and Ceylonese.

Repatriated labourers.

Repatriation is allowed on grounds of ill-health, old age, family affairs, etc., and the repatriates are sent to their villages on their arrival in India at the expense of the Indian Immigration Fund. The very heavy repatriation that took place in 1931 was due to unemployment as a result of the economic depression. An asylum has been provided for disabled, sickly and decrepit labourers in the Home for decrepit Indians in Kuala Lumpur which is under the supervision of the Deputy Controller of Labour. They are kept in the Home till they are discharged as fit for work.

Sir Leslie Hudson : On a point of information, Sir. May I know what these terms, "Kapoo" and "Koottoo" mean?

Sir Girja Shankar Bajpai : They are Madrassi customs, a definition of which, if I were to enter upon it, would take more time than would be commensurate with their importance.

INDIANS IN CEYLON.

105. ***Mr. Ram Narayan Singh :** Has the attention of Government been drawn to an editorial note in the *Hindustan Times* of the 21st May, 1936, on Indians in Ceylon and if so, what is the information of Government with regard to the reported discriminatory measures of the Ceylon Government against Indians in Ceylon?

Sir Girja Shankar Bajpai : Government have seen the article referred to by the Honourable Member. Apart from admission into the Ceylon Civil Service, Government are not aware of any racial discrimination against Indians in Ceylon.

Mr. Lalchand Navalrai : Is there any racial discrimination against Ceylonese people in India?

Sir Girja Shankar Bajpai : That question has already been answered by the Honourable the Home Member more than once.

Mr. Lalchand Navalrai : Will the Honourable Member enlighten me on the point?

Sir Girja Shankar Bajpai : The Honourable Member can refresh his memory by reading the proceedings of the House.

Mr. Lalchand Navalrai : I would request the Honourable the Home Member to give me that information.

RESERVATION OF KENYA HIGHLANDS TO EUROPEANS.

106. ***Mr. T. S. Avinashilingam Chettiar :** (a) Will Government state whether they are aware of the Associated Press of India message published in the *Hindu*, dated the 21st May, 1936, regarding the protest of the Indians in Kenya regarding the reservation of High Lands to the Europeans and the scheme of European Defence Force?

†(b).

(c) What is the scheme of European Defence Force and how does it affect the Indians in Kenya?

(d) What steps have Government taken in the matter?

Sir Girja Shankar Bajpai : (a) Yes.

(c) and (d). It is understood that a Committee appointed for the purpose has made recommendations regarding the reorganisation of the local defence forces in Kenya. A copy of the report of the Committee is awaited.

Mr. T. S. Avinashilingam Chettiar : What is the reason for the objections to the European Defence Force? What is the point of objection?

Sir Girja Shankar Bajpai : So far as the Government of India can make out, their point is that they wish to be given opportunities to take part in the defence of Kenya.

Mr. T. S. Avinashilingam Chettiar : As soon as the Government get at the facts, will they go into the matter and make suitable representation to the Kenya Government?

Sir Girja Shankar Bajpai : That is the object of the request for the report.

Prof. N. G. Ranga : Is the defence force to serve the same purpose as the Klu Klux Klan in America?

Sir Girja Shankar Bajpai : I hope not.

An Honourable Member : Hopes are dupes.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

107. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) what is the condition of the health of Sriyut Subhash Chandra Bose;

(b) whether it has suffered after his arrest;

(c) whether proper arrangements have been made for his treatment; and

(d) in view of the grave state of his health, whether they propose to consider the advisability of releasing him?

The Honourable Sir Henry Craik : (a) to (d). I would refer the Honourable Member to the reply given by me to parts (b) and (d) of

†Part (b) of this question was not put by the questioner.

Mr. Satyamurti's question No. 9 the other day. It is not the fact that Mr. Bose is in a grave state of health.

Mr. T. S. Avinashilingam Chettiar : May I know if Mr. Bose's health has suffered after his arrest ?

The Honourable Sir Henry Craik : I replied to that the other day. He had an attack of influenza. Nothing else. He has now recovered.

Mr. T. S. Avinashilingam Chettiar : In view of his present state of health, will he be allowed to be examined by his own doctors from Calcutta ?

The Honourable Sir Henry Craik : Yes, that suggestion was made in Mr. Satyamurti's questions. I did not see any justification for it but on thinking the matter over, I have decided to allow Mr. Bose to be examined by a doctor of his own choice from Calcutta. I am arranging for that to be done and he has named his own doctor by whom he wishes to be examined. I am arranging to have him sent to Kurseong.

ABOLITION OF DUTY ON MIMOSA EXTRACT.

108. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

- (a) whether it is true that wattle bark was used for tanning and so the duty on it was abolished some years back to encourage the tanning industry ;
- (b) whether now an extract of wattle bark called the mimosa extract is used instead of wattle bark ;
- (c) whether the mimosa extract is taxed ; and
- (d) if so, whether they propose to consider the advisability of abolishing the duty on the mimosa extract ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Government have received representations to the effect that mimosa extract is being imported into India to be used in place of wattle bark for tanning hides. Enquiries however indicate that the extract is being used at present only for experimental purposes in certain local tanneries in the Madras Presidency.

(c) Yes, like other extracts used for tanning, none of which is free.

(d) The proposal has been noted for consideration along with other similar requests for exemption from duty of the materials of industries.

Mr. T. S. Avinashilingam Chettiar : What is the proportion of the imports of wattle bark as well as mimosa extract ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

SIMLA EXODUS.

109. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

- (a) whether the question of stopping or minimising the Simla exodus is engaging their attention ;
- (b) whether they have come to any conclusion in the matter ; and
- (c) if so, what ; if not, when they hope to come to a conclusion ?

The Honourable Sir Henry Craik : (a) The question is not under consideration at present.

(b) and (c). Do not arise.

Mr. T. S. Avinashilingam Chettiar : Is not the question being considered again with the arrival of the new Viceroy ?

The Honourable Sir Henry Craik : Not that I am aware of.

Seth Govind Das : What will be the total saving if this exodus is stopped ?

The Honourable Sir Henry Craik : That is a hypothetical question which I am not prepared to answer.

Mr. T. S. Avinashilingam Chettiar : You can never imagine that it will be stopped ?

The Honourable Sir Henry Craik : Oh, yes, I can, but I cannot estimate the saving, if any.

APPOINTMENT TO THE POST OF THE FINANCIAL ADVISER AT ARMY HEADQUARTERS.

110. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

- (a) whether it is true that Mr. Staig, the Financial Adviser at Army Headquarters, is going on leave ;
- (b) whether an army major-general is proposed to be appointed to that place ; and
- (c) whether they contemplate appointing army men to posts which were given to members of the Finance cadre ?

The Honourable Sir James Grigg : (a) and (b). Mr. Staig proceeded on leave for a little over five months with effect from 17th April, 1936, and Major-General G. H. Addison has been appointed to officiate for him.

(c) The post of Financial Adviser, Military Finance, is usually reserved for members of the Indian Civil Service, but as no suitable Indian Civil Service Officer was available to fill the post during the comparatively short period of Mr. Staig's absence on leave, Major-General Addison was appointed and I am satisfied that this arrangement was in the circumstances the best possible in the public interest.

Mr. T. S. Avinashilingam Chettiar : May I know if it is not the policy to fill permanent posts with officers who belong to the financial side ?

The Honourable Sir James Grigg : This question relates merely to a temporary post. No question as to the policy of Government about permanent posts can arise out of it.

Mr. S. Satyamurti : Will Government consider the question of the creation of a separate cadre for such financial appointments, and not depend upon the Civil Service or the Army for giving men who, *ex hypothesi*, must have some special knowledge for this highly specialised work ?

The Honourable Sir James Grigg : I will consider the Honourable Member's suggestion.

CONTEMPLATED APPOINTMENT OF A EUROPEAN AS FINANCIAL COMMISSIONER
OF RAILWAYS.

111. ***Mr. T. S. Avinashilingam Chettiar :** Will Government state :

(a) when the terms of office as Financial Commissioner of Railways of Mr. P. R. Rau are going to terminate ;

(b) whether they contemplate appointing a European in his place ; and

(c) if so, why a European should be appointed when an Indian is occupying it with ability ?

The Honourable Sir Muhammad Zafrullah Khan : (a) April, 1937.

(b) No decision has yet been arrived at. The best man available, irrespective of race, will be appointed.

(c) Does not arise.

Mr. T. S. Avinashilingam Chettiar : May I know if the Government contemplate the appointment of a European ?

The Honourable Sir Muhammad Zafrullah Khan : No question can be put on what the Government contemplate.

Mr. T. S. Avinashilingam Chettiar : When an Indian is filling it with ability, may I know why the question of another appointment should arise ?

The Honourable Sir Muhammad Zafrullah Khan : Because his tenure will expire by April, 1937.

Mr. T. S. Avinashilingam Chettiar : May I know why the question of race will not be considered at all in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : Why should it be considered ?

Mr. T. S. Avinashilingam Chettiar : Because this is India and belongs to Indians. Why should not an Indian be appointed ?

The Honourable Sir Muhammad Zafrullah Khan : What is to be done with competent and senior European officers ?

Mr. T. S. Avinashilingam Chettiar : Ask them to take rest and look after their health.

The Honourable Sir Muhammad Zafrullah Khan : That suggestion is, I am afraid, unacceptable.

Mr. T. S. Avinashilingam Chettiar : In view of the important nature of the post, will the Honourable Member do his utmost to appoint an Indian to that post ?

The Honourable Sir Muhammad Zafrullah Khan : No, the best man available will be appointed.

Mr. B. Das : Will the Honourable the Railway Member kindly bear in mind the fact that a promise was given by Government on the floor

of this House that one of the members of the Railway Board will always be an Indian ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will give me the reference, I shall certainly make every attempt to adhere to the promise that may have been given.

Mr. B. Das : You will find it in the proceedings of the House.

Mr. T. S. Avinashilingam Chettiar : Are not the Government of India in favour of nomination, and do they not favour nepotism ?

The Honourable Sir Muhammad Zafrullah Khan : What has that got to do with this question. I want to get the best man available.

Seth Govind Das : What is the definition of best man ?

The Honourable Sir Muhammad Zafrullah Khan : The one most fully qualified to discharge the duties of this post.

Seth Govind Das : Who is to decide ?

The Honourable Sir Muhammad Zafrullah Khan : Government.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there is any objection or hindrance to the extension of the period of office of such a competent officer ?

The Honourable Sir Muhammad Zafrullah Khan : That question does not arise.

Mr. T. S. Avinashilingam Chettiar : As an Indian is in charge of the Railway Department, may I know, Sir, whether the appointment would go to a competent Indian, especially as it has been filled with distinction by an Indian ?

The Honourable Sir Muhammad Zafrullah Khan : Whether an Indian is in charge of the Department or not is entirely immaterial.

Mr. T. S. Avinashilingam Chettiar : I am very sorry to hear it. I thought the presence of an Indian at the head of the Department will make a difference.

Mr. Lalchand Navalrai : May I know whether Government will give an extension of office to Mr. P. R. Rau himself ?

The Honourable Sir Muhammad Zafrullah Khan : That is a question entirely within the discretion of Government, and I do not think that suggestions from the Legislature on a matter like this can be entertained.

Mr. Lalchand Navalrai : Will the Honourable Member say if the Government will consider the question of the extension of such an officer ?

The Honourable Sir Muhammad Zafrullah Khan : That is a hypothetical question.

Mr. S. Satyamurti : Does the Honourable Member accept the principle that all Government appointments should be held by the best men, European or Indian, without reference to any other consideration ?

The Honourable Sir Muhammad Zafrullah Khan : The question is with regard to a specific appointment and I have given the answer.

When the question of selection for any such post arises, so far at any rate as I am concerned I shall endeavour always to get the best man.

Mr. S. Satyamurti : May I know what are the categories of posts, with respect to which the best men are appointed, and what are the other categories where colour plays the predominant part ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of any post with regard to which colour plays the predominant part.

Mr. S. Satyamurti : Will the Honourable the Commerce Member say if he is the best man for the post, and that a European is no better than he ?

The Honourable Sir Muhammad Zafrullah Khan : I do not claim to be the best man for the post, but the selection did not lie in my own hands. That is a question to be addressed to people who were responsible for my selection.

GRIEVANCES AGAINST THE BENGAL AND NORTH WESTERN RAILWAY.

112. ***Mr. Ram Narayan Singh :** Has the attention of Government been drawn to an article appearing on the fourth page of the *Search Light*, dated Patna, the 27th May, 1936, headed "Grievances against Bengal and North Western Railway", and if so, what steps do they propose to take to remove the grievances mentioned in the said article ?

The Honourable Sir Muhammad Zafrullah Khan : Government have seen the article referred to, and are also aware that the question of replacing one of these level crossings by an overbridge was raised through the Local Advisory Committee and that the final decision now rests with the Local authorities. Government have no doubt that the services of the Local Advisory Committee could be similarly utilised in removing the other grievances.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

113. ***Seth Govind Das :** Will Government be pleased to state :

(a) whether Indian candidates in the Indian Civil Service competitive examination in England during the last five years, have come out successful in larger numbers than the candidates of the British Isles ;

(b) whether they are prepared to recruit for the Civil Service in India, all or a comparatively larger percentage of Indians ;

(c) what is the policy behind the modification of the rules, recently made, to recruit 50—50 per cent. of Indians and British candidates for the Indian Civil Service ;

(d) whether they are aware of the fear in the country, that as a result of the new rules for recruitment, severe test will be imposed on the Delhi examination for the selection of candidates for the Civil Service ; and

(e) what assurance they can give regarding the fairness and the equal level of test for both the Delhi as well as the London examinations ?

The Honourable Sir Henry Craik : (a) No.

(b) The restrictions imposed on the Indian candidates appearing at the London examination are chiefly intended to achieve the object of the Honourable Member, i.e., to recruit a larger number of Indians in India.

(c) Since 1925, recruitment of Europeans and Indians has been on a 50 : 50 basis. The revised system is, as explained in the Home Department Press Communiqué, dated the 27th April, 1936, designed to secure a normal annual intake of Europeans and Indians in equal numbers.

(d) No.

(e) The Delhi and the London examinations are intended for the recruitment of two separate sets of candidates. There has not been any unfairness in the competitive examinations held annually for recruitment to the Indian Civil Service and I can assure the Honourable Member that there will not be any in future.

Mr. M. Ananthasayanam Ayyangar : Has the Honourable Member communicated to the Secretary of State in relation to the revised rules Government's view of the result of the adjournment motion the other day ?

The Honourable Sir Henry Craik : No, Sir.

Mr. M. Ananthasayanam Ayyangar : Why not ? Do not Government propose to take any action in that matter ?

The Honourable Sir Henry Craik : I will send a report of the debate to the Secretary of State in due course.

Mr. M. Ananthasayanam Ayyangar : What will be the recommendations of the Government of India in that matter ?

The Honourable Sir Henry Craik : They will not make any recommendations.

Mr. S. Satyamurti : May I know if Government consider the results of the adjournment motions in this House at all ?

The Honourable Sir Henry Craik : That does not arise out of this question.

Mr. S. Satyamurti : May I know if they propose to consider the results of this adjournment motion ?

The Honourable Sir Henry Craik : I do not think that arises either.

Seth Govind Das : Was this adjournment motion not moved on this very topic ?

The Honourable Sir Henry Craik : The Honourable Member knows that as well as I do.

Mr. S. Satyamurti : Then, I submit, it does arise ? I submit, Sir, that this habit of Members on the Treasury Benches of saying that this does not arise is wrong : it is for you to rule.

The Honourable Sir Henry Craik : Might I explain that a question has to be put on a point of information regarding which the Member

to whom it is addressed has personal knowledge. The Honourable Member's question is, in essence, a suggestion that Government should take certain action, and I submit that it is not in order to make any such suggestion with reference to this question.

Mr. S. Satyamurti : I am simply asking, if the Government propose to take any action. I want to know what his intentions, as Member in charge, are.

The Honourable Sir Henry Craik : I submit, Sir, it is not in order on a question to suggest that Government should take action.

Mr. President (The Honourable Sir Abdur Rahim) : It is a well-known formula that has been adopted in practice. In the opinion of the Chair, it is quite in order to ask whether Government propose to take any action.

Mr. S. Satyamurti : What then is the answer, Sir ?

The Honourable Sir Henry Craik : I said we would send a copy of the debates to the Secretary of State, but we did not propose to make any recommendation about it.

INTEREST OF INDIANS AFFECTED BY THE ENACTMENT OF LABOUR LAWS IN IRAQ.

114. ***Seth Govind Das :** Will Government be pleased to state :

- (a) whether they are aware that the recent enactment of labour laws in Iraq do not permit foreigners to work as blacksmiths, barbers, masons, printers, weavers, motor drivers, shoe-makers or even porters ;
- (b) the total number of Indian artisans, and other labourers, both skilled and unskilled in Iraq today ;
- (c) whether they have thought of any ways and means of protecting the interests of Indians affected by such enactments in Iraq ;
- (d) the number of Iraqis that are today in India :
 - (i) engaged in trade, and
 - (ii) living as workers ; and
- (e) whether they made any representation to the Government of Iraq to show retributory treatment to Indians in Iraq as Iraqis are treated in this country ?

Sir Aubrey Metcalfe : (a) The attention of the Honourable Member is invited to the answer given by me to Mr. Satyamurti's short notice question on the 23rd March, 1936. A copy of the law was laid on the table and if the Honourable Member will refer to that law he will find the information for which he asks.

(b) The total number of Indians of these classes in Iraq is reported to be approximately 4,500.

(c) The Honourable Member's attention is invited to the answer given by me to the short notice question referred to in my reply to part (a) of this question. As has already been frequently stated by me in this

House during the last Session, everything possible has been done to protect Indian interests in Iraq.

(d) According to the information available the total number of Iraqis in India is approximately 51 of whom 30 are engaged in trade and the remainder are manual labourers.

(e) No.

QUALIFICATIONS OF THE PRINCIPAL OF THE DHANBAD SCHOOL OF MINES.

115. ***Seth Govind Das :** Will Government be pleased to state :

- (a) the name and qualifications of the present principal of the Dhanbad School of Mines ;
- (b) whether it is a fact that the present principal has no mining or geological qualifications to his credit to hold the position ;
- (c) whether they could not find any Indian qualified enough in mining and geology for the post of the Principal of Dhanbad School of Mines ;
- (d) what the salary of the Principal of the Dhanbad School of Mines is ;
- (e) why this post has been given to the present principal in preference to one having geological and mining qualifications, the two essential sides of mining education ; and
- (f) whether they are prepared to consider the advisability of appointing a qualified man to the post immediately ; if not, why not ?

The Honourable Sir Frank Noyce : (a) Dr. D. Penman. A statement showing his qualifications is laid on the table.

(b) No.

(c) Does not arise.

(d) Rs. 1,250—50—1,750 plus overseas pay of £30.

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

Statement showing the qualifications of Dr. D. Penman, Principal, Indian School of Mines, Dhanbad.

Educational.

Diploma in Mining, Heriot-Watt College, Edinburgh.

B.Sc., 1st Class Honours, Mining and Geology, London University.

D.Sc., Edinburgh University.

1st Class Colliery Manager's Certificate.

Other qualifications.

Six years' practical experience as Assistant Mine Manager.

Government Research Work on Mine Rescue Apparatus for two years.

Prior to his appointment as Principal, Indian School of Mines in 1921, he was the Head of the Mining School, Buckhaven, Fife, and had been lecturer in Mining for eight years. He is also a Fellow of the Royal Society of Edinburgh and a Member

of the Institution of Mining Engineers. He is at present Chief Inspector of Mines and holds the post of Principal in addition.

Mr. S. Satyamurti : With reference to the answer to part (c) of the question, may I know how it does not arise ?

The Honourable Sir Frank Noyce : Dr. Penman has been Principal of the School of Mines for some years past. His qualifications were duly taken into consideration when he was first appointed. Dr. Penman has the highest qualifications in mining and, I think, also in geology.

Seth Govind Das : Is it not a fact that a better-qualified Indian applied for the post ?

The Honourable Sir Frank Noyce : I have no hesitation in saying that Dr. Penman is the best qualified officer for this appointment in India.

Mr. S. Satyamurti : Is he the most senior man ?

The Honourable Sir Frank Noyce : I think so. The fact of the matter is that my Honourable friend is mixing up the present appointment of Principal with the appointment which is about to be made. My Honourable friend, Mr. Satyamurti, has a question down on that subject which I shall be answering in the course of the next day or two.

Mr. S. Satyamurti : Is this a case of appointing the best man, turning a blind eye to the colour ?

The Honourable Sir Frank Noyce : It is certainly a case of appointing the best man. My Honourable friend has pressed on the Government of India the very important question of safety in mines. I should have thought that for an appointment of this character he would have been the first to agree that the best man was necessary.

Mr. S. Satyamurti : Does the Honourable Member mean that there is no Indian qualified to look after the safety of Indian mines ?

The Honourable Sir Frank Noyce : Not of the necessary seniority ; that also has to be taken into consideration in this matter.

Mr. S. Satyamurti : Is seniority always taken into account by the Government of India in making appointments, or is it sometimes neglected, when it is a question of an Indian senior ?

The Honourable Sir Frank Noyce : For the appointments in which I personally am concerned, seniority and merit are taken into consideration.

INITIALLING OF THE NOTES ON RESEARCH MADE BY READERS BY THE LIBRARIAN OF THE IMPERIAL LIBRARY.

116. ***Seth Govind Das :** Will Government be pleased to state :

(a) whether it is a fact that the Librarian of the Imperial Library insists upon inspecting and initialling the notes on research made by readers ;

(b) whether they are aware that such readers and students as may not submit to such scrutiny in the hands of the Librarian are not allowed to take notes out of the Library ; and

(c) the reasons for enforcing such rules on matters of pure research and study ?

Sir Girja Shankar Bajpai : (a) The attention of the Honourable Member is invited to the reply given by me to part (c) of starred question No. 1413 asked by Dr. P. N. Banerjee in this House on the 23rd March, 1936.

(b) No.

(c) To ensure that the privilege is not abused.

Prof. N. G. Ranga : Is the Honourable Member aware of the fact that this restriction imposed upon the readers and the powers given to the Librarian establish an extraordinary and unprecedented precedent, that of restricting the freedom of reading and writing also ?

Sir Girja Shankar Bajpai : No, Sir. My Honourable friend does not seem to appreciate that it is not the ordinary freedom of reading and writing which is restricted. What happens is that this particular room is limited in area and only a certain number of *bonâ fide* research workers can be admitted. The first admission is made on the basis of recommendations made by people competent to testify to the fitness of the man to do research work ; generally the period is for six months. If a student wishes to continue to occupy that room beyond six months, then the Librarian is required to satisfy himself that the research work is really being continued and that the privilege is not being abused.

Prof. N. G. Ranga : Will it not be enough for the Government of India that these readers should satisfy the Librarian in the initial stage with an additional certificate or a testimonial taken from the Principal or the Supervisor ?

Sir Girja Shankar Bajpai : I think there is nothing in this rule which prevents a *bonâ fide* research worker from having the privilege extended.

Prof. N. G. Ranga : In view of the fact that every day this Librarian can insist and does insist upon the exercise of his right of inspecting the researches made by readers, will the Government of India realise the difficulty that is experienced by these readers and the absurdity of imposing such a restriction upon these readers who are, according to the Government of India themselves, testified already as competent research workers ?

Sir Girja Shankar Bajpai : They are testified as competent research workers but it does not necessarily follow that their research will continue till eternity.

Sir Abdul Halim Ghumavi : Is it not a fact that the rules pertaining to private reading room have been in force for the last two years and that there is none but one person who approaches Honourable Members to put these questions ?

Sir Girja Shankar Bajpai : I am not aware really of the source from which these questions are inspired.

Prof. N. G. Ranga : Are Government aware of the fact that there are as eminent scholars as Sir Jadhu Nath Sarkar who continue to carry on their research work from year to year and to impose a restriction

like this and allow people to continue their work only for six months and thereafter to compel them to get their notes initialled is really restriction on the ordinary liberty of the people, especially of scholars?

Sir Girja Shankar Bajpai : I can assure my Honourable friend that if any scholar of the eminence of Sir Jadhu Nath Sarkar wishes the privilege extended for more than six months, there will be no difficulty about the extension of that privilege.

Seth Govind Das : But people in course of time do become as distinguished as Sir Jadhu Nath Sarkar has become?

Sir Girja Shankar Bajpai : Not everybody, anyhow.

Seth Govind Das : Some of them do.

Sir Girja Shankar Bajpai : Why does my Honourable friend assume that these individuals who have the potential greatness of Sir Jadhu Nath Sarkar do not have their permits extended beyond six months?

MOTIONS FOR ADJOURNMENT.

PROHIBITION OF THE PRINTING OF PICTURES OF MAHATMA GANDHI AND OTHERS, ETC., ON CARDS AND COVERS.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : the next motion for adjournment stands in the name of Mr. Chettiar which relates to the "issue of a circular letter, dated the 28th May, 1936, by the Director General of Posts and Telegraphs, prohibiting the printing of pictures of Mahatma Gandhi and others, etc., on cards and covers".

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan) : Sir, in view of the fact that the particular clause has been withdrawn, I do not want to move my motion.

ALLEGED ACTIVE ACQUIESCENCE OF THE GOVERNMENT OF INDIA IN THE RECENT POLITICAL ACTIVITIES OF SIR SIKANDAR HAYAT KHAN, A DEPUTY GOVERNOR OF THE RESERVE BANK OF INDIA.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion for the adjournment of the House stands in the name of Mr. Satyamurti, the subject of which is "the active acquiescence of the Government of India in the recent political activities of Sir Sikandar Hayat Khan, a Deputy Governor of the Reserve Bank of India, who has publicly announced that he will be relieved of his post of the Reserve Bank by the Government of India to enable him to lead the Unionist Party in the Punjab for the ensuing Provincial Elections". Does the Honourable Member wish to move it?

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, with due deference to certain Honourable Members who have pressed on me that it will not serve any purpose if I were to move it, I do not propose to move it.

REDUCTION OF THE IMPORT DUTY ON GREY COTTON GOODS AND ON BORDERED AND BLEACHED COTTON GOODS IMPORTED FROM THE UNITED KINGDOM.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion* for adjournment standing in the name of Mr. Ananthasayanam Ayyangar has been withdrawn.

STRICT NEUTRALITY ON THE PART OF LOCAL GOVERNMENTS IN RESPECT OF PROVINCIAL ELECTIONS.

Mr. President (The Honourable Sir Abdur Rahim) : Then comes Mr. Satyamurti's next motion for adjournment which relates to "the failure of the Government of India to enforce strict neutrality on the part of Local Governments in respect of political parties and their propaganda for the ensuing provincial elections, especially in the North-West Frontier Province". This has been disallowed by the Governor General.

Mr. S. Satyamurti : Sir, I rise on a point of order. I took up the same point of order last year, and, with your indulgence, I propose to take it up again, for luckily your own rulings are not binding upon you. I have looked into this matter carefully, because a long time has elapsed—nearly a year—when I took up this point of order. The relevant rules and Standing Orders on this point are to be found at pages 16 to 18 of the Manual of Business and Procedure. Rule 11 prescribes :

"A motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President."

That is the governing section. Then, Sir, paragraph 44 reproduced Rule 12.

Mr. President (The Honourable Sir Abdur Rahim) : But what is your point?

Mr. S. Satyamurti : The point is this. There is no motion, until I ask for leave and you rule that the motion is in order. Then you ask the leave of the House, and the House either agrees to the leave being given or, if objection is taken, not less than 25 Members rise in their places. Then, Sir, you state that leave is granted, and it is only then that the stage of a motion comes. Till that stage is reached, the Governor General does not come into the picture at all. Rule 22 (2) is the governing section which gives the power to the Governor General to disallow motions for adjournment. That rule says :

"That notwithstanding anything in this Chapter, the Governor General may disallow any motion for adjournment."

But he cannot disallow leave to ask for an adjournment. Today, I have given notice to ask for leave to make a motion for adjournment, and I have not yet asked for leave. Even before I get up to ask for leave, comes the fiat of the Governor General that the motion is disallowed. I submit it is a fraud on the power of the Governor General.

Mr. President (The Honourable Sir Abdur Rahim) : What is the previous ruling which I gave?

*The reduction by the Government of India of the import duty on grey cotton goods and on bordered and bleached cotton goods imported from the United Kingdom, as such reduction affects the handloom weaving and the mill industry of India."

Mr. S. Satyamurti : I have not got the reference. I raised this point some time last year, and I did not then look it up as carefully, as I have done this morning. There must be at least a motion, before the Governor General can disallow it. He cannot disallow even the leave being asked for it.

Mr. President (The Honourable Sir Abdur Rahim) : What purpose will be served if he disallows it after the leave has been granted ?

Mr. S. Satyamurti : Publicity. We know that we are knocking every day against the stone wall, but all the time we are securing publicity. ("Hear, hear" from Official Benches.) I want to expose you all, as you are.

Mr. President (The Honourable Sir Abdur Rahim) : So far as publicity is concerned, it can be had in other ways than by moving adjournment motions.

Mr. S. Satyamurti : Rule 22 (2), that is Article 49 of the Manual, becomes practically infructuous, that is to say the power of the Governor General to disallow may never have to be exercised at all, if it is disallowed even before leave is asked for by the Member. Therefore, rule 22 (2) contemplates that, notwithstanding your consent as President and the leave of this House, the Governor General may disallow a motion.

Mr. President (The Honourable Sir Abdur Rahim) : That is your point.

Mr. S. Satyamurti : Yes.

Mr. President : A similar question was raised last year which appears on page 1670, Vol. II (5th March, 1935, Debates). Mr. Gauba gave notice of a motion for adjournment and this point of order which Mr. Satyamurti is raising now was also raised then.

Mr. S. Satyamurti : I know that ruling, Sir. I want you to reconsider that matter.

If objection is taken, I get 25 Members to rise in their places. Why should I not get that privilege ? After all supposing I ask for leave and you rule it in order, and, if some Honourable Member objects to it, then you have got to ask whether the Honourable Member has the leave of the House.

Mr. President (The Honourable Sir Abdur Rahim) : What I have to decide is whether it is a motion.

Mr. S. Satyamurti : It is for you to decide.

Mr. President (The Honourable Sir Abdur Rahim) : Apart from that, what is the object served ? What I have to decide is whether it is a motion when notice is given.

Mr. S. Satyamurti : Unless there is a motion, the Governor General cannot come into the picture at all. He can only disallow a motion.

Mr. President (The Honourable Sir Abdur Rahim) : Would you go further than this and say that until leave is asked for and granted, it is not a motion.

Mr. S. Satyamurti : That is a perfectly relevant question. You will notice the language used in the Manual. Article 47 says :

"If the President is of opinion that the matter proposed to be discussed is in order....."

the word used is "matter",

"he shall read the statement to the Assembly,....."

mark the word "statement",

"and ask whether the member has the leave of the Assembly to move the adjournment."

The word "motion" has not occurred at all, till now. Further, the Article proceeds :

"If objection is taken, the President shall request those Members who are in favour of leave being granted to rise in their places, and if not less than 25 Members rise accordingly, the President shall intimate that leave is granted and that the motion will be taken, etc., etc."

Mark that the word "motion" occurs only at the end. That is the period when it becomes a motion.

Mr. President (The Honourable Sir Abdur Rahim) : Your contention is that it does not become a motion before that.

Mr. S. Satyamurti : Quite so. The Article says :

"The President shall intimate that leave is granted and that the motion will be taken at 4 P.M."

There comes the word "motion" at the very end. Till then, it is only a leave, and the moment the leave is given and that phrase "leave is granted" comes out of your august mouth, it takes the shape of a 'motion' and it is only then the Governor General comes into the picture. Till then, it is only "leave".

Mr. President (The Honourable Sir Abdur Rahim) : Even if leave is granted to move, it may not be moved by the Member.

Mr. S. Satyamurti : Because the Governor General may disallow it, or the Member may not be in his place or he may not care to move it.

Mr. President (The Honourable Sir Abdur Rahim) : What has been the practice till now ?

Mr. S. Satyamurti : So far as I know, there are no precedents like the present one. The Governor General has been furious only after we, the Congress Party, came into the Assembly, and there has been disallowance galore of adjournment motions.

Mr. President (The Honourable Sir Abdur Rahim) : When notice of a motion has been given, you say it is not competent for the Governor General to disallow it.

Mr. S. Satyamurti : I know of at least one case after we came, when Sir Lancelot Graham was the Secretary of the Legislative Department, the Governor General's disallowance came sometime after leave was granted by the House to make the motion. My submission to you now is that you can regularise the practice. Until you create a 'motion' like Brahma, there is no motion for the Governor General to disallow it. The Governor General does not come into the picture, until the stage when it is made a motion.

Mr. President (The Honourable Sir Abdur Rahim) : I think the practice is both ways. It has never been laid down that the Governor General cannot pass his order until leave has been granted.

Mr. S. Satyamurti : That is why I am raising a point of order now.

Mr. President (The Honourable Sir Abdur Rahim) : The practice has been that the Governor General disallows a motion sometimes before leave is granted and sometimes after leave has been granted.

Mr. S. Satyamurti : The disallowance can be done only after leave has been granted and after the matter becomes a "motion". You will notice that the words used are "matter", "statement", and so on, and not "motion". I would like you to give a considered ruling.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-madan Rural) : I submit this is a matter of some importance, and it is for this reason that if the intervention of the Governor General is asked for at too early a stage and if the rules do not allow, it should not be so permitted. That is the reason why I say that the matter is of some importance. I do not want to repeat what my Honourable friend, Mr. Satyamurti, said but it is necessary to bear in mind the order of events as set out in the Manual of Legislative Business. The provisions as they appear in order are rules 11, 12, 22 (2). I shall read out in order the relevant rules. Rule 12 says :

"The right to move an adjournment for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions....."

I need not read out those restrictions. Then comes Article 45 (Standing Order 21) which says :

"Leave to make a motion for an adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance must be asked for after questions and before the list of business for the day is entered upon."

You will notice, Sir, in this connection that supposing a Member chooses not to ask for leave, then there is no motion before the House at all. It will be seen that under Standing Order 21 the notice given does not get to the stage of a motion at all if the Member does not choose to ask for leave. Then you come to the next Article 46 (Standing Order 22) which says :

"The Member asking for leave must, before the commencement of the sitting of the day, leave with the Secretary a written statement of the matter proposed to be discussed."

You will mark the word "matter".

Then comes Article 47 (Standing Order 23) :

"If the President is of opinion that the matter proposed to be discussed is in order, he shall read the statement to the Assembly and ask whether the member has the leave of the Assembly to move the adjournment. If objection is taken, the President shall request those members who are in favour of leave being granted to rise in their places and if not less than 25 members rise accordingly the President shall intimate that leave is granted and that the motion will be taken at 4 P.M....."

That stage, I submit, is the proper stage where intimation is made that the motion will be taken up at 4 P.M. It is only when leave has been granted, it empowers it to be made into a motion. The Article goes on :

"Or if the President with the consent of the Member of the Government concerned so directs, at any earlier hour at which the business of the day may terminate. If less than 25 members rise, the President shall inform the Member that he has not the leave of the Assembly."

In other words, all the stages have got to be passed before you come to the stage when it can emerge into a motion at all. This is an important matter of substance, for this reason, that you should not ask for the intervention of any extraneous power until the proper stage is reached. It is only after the matter has become a motion for the purpose of discussing a definite matter of urgent public importance, you come to Rule 22 (2) which gives the power to the Governor General to disallow the motion. It says :

"Notwithstanding anything in this Chapter, the Governor General may disallow any motion for adjournment for the purpose of discussing a definite matter of urgent public importance on the ground that it cannot be moved without detriment to the public interest or on the ground that it relates to a matter which is not primarily the concern of the Governor General in Council, and if he does so, the motion for adjournment shall not be permitted by the President and no further discussion of the motion shall take place."

I submit that the Rule is clearly self-contained and is a complete answer to the question that is being put to you. What is the effect of the disallowance : that the motion for adjournment shall not be permitted by the President and no further discussion of the motion shall take place. In other words, you get as far as this, that the matter may become abortive at several earlier stages before the intervention of the Governor General can take place, and if it can become so abortive, if one were to argue from the point of view of Government, you are putting undue pressure on the business of the Governor General, because his intervention may never become necessary. Therefore, you should ask for his intervention only when it has matured into a motion and then, "no further discussion shall take place". In fact, having regard to the order which you now read out, without prejudice to its incorrectness, there was no reason at all why the matter under Article 45 or the matters under Article 47 could have been gone into at all. Either Article 49 applies so that it is a still-born thing and cannot be brought before this House or these processes through which we have now gone were proper and valid. If they were proper and valid, then alone comes the time when it is open, during that short interval, to put the matter before the Governor General and ask him to disallow it on the ground that it cannot be moved without detriment to the public interest.

Mr. President (The Honourable Sir Abdur Rahim) : Do you suggest that the Governor General cannot take action until leave is granted ?

Mr. Bhulabhai J. Desai : No, he cannot take action.

Mr. President (The Honourable Sir Abdur Rahim) : Why cannot Government inform the Governor General beforehand ?

Mr. Bhulabhai J. Desai : They may prepare his mind for it, but that has nothing to do with the issue. The question is not what they may do with a view to making preliminary preparations so as to meet this sort of contingency which they look upon as an unnecessary disaster. But that

[Mr. Bhulabhai J. Desai.]

is entirely their look-out. The point only is this. I say they ought not to do it. But I cannot say that they can be prevented from doing so because the application to the Governor General can only arise and must only arise after the earlier steps have been taken which has resulted in the maturing of the statement or the matter or the notice into a motion proper. So that without that intervention at 4 o'clock it automatically comes up. You see the stages through which it passes. Either intervention takes place when no further discussion will take place, or the intervention does not take place, and so the statement made at 12 o'clock that it shall be taken at 4 p.m. or at an earlier hour shall be in force. In fact it is, if I may say so, to arrest the enforcement of the order made by you as to the admission of the motion that the intervention is allowed and at no earlier stage at all. Therefore it is not a mere matter of form. It may be said that the Governor General has plenty of time. Their view is right and therefore he may be troubled on many matters which are unnecessary; but after all we must have regard to public time and public business and I must therefore assume that the Governor General's time must not be encroached upon as sometimes people may unnecessarily or prematurely do. In fact you are entitled to take that into account purely as a matter of construction of the rule. Whether in fact he resents it or welcomes it has nothing to do with us. The point really is that the order made by you can only be arrested by reason of the intervening order which may be made under Article 49. Until then I submit the matter cannot go up to him in the formal sense of asking for an order disallowing it.

Mr. President (The Honourable Sir Abdur Rahim) : You mean he cannot pass the order ?

Mr. Bhulabhai J. Desai : No, he cannot. And I submit that a request to be made a good legal and constitutional request must be made to him only after the matter has matured into a motion. However much you may prepare his mind,—I will not use any stronger words,—there is no right to formally apply to him until then.

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, I submit there is no substance in the contention which has been raised. I draw your attention to the language of Article 49, page 18 :

“Notwithstanding anything in this Chapter.”

I will pause there for one second. In Article 43 it is said that a motion for adjournment of the business of the Assembly may be made with the consent of the President. That as well as what has been called the subsequent stages described in paragraphs 44, 45, etc.—they are all in this Chapter and Article 49 says :

“Notwithstanding anything in this Chapter.”

Mr. President (The Honourable Sir Abdur Rahim) : Then your argument comes to this that it ought never to be mentioned at all in this House.

The Honourable Sir Nripendra Sircar : It has got to be mentioned in the House whether it is going to be moved.

Mr. President (The Honourable Sir Abdur Rahim) : Your argument is that whatever is there in this Chapter has no application ?

The Honourable Sir Nripendra Sircar : I do not say it has no application. I say that notwithstanding any of the limitations or restrictions imposed in this Chapter the Governor General may disallow a motion for adjournment. The main point is that he can do it at any time. Supposing a discussion has started and the discussion is going on he can disallow it and no further discussion shall take place. The other thing is that notwithstanding the restrictions in any of the paragraphs 43—47, he has got the power to disallow a motion for the purpose of discussing a definite matter and that is certainly the whole scheme of this rule.

Mr. President (The Honourable Sir Abdur Rahim) : The rule says :

“Notwithstanding anything in this Chapter, the Governor General may disallow any motion for adjournment”, etc.

The Honourable Sir Nripendra Sircar : I will withdraw those words “Notwithstanding”, etc.

If you turn to page 88 of the Manual, you will find rule 22 (1) which says :

“The Governor General may, within the period of notice, disallow any Resolution.....”

Mr. Bhulabhai J. Desai : May I call attention to one point. The rule makes it even still more clear. The rule stands in thus. I will read rule 22. I think it is badly paraphrased or stated in Article 49.

“The Governor General may, within the period of notice, disallow any resolution or any part of a resolution”, etc.

Then, we go on to rule 22 (2).

“The Governor General may disallow on grounds as aforesaid any motion for adjournment under rule 11, notwithstanding the consent of the President”, etc.

The words are not, “notwithstanding anything contained in these rules”. It then emphasises the fact that only after your consent has been given and it has matured, as I submitted before, into a motion that it can be disallowed. It is not “Notwithstanding anything in this Chapter”; it would still have to be read, “Notwithstanding anything to the contrary relevant to it in this Chapter”.

The Honourable Sir Nripendra Sircar : At page 88 two rules are to be found, one about resolutions and another about adjournment motions :

“The Governor General may disallow on grounds as aforesaid any motion for adjournment under rule 11, notwithstanding the consent of the President”, etc.

I submit that all that it means is this. Governor General has power whether you have consented or not. It cannot be said that as the President has allowed this motion it cannot be disallowed by the Governor General. It makes it perfectly clear that irrespective of your consent the Governor General has got that power. It is not referring to any particular point of time whatsoever. The object is, as I said, to make the rule comprehensive, that is to say, not to limit the power of the Governor General only to the situation in which you have given your consent. I ask you, Sir, also to refer to rule 22 (1), although it does not refer to motions for adjournment..... “The Governor General may, within the period of notice.....” I stop there one second. What is the scheme ? My friend says there is no resolution until it is moved and how are you going to disallow something which is not existing ?.....

Mr. President (The Honourable Sir Abdur Rahim) : It says " within the period of notice ".

The Honourable Sir Nripendra Sircar :and, therefore, before it has been moved in the House. That is my argument. The Governor General has the power to disallow it within the period of notice. I quite admit that it is a matter of analogy.

Mr. President (The Honourable Sir Abdur Rahim) : No leave is given for a Resolution.

The Honourable Sir Nripendra Sircar : That is not the point, but the question is whether the rules make any distinction between notice of resolution and resolution, or notice of a motion and a motion. I submit that in rule 22 (2) there is no limitation as to the point of time when the Governor General can exercise his power—absolutely none. My friends cannot rely on the word " notwithstanding ", the object of which is to make it perfectly clear that he retains the power, irrespective of your consent or not.

Then there are certain other arguments of Mr. Satyamurti, which are really meant for entertainment—there is not much in them. For instance, he said that it was only since he has come here that the Governor General has refused to allow these motions. That is a lion painted by himself ; he thinks the world trembles at his nod.....

Mr. S. Satyamurti : This is argument, I suppose—not entertainment !

The Honourable Sir Nripendra Sircar : Just as yours was argument. The real position being that before my Honourable friend came here, others were careful not to raise provincial subjects in this House ; but now that has become the fashion, and there is a necessity for the application of this rule. I will not go into the argument about the Chair being Brahma and all that. If you are Brahma, Sir, I say Shiva has destroyed this before it was born. Excuse the Irishism.

Mr. S. Satyamurti : Even Shiva cannot destroy what is not created !

The Honourable Sir Nripendra Sircar : I do not think I need take up your time further, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : There is one thing that passes in my mind : I want to know what the substance of the argument is. It can be argued that supposing a very large number of Members have risen and want leave to be given, that might influence the judgment of the Governor General.

The Honourable Sir Nripendra Sircar : No, Sir, because it has been ruled out on the ground that it is not primarily the concern of the Governor General in Council.

Mr. President (The Honourable Sir Abdur Rahim) : No. I do not say that he is not competent to do it ; but the fact that a large number of Members want this matter to be discussed might influence his decision to a certain extent. That may be a point of substance.

The Honourable Sir Nripendra Sircar : I am prepared to meet that. Whether it is primarily a concern of the Governor General in Council or not certainly does not depend upon the number of Members who might wish to discuss it.....

Mr. S. Satyamurti : " May " disallow—not " shall ".

The Honourable Sir Nripendra Sircar : Whether it is primarily a concern of the Governor General in Council or not is a question not to be answered by counting heads.....

Mr. President (The Honourable Sir Abdur Rahim) : Both are there—one case at any rate.

The Honourable Sir Nripendra Sircar : As a matter of fact, this motion was disallowed on the ground I mentioned. I quite follow your point—and I shall take up the other branch, namely, detriment to public interests.

Mr. President (The Honourable Sir Abdur Rahim) : We are not concerned with the Governor General here : it is not strictly a legal question : it depends on many factors.

The Honourable Sir Nripendra Sircar : But not on the factor as to whether a particular motion is detrimental to the public interest or not : that does not depend on whether this is a matter which is wanted to be discussed by 2 or 25 men. The Governor General has got to make up his mind as to whether it is or is not detrimental to public interest. Equally he has to make up his mind as to whether this is primarily the concern of the Governor General in Council or not. I submit the counting of heads has nothing to do with it. The sole responsibility for that decision is on the Governor General—not on the Governor General in Council or the Government of India.

Mr. President (The Honourable Sir Abdur Rahim) : That is on the question of substance ?

The Honourable Sir Nripendra Sircar : Yes. As regards practice, my friends may say that the practice was wrong, but the practice is as I have said..

Mr. S. Satyamurti : No question has ever been raised before on this.

The Honourable Sir Nripendra Sircar : I do not know. It may have been raised. My friend's researches may have been more deep and elaborate than mine. I submit nothing has been said to justify a change of the ruling which you gave after consideration.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. I will consider the matter ; and in dealing with it, the delay caused in giving my order will be taken into account when considering the question of urgency of the motion.

The next one on the order paper is that of Mr. Chettiar : that depends also on the same question—it is with regard to Khan Abdul Ghafoor Khan. I understand that also has been disallowed by the Governor General.

ELECTION OF THE PROVINCIAL LEGISLATURE IN BIHAR.

Mr. President (The Honourable Sir Abdur Rahim) : Then comes Mr. Sheodass Daga's motion. Then there is Mr. Satya Narayan Sinha's somewhat similar motion—about the conduct of His Excellency the Governor of Bihar for taking active part in organizing parties to fight

[Mr. President.]

the Congress in the forthcoming elections of the local Assemblies and Councils, specially in view of the statement made by Lord Linlithgow, the present Viceroy, on his first arrival in Delhi in last April, that his Government would remain strictly neutral in the matter of election of the Legislatures. Does the Honourable Member wish to move his motion?

Mr. Satya Narayan Sinha (Darbhanga-cum-Saran : Non-Muhamadan) : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member leave of the House to move it?

The Honourable Sir Nripendra Sircar : Sir, I take objection. This is not a motion which ought to be moved. It ought to be disallowed. If you will kindly turn to page 20 of the Manual, it says—Standing Order 29—“a Member while speaking shall not reflect upon the conduct of His Majesty the King or the Governor General or any Governor or any Court of law in the exercise of its judicial functions”. Therefore, no speech is permissible, and the notice itself is a criticism of and a reflection on his conduct as being partial and so on. The position is that you cannot make a speech on this subject : I submit it ought not to be allowed.

Mr. President (The Honourable Sir Abdur Rahim) : Does Mr. Sheodass Daga wish to say anything?

Mr. Satya Narayan Sinha : I feel that the objection taken cannot be maintained.....

Mr. President (The Honourable Sir Abdur Rahim) : Is that so? The whole object of the motion is to criticise the conduct of the Governor and it cannot be done without going against that rule.

Mr. Bhulabhai J. Desai : With your permission, Sir, I shall reply to this objection. I submit, Sir, we do not get to clause 57 at all. We must begin with the objections which can be raised, and they are to be found in Rule 12. When the motion is made, any objection may be taken, but that has nothing to do with the present question. The only question now is whether the motion is in order. Assuming that the motion is made and a speech is made.....

Mr. President (The Honourable Sir Abdur Rahim) : Is not that part of a speech?

Mr. Bhulabhai J. Desai : I am coming to it shortly, Sir. The point is this. Under rule 12, no objection has been raised, and if no objection has been raised under rule 12, there is no objection.

Mr. President (The Honourable Sir Abdur Rahim) : I am bound by other rules also.

Mr. Bhulabhai J. Desai : But that is not an objection to the motion.

Mr. President (The Honourable Sir Abdur Rahim) : I think a similar question arose.

The Honourable Sir Nripendra Sircar : There is a ruling by you.

Mr. President (The Honourable Sir Abdur Rahim) : By me or by Mr. Patel, I don't remember.

The Honourable Sir Nripendra Sircar : By you, Sir.

Mr. Bhulabhai J. Desai : Sir, if I may so, not only before this House, but even in a Court of law I feel that a matter is better discussed by looking at the statutory form of the rules. Now, if you turn to clause 44,—this is a matter of great importance,—you will see what it says. Of course, whether they can get it disallowed after it is admitted by the Governor General it is another matter, but I suppose that is the next step they will take. Let me just deal with rule 12, which says :—“The right to move an adjournment of either Chamber for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions.”—Here the summary is correct. The right to move an adjournment is an inherent right of a Member, subject only to certain conditions laid down there.

Mr. President (The Honourable Sir Abdur Rahim) : Is the Resolution moved?

Mr. Bhulabhai J. Desai : Objection has not been made on any of the grounds set forth in rule 12, but when made I shall reply to it. I am not supposed to imagine objections. Let us first say that the right can only be deprived of by reason of the fulfilment of any of the conditions in rule 12, and I say that not more than one matter can revive a discussion. The motion must not be such on which a Resolution could not be moved.

Now, as regards the Resolution, no objection has been taken that any of the conditions barring this right has been infringed in this case.....

Mr. President (The Honourable Sir Abdur Rahim) : I have got to see that it is in order.

Mr. Bhulabhai J. Desai : Notwithstanding, Sir, the Honourable the Law Member and the Honourable the Leader of the House, I thought you would decide on the discussions as best as you can.

Mr. President (The Honourable Sir Abdur Rahim) : It is my responsibility.

Mr. Bhulabhai J. Desai : Then let us look at page 38, rule 23, which says :

“Every Resolution shall be in the form of a specific recommendation addressed to the Governor General in Council, and no Resolution shall be moved in regard to any of the following subjects, namely :

- (i) Any matter affecting the relations of His Majesty's Government or of the Governor General, or of the Governor General in Council, with any foreign State.”

That does not come in :

- “ (ii) Any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, etc.”

That does not come in :

- “ (iii) Any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's dominions.”

That also does not come in.

I submit, with very great respect, Sir, that a Resolution could be sent in these terms.

“This Assembly recommends to the Governor General in Council that no public servant may interfere in the next elections.”

[Mr. Bhulabhai J. Desai.]

There is nothing wrong in that.

Let us then look at 23. I say that none of the conditions affects this matter. Therefore, let us go back to rule 12, but under rule 12 none of the conditions arise. It is very much better, Sir, to refresh one's memory to see whether any of the conditions has got anything to do with it. I submit with great respect that none of the conditions has got anything to do with it, at all events none has been pointed out, and I ask leave to reply to it if any arise.

Then, Sir, let us take Standing Order 29, at page 108, on which my Honourable friend relies. That Standing Order says :

"The matter of every speech shall be strictly relevant to the matter before the Assembly."

This Standing Order 29 comes in during the course of the motion. Now, what I submit is this, and I wish to make it as clear as possible,—that unless any of the conditions under rule 12 and 23 are infringed, it is the right of a Member of this House to make a motion for adjournment. I say 23, because it is imported as the result of the last of the objections, namely, that a matter cannot be the subject of an adjournment motion which cannot be the subject of a Resolution.

Mr. President (The Honourable Sir Abdur Rahim) : I simply wanted to know.....

Mr. Bhulabhai J. Desai : I import that merely in that way, not by itself. Therefore, if we come to Standing Order 29, I submit that you are not entitled to take into account that objection at this stage. Either you deal with the rule as it arises, or to simply say that because of something I am going to say tomorrow therefore I should not be allowed to do something today—that position is entirely wrong. It is a pure matter of construction. Your assistance cannot be invoked under Standing Order 29 unless a speech is commenced in the House.

The Honourable Sir Nripendra Sircar : May I say a word ? My point is, if you read this notice of motion, it is certainly a speech reflecting on the conduct of the Governor, and your general powers are not limited by paragraph 12.

Mr. Bhulabhai J. Desai : Let us look into the General Rules of Procedure before the House to see whether it is so. The first one says the Members shall sit in such order as the President may appoint. The next one is :

"A member desiring to make any observations on any matter before the Assembly shall speak from his place, shall rise when he speaks, and shall address the President."

Again :

"The matter of every speech shall be strictly relevant to the matter before the Assembly."

So that, with very great respect to this second thought ingenuity, speech here is distinct from mentioning the matter before the Assembly. The matter before the Assembly is a particular resolution, not a subject. What possible dictionary can help this distinction is more than I can say.

The Honourable Sir Nripendra Sircar : The Oxford Concise Dictionary. (Laughter.)

Mr. Bhulabhai J. Desai : All I say is it is too concise. (Laughter.) The expression, "The matter of every speech" is a common one and it is well known to you that a legislature or even a testator may provide his own dictionary. I hope my learned friend knows that as well as I do, though he has ceased to practise for some time. So that I submit, mentioning the matter before the Assembly is not a speech. Let me read the notice of motion. This motion is about "the conduct of His Excellency the Governor of Bihar". The speech according to my Honourable friend is the mention of the words, "conduct of His Excellency the Governor of Bihar in taking an active part in organising parties".

The Honourable Sir Nripendra Sircar : Read clause (iv).

Mr. Bhulabhai J. Desai : It says :

"reflect upon the conduct of His Majesty the King or the Governor General or any Governor (as distinct from the Governments of which they are respectively the heads) or any Court of Law....."

Mr. President (The Honourable Sir Abdur Rahim) : The wording of the motion is, "conduct of His Excellency the Governor of Bihar", and not as head of the Government.

Mr. Bhulabhai J. Desai : The point I am trying to make is I am only trying to point out how we shall meet the objection as and when that stage is reached. The point at present is only this, is the motion in order under rule 11 and there is no other point unless you are prepared to rule that the reading of the motion is a speech and therefore it cannot be read at all under Standing Order 29. That is an absurd length to which you should be asked to go, and the absurdity is more accentuated by the fact that the speech must relate to a matter and the matter must therefore be mentioned before considering whether any speech in respect of it is right or wrong. How can you decide that the speech is relevant unless the matter is before the Assembly ? So, the matter must be before the Assembly before the speech commences. Therefore, this particular reading is not certainly barred by Standing Order 29 because a resolution is not barred by rule 12.

Mr. President (The Honourable Sir Abdur Rahim) : What the Secretary was drawing my attention to was a ruling by President Patel at page 45 of the Decisions from the Chair. It says :

"Honourable Members will find that the Standing Order 11 gives wide discretionary power to the President to admit or disallow a motion for adjournment. A matter may be urgent, it may be definite, it may be of public importance, and yet the President may in a proper case disallow such a motion."

Supposing the President is of opinion that there can really be no proper debate on the motion without reflecting on the conduct of the Governor of Bihar, according to that ruling, I should be justified in disallowing the motion under rule 11.

Mr. Bhulabhai J. Desai : I will read rule 11 :

"A motion for an adjournment of the business of either Chamber for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President."

Here the word used, is "may". Then look at rule 12.

Mr. President (The Honourable Sir Abdur Rahim) : I think there are other rulings about it.

The Honourable Sir Nripendra Sircar : There is one by you, Sir.

Mr. Bhulabhai J. Desai : If they were all binding there was nothing more to be said, but inasmuch as they are not binding, the discretion that you have there is a judicial discretion controlled by rule 12, in which you have no right to take away a right under what is called a discretion. Supposing the wording was, "A motion for an adjournment of the business shall be made with the consent of the President", how will you read? What is said to be the ruling is that notwithstanding that the right otherwise exists there is some other power by which the President may disallow it.

The Honourable Sir Henry Craik : That is President Patel's ruling.

Mr. Bhulabhai J. Desai : I do not deny that it is President Patel's ruling, but because it is President Patel's ruling, it has no more value than any other body's. The point is consistently with rule 12 when a right is conferred upon a Member the limitations ought to have been under rule 12. The first is merely a formal rule. Deprivation of the right is laid down in rule 12, and it would be a strong construction for anybody to say that the right is not lost but the President may deprive you of that right. The right is perfectly there which is conferred upon you, and yet the President may say, "No, thank you. In my discretion—(it would be a capricious exercise of such discretion if any existed)—I deprive you of a right which I admit you possess". I know there are many ambitious judges on the other side who would summarily want to say such things, but I hope and trust that no discretion can deprive a man of his right at all. Therefore, my submission is there is no right in you, under the guise of the discretion under paragraph 43, to deprive a man of the right which is conferred upon him if none of the conditions of paragraph 44 are fulfilled. And I submit so far as Standing Order 29 is concerned, it would be wrong to disallow the motion. Supposing the thing is, as my Honourable friend said yesterday in reference to another subject, the thing speaks for itself.—supposing we get up and say, "The Governor ought not to have done that which he did", do we come under Standing Order 29? I am not speaking anything; I am not speaking on the motion. What I am speaking now is whether or not—otherwise the *reductio ad absurdum* is that I cannot even be heard on a point of order because it is a speech concerning a matter which can be objected to under Standing Order 29. I think there could not have been a worse *reductio ad absurdum*. Therefore, the real position which we have reached is this. If the motion is in order, it is the right of the Member simply to move it and sit down and not make a speech. If my friends wish to speak, we won't object. I may intimate to my friends that we will not make a speech. We will simply read the motion and sit down, because we think it is atrocious in itself. (*An Honourable Member on the Official Benches* : "All of you.") Yes. I have only stretched a point to its logical argument. Objection may be made at the time of speech and I therefore declare that we shall not make a speech. My friends may speak if they so wish. Then the House will know how to vote.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : There is another point I wish to raise.....

Mr. President (The Honourable Sir Abdur Rahim) : I have heard the argument fully.

Mr. M. Ananthasayanam Ayyangar : The Standing Order is *ultra vires*.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not want 1 P.M. any more speech.

I have no hesitation in holding that so far as this motion of Mr. Satya Narain Sinha is concerned, it is not in order on the substantive ground that no motion like that can be moved without speeches reflecting on the conduct of the Governor of Bihar and it is not permitted under Standing Order 29. Vote has to be taken when a motion of this character is debated and there can be no debate without speeches reflecting on the conduct of the Governor of Bihar and on that ground alone this motion must be disallowed. As regards the technical point raised by Mr. Bhulabhai Desai I do not think I can take such a narrow view as to hold that the objection must be confined to the chapter relating to motions for adjournment. Under rule 11, the power given to the President is wide enough to give him discretion in proper cases to disallow a motion, though it may be urgent, though it may be definite and of public importance and I cannot conceive of a more substantial ground than that no speech can be made in support of it without infringing the conditions laid down in Standing Order 29.

The next motion is by Sardar Mangal Singh. That has also been disallowed.

GOVERNMENT'S BREACH OF PROMISE.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is by Maulana Shaukat Ali in the following terms :

"I propose moving an adjournment motion for discussing a definite matter of urgent public importance regarding the breach of the promise set forth hereunder :

The promises of the Government of India and of the United Kingdom made to the Muslims of India during the Great War that their holy places would remain immune and the *status quo* will be maintained :

That Arabia including Palestine would become united under a Muslim ruler :

That the Mandatory powers would make all the Arabian States independent at an early date."

I wish to know whether any Honourable Member takes objection to this motion.

Sir Aubrey Metcalfe (Foreign Secretary) : I wish to take objection to this motion on the following grounds. It has disclosed so far as I can discover no specific matter of recent occurrence and no definite matter of urgent public importance. The notice was, I understand, given on the afternoon of the 31st August (*An Honourable Member* : "Forenoon") and after the commencement of the Session. (*An Honourable Member* : "Before the commencement.") The Honourable Member's motion discloses no specific matter of urgent public importance and at any rate it has been given at a time long after any breach of the promise which may have been given must have occurred.

Mr. President (The Honourable Sir Abdur Rahim) : What is the breach of promise here contemplated ?

Sir Aubrey Metcalfe : I do not exactly know what the promise was. I have not been able to obtain any record.....

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : May I give him the information ?

Sir Aubrey Metcalfe : I would certainly state that there has been no breach which has occurred so recently as to necessitate a motion of this kind.

Mr. President (The Honourable Sir Abdur Rahim) : You do not know what the breach is. I am not prepared to accept that as a point of order on which objection can be taken.

Sir Aubrey Metcalfe : I would also point out that the Government of India and the Governor General in Council are in no way concerned with the mandate held by the British Government over Palestine or anywhere else.

Mr. President (The Honourable Sir Abdur Rahim) : That is a point I cannot deal with. It is only the Governor General who can deal with it.

Sir Aubrey Metcalfe : In any case, the motion does not disclose any definite matter or anything about the actual promise.....

Mr. President (The Honourable Sir Abdur Rahim) : What about public importance ?

Sir Aubrey Metcalfe : I maintain that it is not. (*Cries of "Oh !"*) At any rate, I would ask you to disallow the motion on the ground that it is out of order as no definite matter of urgent or specific importance has been disclosed which could be discussed on the floor of the House.

Mr. President (The Honourable Sir Abdur Rahim) : When did this breach occur ?

Maulana Shaukat Ali : Sir, breaches have been occurring from the day the pledge was given to this day, and the whole Muslim world is agitated over this.....

Mr. President (The Honourable Sir Abdur Rahim) : Since when ?

Maulana Shaukat Ali : From the very beginning that they gave us the promise, these breaches are being continued today.

Mr. President (The Honourable Sir Abdur Rahim) : What date ?

Maulana Shaukat Ali : After the Assembly was adjourned, these unfortunate episodes have been occurring in Palestine and they have disturbed the whole Muslim world, and I gave notice on the very first day before the Assembly assembled. I am therefore, I submit, perfectly in order that it is a definite matter, and it is a very serious matter, *i.e.*, the massacre of Arabs in Palestine, and I think my Honourable friend, the Foreign Secretary, ought to have welcomed my adjournment motion as it would have given him and his Government a chance to pacify the feelings of the Muslims, and I think he would have done a great service by accepting and helping me in bringing forward this motion so that he could have said what he had to say after the promises that were made to us. Sir, long ago the then Viceroy Lord Hardinge made in the Imperial Legislative Council a definite promise to Muslims in India on this question, and I think my

friend ought to have welcomed this occasion. May I read the promise ? The substance of the first promise was the official recognition of this policy by the Government of India in November 1914 and I would like the House to remember this date November 1914,—after the declaration of war with Turkey, and this was officially circulated in every town and village of India. Here is the promise :

“ The Mussalmans of India should rest assured.....”.

Mr. President (The Honourable Sir Abdur Rahim) : I do not want the Honourable Member to speak on the merits of the motion now, but only on the point of order. When was this promise made ?

Maulana Shaukat Ali : In 1914 and later also.

Mr. President (The Honourable Sir Abdur Rahim) : The promise then was made, I understand, in 1914. Then, when did the breach occur ? Then, as regards the Holy Places, which are the Holy Places ?

Maulana Shaukat Ali : Palestine, Iraq, Jazirat-ul-Arab, and the breach of the promise was made recently after the adjournment of the House. The breach is occurring every day now. The Arabs are being massacred to-day.

Mr. President (The Honourable Sir Abdur Rahim) : The motion that has been given notice of by Maulana Shaukat Ali may be of great public importance, in fact I believe it is, so far at any rate as a very large section of the public of India is concerned.

Mr. S. Satyamurti : All of us, Sir, the whole of India.

Mr. President (The Honourable Sir Abdur Rahim) : The question still remains whether it could be made the subject of a debate on a motion for adjournment under the rules of this House. It must be a definite matter, and it must be one of urgency, something in the nature of an emergency. Well, I must say that the motion, as worded, is extremely vague and it does not give any date when the breach occurred of the promise as regards the Holy Places remaining immune and the *status quo* being maintained. If the Honourable Member refers to Palestine and the settlement of Jews there, that undoubtedly occurred very long ago, several years ago, and cannot be a matter of urgent importance within the meaning of the rule ; and I doubt whether the motion as worded can be said to relate to a really definite matter. I, therefore, disallow this motion.

The next motion is in the name of Sayid Murtuza Sahib Bahadur. This has been disallowed by His Excellency the Governor General.

MR. SUBHASH CHANDRA BOSE.

Mr. President (The Honourable Sir Abdur Rahim) : The last motion is by Mr. Giri regarding the progressive deterioration in the condition of health of Mr. Subhash Chandra Bose and the unsatisfactory nature of the answers given by the Government in this connection. Mr. Giri.

The Honourable Sir Nripendra Sircar : Sir, I have an objection, but it may not be necessary to press it. I want to make a statement, and if my Honourable friend will press this motion in spite of my statement, then I shall put forward my objections, but not before. Notice, I believe, was given on Tuesday and the same day at five o'clock I took it upon myself

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to send a telegram to Mr. Bose inquiring whether he had required examination by a Calcutta doctor, and, in any case, irrespective of whether he had done that or not, he wanted examination by a Calcutta doctor now. I also sent a telegram to the Government of Bengal, but I committed an error of judgment in telling them that this motion would not come up before Monday; I thought some of the other motions would come on, and I did not know that the other motions would be withdrawn. That explains why no reply has come from them. Sir, I have got a reply from Mr. Bose from which I gather that although he does not complain about the refusal of examination by a Calcutta doctor, he says in the end that he would prefer to be examined by one of the two doctors he named,—Dr. Sir Nilratan Sircar and another. Upon that, I sent a telegram, with the approval and concurrence of my Honourable colleague to my right, pressing upon the Government of Bengal to arrange for the examination of Mr. Bose by one of the doctors named by him. I have not got a reply, probably due, as I explained, to the fact that this matter was not expected to come up before Monday, but I have not the slightest doubt that he will be examined by Dr. Sir Nilratan Sircar or the other doctor. That being the position I do not want to press my technical objection, unless my Honourable friend wants to move. If he does move, then I shall press my objection.

Mr. V. V. Giri (Ganjam *cum* Vizagapatam : Non-Muhammadan Rural) : May I know if the report of the medical examination will be placed upon the table of this House?

The Honourable Sir Nripendra Sircar : I may have no objection to placing it on the table of the House, but in that case it has got to be printed as parliamentary proceedings and that about the health of a person, I don't know if we could publish it like that, and further the doctor or the patient may object.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Our future course of action might depend on the report.

The Honourable Sir Nripendra Sircar : I wish to guard against two things, one against making any definite promise, and, secondly, I do not know whether medical etiquette would permit of such a thing being published; but I may have no objection to giving the purport to my friend, if they have no objection.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : There is no objection from the medical point of view.

The Honourable Sir Nripendra Sircar : Doctors differ. (Laughter.)

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : And patients suffer. (Laughter.)

Mr. V. V. Giri : Sir, in view of the statement made by the Honourable the Law Member, I do not press my motion.

The Assembly then adjourned for Lunch till Twenty-Five Minutes to Three of the Clock.

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

THE INDIAN RAILWAYS (AMENDMENT) BILL—*concl'd.*

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, when the discussion of the adjournment motion was taken up yesterday, I was dealing with the courses that were open to a *bona fide* traveller to adopt before any question of criminal liability would arise. I had explained that it was open to him in case he failed to obtain a ticket before the commencement of his journey to obtain a certificate from some officer authorised to grant the same. Failing even that, it was open to him to notify before detection some officer or servant of the railway travelling with the train, in which case he would be liable only to a very small excess charge. Now, suppose that for some reason or other even that could not be done. The next stage would be that he would be asked to pay the single fare *plus* the excess charge which he might be liable to pay under section 113 of the Railways Act. Surely if he is a *bona fide* traveller and an honest traveller he would recognise that, being found on the railway without a ticket, it is at that stage, at any rate, a civil liability of his to pay up the charges which he has become liable to pay under section 113 of the Railways Act. If he pays up, then the question arises whether there is still a possibility of his being harassed further by a prosecution.

Now, Sir, it has been pointed out that under the present law it is possible that in spite of his paying up, he might be prosecuted, that even under the proposed amendment his prosecution is still possible. Attention was drawn particularly to that feature of the law by Mr. Muhammad Ahmad Kazmi. But that is another matter to which I shall come later. Stopping here for a moment, it will not be contended that if in cases of payment there was no question of any prosecution, there would be no harshness in the law whatsoever. Let us for a moment leave aside the *bona fide* traveller who has paid up on detection and consider the case of a traveller who contends that he is an honest *bona fide* traveller but is found without a ticket, has not obtained a certificate, has not notified before detection that he is travelling without a ticket and does not pay up on detection. Is it seriously contended that it is a hardship in his case, supposing all this is established, to call upon him to satisfy the Court that, in spite of all these features, his intentions were honest? Again, the presumption against him is not sought to be made conclusive though to any ordinary man it would appear to be conclusive. He still has the chance of escaping punishment on a criminal charge by satisfying the Court that he did not intend to defraud the railway. That is the situation which would arise with regard to this class of travellers.

Now, Sir, it has been said "You are reversing all canons of criminal jurisprudence by attempting, under these circumstances, to place the burden of proof upon a passenger who is found travelling without a proper pass or ticket". In this connection, I am afraid there has been a good deal of misapprehension with regard to the position which the Honourable the Law Member tried to clear up. Subsequent speakers have tried to show that the amendment does seek to make a difference in the present law and that therefore in some manner or other the Honourable the Law

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Member's submission was not tenable. As I have said, I am afraid there has been some misapprehension on this point. The Honourable the Law Member did not contend that the amendment did not seek to make a change in the law in that respect. It is true that under the present law the prosecution have to prove (1) that the entry was in contravention of section 68 of the Railways Act, that is to say, the accused was travelling without a proper pass or ticket or proper authority, and (2) that his intention was to defraud the railway. The second element in the offence might be established either by the circumstances which may be such from which an inference might be legitimately drawn that his intention was dishonest, or some positive act or omission might have to be proved. But that is a question of the quantum of proof or the method of proof. It is correct that under the law as it stands at present (section 112 of the Railways Act), the burden of proof is on the prosecution and it is further correct that it is sought that the burden of proof with regard to the second element should in future be laid upon the accused. This change is sought to be made and nobody has on this side contended that that would not be the effect of the amendment. What the Honourable the Law Member put to one of the Honourable Members opposite was that once you had arrived at the stage which I have indicated, it was not a reversal of the ordinary canons of jurisprudence to lay down that in those circumstances the burden ought legitimately to be upon the accused to satisfy the Court that, in spite of all that had been proved, his intentions were honest. There is a change, but all that was contended was that the change was not so abnormal as it had been sought to be made out by Honourable Members who spoke from the Opposite benches.

Now, let us take one or two illustrations in this behalf. You, Sir, I believe, when you were speaking on this motion yesterday, made the point that no man can be hanged until it is proved positively that he is guilty of murder. Let me take that extreme illustration itself and carry the matter a little further. The prosecution in a case of murder must prove that the accused caused the death of the person in respect of whose death he is being tried with a certain intention. Now it is not only possible but it often happens that a man is perfectly justified in killing another. Again there are a large number of cases in which if a man is not entirely justified in killing, the killing does not amount to murder. Such cases are within everybody's knowledge. In the first class of cases, that is the case of excusable or justifiable homicide, the accused has acted perfectly honestly in the exercise of his rights and perfectly legally. Therefore, he is a *bona fide*, honest killer. Yet once it is established that he has brought about the death of the person in respect of whose death he is being tried, it is for him to establish by positive proof the circumstances which would enable the Court to hold, for instance, that he was acting in the exercise of the right of private defence. Once certain facts are established, the burden would be shifted. It is not for the prosecution to prove, for instance, that he was not acting in the exercise of the right of private defence or in a case where it is contended on behalf of the accused that his act does not amount to murder, it is not for the prosecution to prove that there was no provocation, that there was no sudden fight or quarrel. If any of these things are pleaded it is for the accused to prove positively and satisfy the Court that he acted in the exercise of the right of private defence or that he was acting under grave and sudden provocation

or that death was caused in a sudden quarrel and so on, so that it is perfectly true, as the Honourable the Law Member contended, that though the ordinary principle is—and that principle would still continue to hold good in the class of case with which we are dealing even under the amended law—that the initial onus is on the prosecution, in a very large number of cases, once certain elements have been established, an exception or circumstances which would exonerate the accused from criminal liability would have to be proved by the accused. Let us take a clearer instance than that. The first illustration to section 114 of the Evidence Act says that if a person is found in possession of stolen property shortly after it has been stolen, it is for him to establish that he came by the property honestly. It has been said that it is possible in a very large number of cases on the railways that when you find a man without a ticket his intentions need not necessarily have been dishonest, similarly if you find a man in possession of stolen property, shortly after it has been stolen, he need not necessarily have come by it dishonestly. He may have come by it quite honestly without knowing or without having reason to believe that the property is stolen property.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : May presume, and not shall.

The Honourable Sir Muhammad Zafrullah Khan : The charge against him would be under section 411 of the Indian Penal Code, that is to say, being in possession of stolen property knowing it to have been stolen. The charge is that he knew that it was stolen and all that you have to prove in order to enable the Magistrate to raise the presumption that there is a *prima facie* case, is that he was found in possession of stolen property shortly after the theft took place. Knowledge of the property being stolen will then be presumed and unless the man satisfies the Court that he came by the property honestly his conviction would be perfectly justified. That is my submission with regard to the burden of proof : that the failure of a passenger to take any of these steps, to obtain a certificate, to notify before detection, to pay up on detection should raise a presumption that his intention was dishonest. He must make immediate payment or show circumstances from which an inference could legitimately be drawn that his intentions were honest. That is all the change that the amendment seeks to effect in this respect. Here I may deal with two matters that I said that I would deal with subsequently.

Mr. M. Asaf Ali (Delhi : General) : I want some elucidation of a point. I believe the Honourable Member says in his Statement of Objects and Reasons that the burden of proving dishonest intention is not always easy to discharge if it is placed on the prosecution. How does the Honourable Member think it will be easier for the accused to discharge it ?

The Honourable Sir Muhammad Zafrullah Khan : I submit I have detailed several factors by establishing any one of which the presumption can be rebutted. I have taken an extreme case, where I think there can be no possible answer to the charge, that is to say where a man does not buy a ticket, does not obtain a certificate, does not notify before detection that he has not got a ticket, does not pay up when he is detected, I would say in that case he would find it extremely difficult to prove his honest intention. After all if the man is honest, he would certainly do one of these things. Nevertheless it may be possible in very rare cases that he

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may yet be honest and surely he alone would know the circumstances which indicate his honesty and he alone will be in a position to prove them. I suppose the Honourable Member's contention is that even in such cases where a man is found out and on detection refuses to pay or fails to pay, you should still hold that he is innocent until the prosecution proves further facts to show that he is guilty. That is a matter over which I join issue with the Honourable Member. The irresistible presumption in such a case should be that the accused is guilty.

I was saying, Sir, that I had reserved two points in this respect on which I said I would make further submissions. One, that the honest traveller ought to obtain a certificate. In this connection one Honourable Member pointed out that recently some of the railways had withdrawn from railway servants—I think the instance given was that of guards—the power to grant such certificates. All that I need submit is that it is a necessary part of these amendments, in case this matter of the burden of proof is accepted as it is put forward in the amendments, that provision must be made that on each train there should be somebody who should have the authority to grant certificates. That goes without saying. You cannot say that a man has failed to obtain a certificate when no provision has been made for a certificate being granted. That is a matter which can be considered in Select Committee, as to who should have the power of granting certificates.

Another matter which I left over was the question whether a person who on detection or without detection pays up the fare and the excess charge that may be due from him can still be prosecuted. A fear has been expressed that in spite of his paying up, he might still be harassed and as a matter of fact a reference was made to the opinion of the Burma Government by Mr. Satyamurti yesterday that a man who is in the middle of a long journey and who may be willing to pay the fare and the extra charge due from him might be unduly harassed and might be arrested in the middle of his journey and produced before a Magistrate with all sorts of unpleasant consequences following.

Mr. Ghansham Singh Gupta (Central Provinces Hindi Divisions : Non-Muhammadan) : Fare from which station to which station ?

The Honourable Sir Muhammad Zafrullah Khan : The fare according to the rules. If it can be shown from which station he started, then he will pay the fare from that station up to the station to which he desires to continue the journey. If not, then from the last checking station. I should like to know what objection can there possibly be to this.

Mr. Ghansham Singh Gupta : How will he prove that he started from any particular station ?

The Honourable Sir Muhammad Zafrullah Khan : If a man has got on to a railway carriage without obtaining a ticket, should the position be that unless the railway can show he started from a particular station they should not be able to recover anything from him ?

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Sir, may I interrupt the Honourable Member for a moment ?

The Honourable Sir Muhammad Zafrullah Khan : You may, though I do not like it.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say yesterday and also today that there will be some person in every running train who will have the authority to grant certificates. I also understood the Honourable Member to say that if any *bonâ fide* passenger who could not buy a ticket can intimate to him before detection that he was travelling without a ticket, he would be exempt from the penalties. Am I correct ?

The Honourable Sir Muhammad Zafrullah Khan : No, the Honourable Member is not correct. I said that in such a case as has been cited by the Honourable Member he would subject himself only to the lesser excess charge prescribed by section 113 of the Railways Act, which in the case of a third class passenger is as small as two annas.

Pandit Lakshmi Kanta Maitra : But my difficulty is that in most of the important railways there are local trains and they stop at small stations which are situated a mile or a mile and a half apart.

The Honourable Sir Muhammad Zafrullah Khan : I think objection was taken when Sir Abdul Halim Ghuznavi said that there were stations one mile apart, and it was said there were no such stations.

Pandit Lakshmi Kanta Maitra : Assuming there are such stations, I hope the Honourable Member knows that there is such a thing as stop-start in local trains. These trains stop for a very short time leaving very little time for passengers to shift about. Is it possible in such a case to walk up to the man and inform him that he is travelling without a ticket and he is anxious to pay ? In the meantime he will have passed another 10 or 12 stations. That is one aspect of the matter. The other aspect is that there are long distance trains which stop at intervals of 50 or 60 miles. In such a case how is it possible to inform before detection ?

The Honourable Sir Muhammad Zafrullah Khan : All that the Honourable Member is trying to make out is that in certain cases it may not be possible to notify before detection. Well, it may not be possible ; I am not saying it is possible in every case. But it is an expedient that may be resorted to in a very large number of cases. I am afraid all the time the attitude of some Honourable Members is to throw the burden on the railways whereas a person who travels without a ticket places himself in a position where he becomes liable to the excess charge. And all that I am trying to explain is that facilities are provided, which it may not be possible to take advantage of in every possible case, but there are reasonable facilities provided by the adoption of which he can at least reduce the amount of the excess charge. It appears to be the attitude of some Honourable Members that by travelling without a ticket a man is laying the railway system under a huge obligation, and that being the case, unless they provide certain facilities,—and the burden of showing that in each case the facilities were available should be on the railways,—the railways should be penalised. I have admitted that if the Honourable Member means that in certain cases it would not be possible to notify before detection, that is quite true. There may be cases in which, under section 113, a person becomes liable to pay the higher penalty. There is no question and no suggestion here that section 113 should be amended so as to take away this higher penalty. It would still be possible for him, however, if

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he afterwards convinces the railway that he was for some reason or other not liable to the penalty, to get a refund ; and an instance was cited from his own personal experience by one of the Honourable Members on that side on the first day that this question was under discussion that he did obtain a refund.

Sir, I was about to deal with the case of a traveller, whether he was an honest traveller to begin with or not, who on detection pays up the amount which he has become liable to pay. I said the fear was expressed that he might nevertheless be prosecuted. My submission with regard to that is,—and I hope Honourable Members will make a careful note of that because, I think, this would meet a very large number of objections that have been raised,—that this fear was expressed also when the matter was being considered in the Central Advisory Council of Railways, and I gave an assurance then which I repeat, that I am prepared to have the amended section 112 so expressed that in every case,—it does not matter whether of a *bona fide* traveller or a *mala fide* traveller,—where the charge due is paid up there shall neither be interruption of his journey nor arrest nor prosecution. That would meet, I venture to think, 99 per cent. of the objections that have been raised that you will drag a man unnecessarily to the Courts, you will seek to do this and to do that to him, that for a civil liability you want to substitute criminal liability, and so on. Where this civil liability has arisen and it is discharged, then irrespective of the fact whether the circumstances indicate that the man was travelling *bona fide* or whether they indicate that his intention was fraudulent, there shall be no prosecution. And this is not a question of merely giving an assurance that this shall not be done. It is a matter of embodying it in the section itself, so that there shall be no power to prosecute once a payment is made. As I have said, I venture to think that a good many of the objections would in that way be met. I think after that there need be no apprehension of persecution of people unnecessarily or maliciously by low-paid railway subordinates.

Mr. M. Ananthasayanam Ayyangar : Pay the charge with or without excess ?

The Honourable Sir Muhammad Zafrullah Khan : The charge which under the Statute he has become liable to pay and he is bound to pay.

Mr. M. Ananthasayanam Ayyangar : That is, with the excess ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, with the full excess charge in some cases and with the lower excess charge in other cases. That he cannot escape. After all in order to get this amendment I cannot go to the extent of saying that the railways will be generous enough to forego a claim which has been established by Statute under section 113.

Then, the second main matter which was criticised was the raising of the punishment, that is to say, that under the present provisions of the law a traveller who is found travelling without a ticket with intent to defraud the railways is liable to a fine which may extend to one hundred rupees ; and by the amendment it is sought to be enacted that such a person,—and now we have arrived at a stage where such a person means a person who is travelling without ticket with intent to defraud and

on detection fails to pay or refuses to pay,—that such a person should be liable to a term of rigorous imprisonment which might extend to two months or to a fine as the case may be. Remember after all that the punishment would be inflicted only in the case of a person who is proved to be a dishonest traveller. That being so, I understood that there is no anxiety with regard to the stringency of the punishment itself. The criticism was what purpose will it serve? The taxpayer will have to maintain this class of person in jail, as they will certainly not be able to pay ; and therefore what is the use of subjecting them to a term of rigorous imprisonment instead of a fine? With regard to that my submission is that even under the present law such a person who is prosecuted and convicted does go to jail, if he has no means of paying, in default of payment of fine, and he can be sent to jail for as long a period as four months. Local Governments have complained that in such cases simple imprisonment in default of payment of fine is no punishment to the man ; there is no deterrent effect upon him ; he is quite willing to undergo a course of simple imprisonment. The whole object behind making the punishment more stringent is to make it more deterrent in the case of this class of person ; that is to say, the person who at present goes to jail for a term of simple imprisonment in default of payment of fine which, as I have said, may extend to four months under the law but who might be deterred from taking this risk if he knew that the imprisonment would be rigorous and not merely simple. It was said the taxpayer would have to pay, but the taxpayer does pay at present. As I have said representations have been made by Local Governments that the taxpayer is under the present law carrying this entirely unnecessary burden and the proposed amendment is an attempt to reduce that charge—at any rate, the maximum period of imprisonment which a person like that may have to suffer under the amendment would be two months and not four as at present, to which he may be sentenced in default of payment of fine and the rigorous character of the imprisonment might be a deterrent. As regards the question of the taxpayer having to shoulder this burden or charge, there are two aspects of it. One is the aspect that I have already submitted, that in any case the taxpayer is bearing this charge even now ; and that as the result of the proposed amendment there might be a smaller charge to bear. The other is that the loss to the railways also, if Honourable Members would only realise it, is a burden on the taxpayer. It is not as if in case there were no penalty, there would be no loss to the taxpayer. This minimum loss of 50 lakhs, which has been estimated on behalf of the railways, is also a loss to the taxpayer. He has to make it up, as the larger portion of the railways belongs to the State—it has often been described as the biggest national asset ; and any leakage in the income which can be stopped and is not stopped is a direct loss to the taxpayer and an additional burden upon him. But if one presses this doctrine to the extreme, that in all societies there is an irreducible minimum of people whom no kind of legislation could make honest, and that therefore there should be no penal legislation against this class of person—if this doctrine were pressed to the extreme, I am afraid the worst elements in society would have to go unpunished for all sorts of misconduct.

The third matter to which objection has been taken is the power of arrest. It has been pointed out that under section 132 of the Railways Act, as it stands at present, there is the power of arrest under certain

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circumstances : for instance, if there is reason to believe that a person who has been found travelling without a ticket is giving a wrong address, he might be arrested. It was pointed out that we have that power already, and it is only our fault if we do not use it when we find that people have given wrong or false addresses. I am still unable to appreciate by what manner of means it is possible for a ticket examiner to decide that the address and name which is being supplied to him is wrong. Unless there are special circumstances in any particular case showing that a wrong address has been given, he would have to accept, as he does now accept, the name and address given to him. With regard to this, I might submit to the House that one Magistrate who has had sixteen years' experience of these cases has reported that in not one single case where only the name and address of the delinquent had been taken, did he subsequently turn up to answer the charge ; and every year there are a very large number of cases of people who are allowed to go away on giving their names and addresses and who fail to appear subsequently to answer the charge. If any presumption can be drawn from past experience, the presumption is that in 99 per cent. of the cases where a man is allowed to go away on giving his name and address, the name and address given are wrong. But here again I may point out that just as in the case of the burden of proof which only arises in the case of prosecution or in the case of punishment which can only result upon conviction, I am prepared to implement the assurance that I have already given that the law itself, the words of the Statute, shall make clear that in case the charge leviable is paid there shall be no question of arrest—neither arrest, nor detention, nor interruption of journey, nor prosecution. I am further prepared to consider the question, in case it pleases the House to send this matter to a Select Committee, whether the power of arrest should be conferred upon all grades of railway servants or whether, as has been suggested, it should be confined to certain grades of railway servants. I am prepared to go further than that and to consider the question as to whether it is not possible—I have not taken legal advice on the matter and therefore I cannot at present indicate any definite view—but I am prepared to explore the question whether it would not be possible to make some provision in case the power of arrest is restricted to certain grades of railway servants, that there should also be power to accept bail then and there, so that a man need not be kept in confinement even for the period which would have to elapse before he can be produced before a magistrate. I must emphasise that even this kind of precaution would only arise in the case of a person who, as I have said, would be subject in the mind of every reasonable man to an almost irresistible presumption that he was travelling without a ticket dishonestly.....

Mr. M. Asaf Ali : What about the power to compound ?

The Honourable Sir Muhammad Zafrullah Khan : The question of composition would not arise : if the man would pay up he would not be arrested. But that again is a matter that I am perfectly willing to consider ; unless I find that there is a flaw in it somewhere which would make all these provisions nugatory, I am prepared to consider it favourably.

These are my submissions on these three main questions to which objection has been taken, and I would again repeat that with the assur-

ance that I have given that I am prepared to insert certain safeguards in the Statute itself, I do not imagine that any reasonable kind of apprehension could still be left in the minds of Honourable Members that these amendments might be used for the purpose of persecution or subjecting to harassment or harsh treatment certain classes of passengers.

Before I conclude there is one other matter to which I desire to make a reference, and it is this. It was said in the course of the debate that the amendment that we are seeking to make in the present law is something extraordinary, that there is nothing like it in other countries, at any rate so far as the power of arrest is concerned, that it is a pure civil liability and people would be unnecessarily harassed and persecuted if they were arrested because they happened to be travelling without a ticket. I have here a summary of the laws of some other countries in this respect, which has been obtained by correspondence with the railway authorities in those countries ; and I shall give a brief resume of the law in those countries. The countries are Ceylon, Kenya, Federated Malay States, Siam and South Africa.....

An Honourable Member : All backward countries, all uncivilised countries.

The Honourable Sir Muhammad Zafrullah Khan : I do not know how the people of those countries, Ceylon, Kenya, Siam or South Africa, would regard this stricture which is passed on them. I do not know that it is contended, for instance, that the dominion of South Africa is more backward than India. In all these countries a refusal to pay the fare renders a passenger liable to arrest and imprisonment. In Ceylon travelling without a ticket is *ipso facto* an offence ; travelling without a ticket with intent to defraud is met with a higher penalty than the simple offence of travelling without a ticket.....

Mr. M. Asaf Ali : Is there any instance of a white country ?

The Honourable Sir Muhammad Zafrullah Khan : Is South Africa not a white country ?

Mr. M. Asaf Ali : Is it ?

The Honourable Sir Muhammad Zafrullah Khan : In South Africa the whole of the population, whether English, Dutch, German, Indian or Hottentot would be subject to this law.....

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : They are barbarous people obsessed by racial ideas.

Mr. M. Asaf Ali : Not in a white country.

The Honourable Sir Muhammad Zafrullah Khan : The South African law does not make any distinction between race or caste or colour. Nor does the Ceylonese law, nor the Kenya law. Again, in Kenya any person wilfully refusing to pay the fare and excess charge is liable to imprisonment for one month or a fine of £5.....

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Give us the same status as the South Africans have in their country, then we will accept these laws.

The Honourable Sir Muhammad Zafrullah Khan : Surely, Sir, if the argument, though entirely irrelevant, is that the person to whom such a law is sought to be applied should have the same political status as the person to whom these laws, to which I have referred, are applicable, even then it will not be contended that my friend, Sir Muhammad Yakub, has not in this country a higher status than any Muhammad Yakub would have in the Dominion of South Africa. I certainly think he has got a very much better status here than a Muhammad Yakub would have if he were in South Africa.

Sir Muhammad Yakub : Muhammad Yakub wants the same status in India as the South Africans have in South Africa.

The Honourable Sir Muhammad Zafrullah Khan : Sir Muhammad Yakub has a very much higher status in this country than his countrymen have in South Africa where they have been domiciled for so many years. There is really no question of political status. The question was whether in other countries people could be arrested if they travelled without a ticket, and I have given instances of several neighbouring countries and of one across the ocean where people can be arrested for offences of this and a similar kind. It does not mean that they cannot be arrested in other countries. These are the only countries from which we have been able to obtain information in regard to this matter, and it cannot be contended, as was contended by some Honourable Members, that this is an extraordinary provision, that if a man travels on the railways without a ticket he should be liable to arrest.

Then, Sir, the last point to which I desire to refer is one with which we are not directly concerned, but inasmuch as some time was spent by one Honourable Member in making reference to it, I might say a word or two on it before I sit down, and that is a matter which was alluded to by my Honourable friend, Pandit Lakshmi Kanta Maitra. He said this case happened some time last year

Pandit Lakshmi Kanta Maitra : I can give the date and a copy of the judgment also. It is dated 13th August, 1935.

The Honourable Sir Muhammad Zafrullah Khan : The day after he mentioned this case, I directed that the judgment in that case as well as other relevant papers should be sent up. I shall certainly go into the matter. It is very often found that when a matter is stated by one party, only one aspect of it is stressed, but if, on going through all the papers, I find that anybody on the side of the Railways was guilty of high-handedness or oppressive conduct, such person will be duly dealt with.

Pandit Lakshmi Kanta Maitra : Thank you, Sir ; but don't sack the magistrate, that is my fear.

The Honourable Sir Muhammad Zafrullah Khan : It is not within my power either to appoint magistrates or to dismiss them.

Pandit Lakshmi Kanta Maitra : I can give you a copy of the judgment.

The Honourable Sir Muhammad Zafrullah Khan : I have already sent for it, as also for the relevant papers. But may I assure the Honourable Member that where a judicial or a non-judicial authority on evidence submitted to it has given a considered finding, there can be

no question of penalising that authority in any way for the finding it has given, however high and securely placed the persons may be whom such finding may adversely affect.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair will now put the amendment of Dr. Ziauddin Ahmad :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1936.”

The Assembly divided :

AYES—65.

Abdul Matin Chaudhury, Mr.
 Abdullah, Mr. H. M.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Azhar Ali, Mr. Muhammad.
 Badrul Hasan, Maulvi.
 Bajoria, Babu Baijnath.
 Bhagavan Das, Dr.
 Bhagehand Soni, Rai Bahadur Seth.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chettiar, Mr. T. S. Avinashilingam.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 DeSouza, Dr. F. X.
 Essak Sait, Mr. H. A. Sathar H.
 Gadgil, Mr. N. V.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Gupta, Mr. Ghansham Singh.
 Hans Raj, Raizada.
 Hidayatallah, Sir Ghulam Hussain.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.
 Khan Sahib, Dr.
 Khare, Dr. N. B.

Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Mudaliar, Mr. C. N. Muthuranga.
 Muhammad Ahmad Kazmi, Qazi.
 Murtuza Sahib Bahadur, Maulvi Syed.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Parma Nand, Bhai.
 Raghubir Narayan Singh, Choudhri.
 Rajah, Rao Bahadur M. C.
 Raju, Mr. P. S. Kumaraswami.
 Ranga, Prof. N. G.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Shaukat Ali, Maulana.
 Sheodass Daga, Seth.
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Anugrah Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.
 Yakub, Sir Muhammad.
 Yamin Khan, Sir Muhammad.
 Ziauddin Ahmad, Dr.

NOES—47.

Abdul Hamid, Khan Bahadur Sir.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ayyar, Diwan Bahadur R. V. Krishna.
 Bajpai, Sir Girja Shankar.
 Bhat, Mr. M. D.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Craik, The Honourable Sir Henry.
 Dalal, Dr. R. D.
 Das-Gupta, Mr. S. K.
 Dey, Mr. R. N.
 Fazl-i-Haq Piracha, Khan Bahadur
 Shaikh.
 Ghiasuddin, Mr. M.
 Ghuznavi, Sir Abdul Halim.

Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hossack, Mr. W. B.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar
 Sir.
 Khurshaid Muhammad, Khan Bahadur
 Shaikh.
 Lloyd, Mr. A. H.
 Mehr Shah, Nawab Sahibzada Sir
 Sayad Muhammad.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Morgan, Mr. G.

NOES—*contd.*

Mudie, Mr. R. F.
Mukherjee, Rai Bahadur Sir Satya Charan.
Murid Hossain Qureshi, Khan Bahadur Nawab Makhdum.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Noyce, The Honourable Sir Frank.
Rau, Mr. P. S.
Robertson, Mr. G. E. J.
Roy, Mr. S. N.
Sarma, Sir Srinivasa.

Scott, Mr. J. Ramsay.
Sen, Mr. Susil Chandra.
Sharma, Mr. D.
Singh, Rai Bahadur Shyam Narayan.
Sircar, The Honourable Sir Nripendra.
Spence, Mr. G. H.
Thorne, Mr. J. A.
Tottenham, Mr. G. R. F.
Witherington, Mr. C. H.
Zafrullah Khan, The Honourable Sir Muhammadi.

[During the progress of the Division, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

The motion was adopted.

THE INDIAN MOTOR VEHICLES (AMENDMENT) BILL.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I introduce the Bill further to amend the Indian Motor Vehicles Act, 1914, for certain purposes (Amendment of sections 2, etc.).

Sir, I move :

“ That the Bill further to amend the Indian Motor Vehicles Act, 1914, for certain purposes (Amendment of sections 2, etc.), be referred to a Select Committee, consisting of Mr. Sham Lal, Raizada Hans Raj, Prof. N. G. Ranga, Dr. N. B. Khare, Maulvi Badrul Hasan, Sardar Sant Singh, Mr. F. E. James, Sir Muhammad Yamin Khan, Sir Abdul Halim Ghuznavi, the Honourable Sir Muhammad Zafrullah Khan, Mr. S. N. Roy, Mr. R. N. Dey and the Mover, with instructions to report on or before the 18th September, 1936, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

I should mention, Sir, that the date has been altered from 11th to 18th owing to the fact that my Honourable friend the Commerce Member's Bill has taken more time than was anticipated.

I trust, Sir, that in discussing this Bill, the House will traverse somewhat smoother roads than it has done during the last few days. (Laughter.)

Mr. S. Satyamurti (Madras City : Non-Muhammadian Urban) : Motor roads are less smooth than railroads. (Laughter.)

The Honourable Sir Frank Noyce : At any rate, I may be allowed to express that hope even though it may not materialise.

In the Statement of Objects and Reasons, I have briefly indicated the genesis of the proposals which have been made in this Bill. As stated therein, the existing Act governing motor transport was passed as long ago as 1914 when the conditions of that transport were very different from those which exist today. Much dust has been thrown up by the wheels of motor vehicles since then and I am sure there is no Member of this House who, whatever his views of the merits of the measure now before it, will deny that the development of motor transport, especially in recent years, has been such as to make an extensive revision of the Act of 1914 absolutely necessary. I would remind the House that the Road-Rail Conference of 1933 which included representatives not only of railways and the Central and Provincial Governments but also of the Indian Roads and Transport Development Association, the Indian Steamer Companies and both Houses of the Central Legislature passed resolutions to the effect

that greater control should be established over public service and goods motor transport in the interests of public safety and convenience and that the number of vehicles licensed to ply for hire should be restricted in cases in which it is necessary in the public interest to do so. Since then we have had two sessions of the Transport Advisory Council at which similar resolutions have been passed. The inadequacy of the provisions of the existing Act in regard to the proper control of motor transport is thus generally admitted and it has, as Honourable Members know very well, been ventilated in the press from time to time.

In these circumstances, the House may well ask why this amending legislation has been so long delayed. The main difficulty in the way of undertaking it has been that under the division of subjects laid down in the Devolution Rules the control of vehicles including motor vehicles is a provincial subject. Much discussion and consultation with Local Governments has therefore been necessary and this has taken time, as it always does. The scope of the Bill has been designedly limited to those points on which a substantial measure of agreement has been reached and if it does not go as far as some sections of the House may wish, that is because we thought it desirable to carry with us, as far as possible, Local Governments to whom we have to look to enforce its provisions. We fully recognise the necessity for a more comprehensive measure and we shall continue our efforts to frame it but meanwhile difficulties which are increasing daily render urgent the enactment of legislation which will at least meet the immediate needs of the situation. That is my justification for bringing this measure before the House and for my hope that it will be passed into law this Session. As regards its urgency, I shall have an opportunity of saying more when the amendments which are on the paper are under discussion. There is one point to which I might perhaps refer now in support of my plea that the House should allow this Bill to proceed at once to a Select Committee. Honourable Members have, I think, seen the concise statement of policy which was issued after the meeting of the Transport Advisory Council a few weeks back and they will have noticed from that that in the Road Resolution, which will be placed before the House in the course of this Session and which I hope will meet with its approval, it is proposed to include a condition that for future participation in the Road Development Account all Local Governments should adopt and enforce adequate rules for the control of motor traffic. It is in order to enable Local Governments to fulfil their part of the bargain that we are seeking in this Bill to give them powers which will enable them to do so at once.

I would now refer briefly to the more important provisions of the Bill. I think it will be convenient if I group these under two heads. Under the first head come those which relate to the better regulation of motor transport in the interests of public safety and convenience. Under the second head come those which relate to the constitution and functions of the machinery for closer control. In the first category are the rule making powers which it is sought to confer on Local Governments in clause 4 of the Bill. Under this clause they will have power to limit the number of passengers carried in transport motor vehicles, to fix the maximum weight of such vehicles and to provide for their inspection. There will, I think, be general agreement that these are powers which ought long ago to have been conferred on Provincial Governments in the

NOES—*contd.*

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 Mukherjee, Rai Bahadur Sir Satya Charan.
 Murid Hossain Qureshi, Khan Bahadur Nawab Makhdum.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Noyce, The Honourable Sir Frank.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sarma, Sir Srinivasa.

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 Sen, Mr. Susil Chandra.
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 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Zafrullah Khan, The Honourable Sir Muhammad.

[During the progress of the Division, Mr. President (The Honourable Sir Abdur Rahim) resumed the Chair.]

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that greater control should be established over public service and goods motor transport in the interests of public safety and convenience and that the number of vehicles licensed to ply for hire should be restricted in cases in which it is necessary in the public interest to do so. Since then we have had two sessions of the Transport Advisory Council at which similar resolutions have been passed. The inadequacy of the provisions of the existing Act in regard to the proper control of motor transport is thus generally admitted and it has, as Honourable Members know very well, been ventilated in the press from time to time.

In these circumstances, the House may well ask why this amending legislation has been so long delayed. The main difficulty in the way of undertaking it has been that under the division of subjects laid down in the Devolution Rules the control of vehicles including motor vehicles is a provincial subject. Much discussion and consultation with Local Governments has therefore been necessary and this has taken time, as it always does. The scope of the Bill has been designedly limited to those points on which a substantial measure of agreement has been reached and if it does not go as far as some sections of the House may wish, that is because we thought it desirable to carry with us, as far as possible, Local Governments to whom we have to look to enforce its provisions. We fully recognise the necessity for a more comprehensive measure and we shall continue our efforts to frame it but meanwhile difficulties which are increasing daily render urgent the enactment of legislation which will at least meet the immediate needs of the situation. That is my justification for bringing this measure before the House and for my hope that it will be passed into law this Session. As regards its urgency, I shall have an opportunity of saying more when the amendments which are on the paper are under discussion. There is one point to which I might perhaps refer now in support of my plea that the House should allow this Bill to proceed at once to a Select Committee. Honourable Members have, I think, seen the concise statement of policy which was issued after the meeting of the Transport Advisory Council a few weeks back and they will have noticed from that that in the Road Resolution, which will be placed before the House in the course of this Session and which I hope will meet with its approval, it is proposed to include a condition that for future participation in the Road Development Account all Local Governments should adopt and enforce adequate rules for the control of motor traffic. It is in order to enable Local Governments to fulfil their part of the bargain that we are seeking in this Bill to give them powers which will enable them to do so at once.

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[Sir Frank Noyce.]

interests of public safety and I do not think I need dilate upon them. Local Governments will also have the power to establish authorised stopping places, a provision which has been asked for by at least one Motor Owners' Association as well as by the Local Governments themselves, and to regulate the conduct of passengers, drivers and conductors, provisions which have also been asked for by Local Governments, and which have their counterpart in the English Road Traffic Act of 1930. Other powers conferred upon them are to limit the hours of work of drivers, a provision which I am sure will appeal to my Honourable friend, Mr. Joshi, and to require compulsory insurance including passenger and third party risks. The last of these points requires some amplification. Several important public bodies including the Indian Roads and Transport Development Association, Automobile Associations and the Safety First Association have advocated compulsory insurance and there has been some measure of support for it from the press, usually provoked by accounts of some accident or other in which there has been loss of life. On the other hand, there is one Local Government which feels that motor transport has not yet developed sufficiently to justify the enforcement of a provision of this character. But, as Honourable Members can see for themselves by a study of the daily papers, the toll of accidents is steadily rising. Thank Heaven, we have not yet to suffer the murderous slaughter of the innocent and the guilty alike that goes on on the English roads. I devoutly hope we never shall but hardly a week passes in this country in which there is not a report of an accident which has involved a heavy toll of human life. Compulsory insurance may do something to reduce this toll; it certainly should do something to benefit those who suffer through no fault of their own. We realise that there are practical difficulties in initiating a compulsory insurance scheme and, in particular, in regulating the relations between the insurer, the insured and the third party. It is our intention therefore to appoint in the ensuing cold weather a small committee of experts to examine and report on the whole question. It will be noticed that the Bill empowers Local Governments to specify the companies with which policies may be effected and lest there be any suspicion that this may lead to undesirable discrimination between insurance companies I should like to explain why this provision has been included. Under the British Act, insurance companies which cater for this class of business have to pay a deposit and once the insurer has delivered a certificate of insurance his liability under the policy is absolute unless the policy has in fact been effectively cancelled. We have no similar provisions in the Indian Law and it seems necessary, therefore, to safeguard the position of the insured by limiting insurance only to firms whose financial position is a sufficient security for prompt satisfaction of demands. This is a point which will, of course, be considered by our proposed Committee and I have no doubt that they will carefully specify the criteria which have to be satisfied and that their recommendations will leave no room for any unfair or undesirable discrimination.

In the second category, come provisions relating to the constitution and functions of the machinery for closer control. In these provisions falls clause 3 which seeks to give Local Governments power to constitute transport authorities and where such authorities are constituted, to make it illegal for motor transport vehicles to ply without first obtaining road

service permits. This clause also defines the powers of transport authorities and makes it possible to limit the number of vehicles generally, or of any special class, in any specified area or route; to issue road service permits to particular vehicles or service of vehicles, to modify those permits and to attach to them conditions as regards charges for the carriage of passengers and goods, the running of services to time table and the like. Clause 5 empowers Local Governments to make rules regulating the powers, functions and procedure of transport authorities, appeals from their orders and other cognate matters. The object of these provisions is to secure the convenience of the public by providing a better and more efficient road-service under proper control. It is common knowledge—one has only to see the string of motor buses outside the Delhi Railway Station labelled "Delhi to Meerut" to realize the extent of the evil—that popular road routes are at present over served with buses, so much so that a considerable number of them run only occasionally. In many areas inefficient services spring up and die like mushrooms, but during the time they actually ply, they succeed in doing considerable damage to better-run services by compelling them to under-cut fares and so rendering their service uneconomic with most undesirable results on their inefficiency. I am sure Honourable Members will agree that whatever the virtues of competition, this kind of unrestricted competition, which sooner or later, sooner rather than later, depresses efficiency and endangers public safety should not be allowed to continue. It is not—and this is a point on which I wish to lay the strongest emphasis—it is not the intention that the number of buses even on a competitive route should be reduced below the legitimate public demand. There is no question whatever of throwing thousands of people out of employment, as has been alleged in some of the telegrams with which I and, I imagine, also other Members of this Honourable House have been flooded. What is expected of transport authorities is that they should grant road-service permits on each route only to the number of buses that the route can economically support—surely this is reasonable enough—and also that they should, where necessary, fix fares at a level which admits of a fair return to the owners and is likely to ensure a safe and efficient service. A local transport authority must be in the best position to know the public need in the matter of routes and the number of buses required on each.

These provisions have a second object—the elimination of wasteful competition between road and rail, and in regard to goods vehicles, the transport authorities will have an important part to play. Some Honourable Members of this House may think that that is their sole object—and that they have the Machiavellian intention of destroying competition which the railways have increasing reason to fear. That is very far from being the case. If the measure before the House is carefully examined, I submit that the inevitable conclusion of those who approach the subject with an unbiassed mind—as I am sure this House will do—must be that the greater part of the provisions of the Bill would be required even if there were not a single railway in this country. I am prepared to admit that this is not so true of the provisions regarding the carriage of goods as it is in regard to those relating to the carriage of passengers. No one has greater reason than I have to know that the road-rail problem is an unpopular subject and that many aspects of it arouse acute controversy and feeling. But there are some essential facts which cannot be overlooked or ignored and I should like very briefly now

[Sir Frank Noyce.]

to refer to these. They have been pointed out time and again in this House but I must reiterate today that the State has invested large sums in railways which are fully capable of giving an efficient service as carriers of goods. The great importance of Railway finance both to the Centre and to the provinces and its significance in relation to the distribution of income-tax to the provinces have recently been emphasized in the report of Sir Otto Niemeyer. May I remind the House of what he said on the subject :

"The power of the Central Government to surrender a share of its revenues will in fact depend largely on the extent to which its main expansive revenue head, viz., income-tax, progresses, and on the extent to which the Railways move towards attaining a surplus, as contemplated by the Railway Administration at the time of the Percy Committee. It is in my view very desirable to give both the Central Government and the Provinces an interest in securing these results and a share in their advantages if and as soon as they are achieved."

And, again :

"The position of the Railways is frankly disquieting. It is not enough to contemplate that in five years' time the Railways may merely cease to be in deficit. Such a result would also tend to prejudice or delay the relief which the Provinces are entitled to expect. I believe that both the early establishment of effective co-ordination between the various modes of transport and the thorough-going overhaul of Railway expenditure in itself are vital elements in the whole provincial problem."

The House will not expect me to deal with the question of the overhaul of Railway finance.

Mr. S. Satyamurti : Of course not ; you do not know anything : nothing is being done !

The Honourable Sir Frank Noyce : I said the House would not expect me to deal with this aspect. My concern is with the effective co-ordination between the various means of transport which, as between road and rail, the provisions of this Bill are designed to promote. If unrestricted competition in goods traffic by road transport vehicles, which, after all, bring increased profits to a few individual traders, is permitted, it must jeopardise the entire structure of railway rate-making and dislocate the whole commercial structure, involving not only the State in loss of railway earnings but also the agriculturist in serious difficulties in marketing his produce. In short, it must seriously dislocate the whole economic structure of this country. The theme is a well-worn one and I do not think that I need enlarge upon it, for there is substantial unanimity that some sort of control to ensure the co-ordination of the two methods of transport is essential. Whatever irritation may be caused at times by the method by which it is sought to make control effective, I would ask Honourable Members not to lose sight of the important principles to which my Honourable friend, Mr. Satyamurti, has drawn pointed attention in questions which he has put to me from time to time and which I feel sure the majority in this House accept and to which we are seeking to give legislative effect. I trust, Sir, that I have succeeded in satisfying the House that there is nothing objectionable in the principles of the Bill which is before it. To those who object to the Bill because it does not go far enough, I would point out that we realise the need for a more comprehensive measure and we hope in time to introduce one with, if not the full

support of, at any rate with a large measure of agreement from, all interested in the matter. Finally, to advocates of delay, I would point out that we are not embarking on entirely uncharted seas, for similar legislation has been passed in the United Provinces, an account of which will I hope be given by representatives from those provinces in the course of this debate, and has been in satisfactory operation for some time past. If defects are found in practical working, if any interests are badly hit, it will be possible to provide remedies when we bring forward the fuller measure to which I have referred. But I would appeal to the House, and appeal earnestly, to avail itself of the present opportunity of carrying the very difficult task, with which all advanced countries in the world are faced today, of finding some solution of the very difficult problems presented by the control of motor transport and its reactions on the position of the railways, one stage further.

One more point, Sir, and I have done. All Honourable Members who have read the concise statement of policy which was adopted at the second meeting of the Transport Advisory Council will have observed that the conclusions in regard to the control of traffic received practically unanimous support from the Council. That, Sir, is a most important point. I know that the Council is regarded in some quarters with suspicion as a purely official body. ("Hear, hear" from members of the European Group.) I wish that those Honourable Members who have made that interjection could have been present at the meeting of the Council and then they would have seen that there is, to put it mildly, reason to believe that the Railway Department could wish that it held more "official" views than it has. I would point out to the House that the Provincial Governments are usually represented by their Ministers and whether those Ministers are officials or non-officials is a matter which I do not propose to argue. But if the view of an important body about whose non-official character there can be no question carries weight with this House, as I have no doubt it will, I will give that of the Indian Roads and Transport Development Association which certainly cannot be regarded as showing any undue tenderness to railway interests or, indeed, to official interests generally. The Association has, I am glad to say, expressed its general agreement with the proposals in this Bill which it considers both advantageous and necessary. That I submit is a very strong argument in their favour. They have met with the approval of a body which has been constituted to promote roads and transport development and in which motor interests are very strongly represented.

Sir, I move.

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

"That the Bill further to amend the Indian Motor Vehicles Act, 1914, for certain purposes (Amendment of sections 2, etc.), be referred to a Select Committee, consisting of Mr. Sham Lal, Raizada Hans Raj, Prof. N. G. Ranga, Dr. N. B. Khare, Mr. Badrut Hasan, Sardar Sant Singh, Mr. F. E. James, Sir Muhammad Yamin Khan, Sir Abdul Halim Ghaznavi, the Honourable Sir Muhammad Zafarullah Khan, Mr. S. N. Roy, Mr. B. N. Dey and the Mover, with instructions to report on or before the 18th September, 1936, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

[Mr. President.]

There are certain motions for the circulation of the Bill to elicit public opinion. All these motions are of the same character except that the dates mentioned for the receipt of opinions are different. Those Honourable Members who want to move their motions can do so now formally and then there will be debate on the original motion and these motions for circulation.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Sir, I move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by 1st March, 1937."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by 1st March, 1937."

Mr. Sham Lal (Ambala Division : Non-Muhammadan) : Sir, I move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by 31st December, 1936."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by 31st December, 1936."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by 1st February, 1937."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by 1st February, 1937."

Mr. Ghansham Singh Gupta (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

"That the Bill be circulated for the purpose of eliciting opinion thereon by 15th April, 1937."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by 15th April, 1937."

Mr. Sham Lal : Sir, there is no doubt that changes of a far-reaching character are going to be introduced in the Motor Vehicles Act. I admit that the development of the motor transport has been quite unexpected and there is not a town, even a small town, where motor buses are not plying for hire. In fact, as the unemployment is increasing, people are taking to bus driving and the amendment of the Act would affect a large portion of the population of India. I would say that the amendment would rather create a stir in the whole country. Now, if the amending Bill is going to affect all the Motor Unions and a large portion of the population, does it stand to reason

that the Bill should be referred to a Select Committee which should make its report before the 18th September? If you just examine the Bill, you will find that it is a dangerous Bill. I have received representations from Motor Unions and I also agree with them that it is a question of monopolising this industry in the interests of Government or in the interests of those who are in the habit of supporting the Government. It may not be the intention of the Honourable Member for Labour and Industries against whom I do not mean anything personal, and he should take it from me that I do not mean anything personal against him, but the result is bound to be that this industry would be monopolised by the Government for its own exploitation or in the interests of those who are Knights and Rai Bahadurs and who are in the habit of making friendly gestures to the British people.

Now, the question is what are the important provisions of the Bill against which I object? The most important provision of the Bill is that a transport authority is going to be constituted, and what would be the function of this transport authority? It would be open to that transport authority to restrict the number of buses for a particular route. Supposing there is a route from Kalka to Simla, it would be open to that transport authority to restrict the number of buses to, say, 20. It may make a rule for only 20 or 25 buses to run on that route. It would be open to that transport authority to restrict the carriage of goods in a particular area. It would be open to that transport authority to give the monopoly of these motor buses to an organised service. It is given in the Bill and it is just possible that in order to make a friendly gesture, the monopoly may be given to a British Company because here in this country we are to remain unemployed, we are to starve, we only live here in order to make a friendly gesture to the British people. I may submit that now that a transport authority is going to be constituted, which is to regulate the number of buses which are to ply for hire on a particular route, the carriage of goods is to be restricted and we, sitting here in the Select Committee, should only decide what the transport authority would be and need not consult the Motor Unions. I say there are certain provisions in the Bill which I do welcome and against which I have got no objection. But the question is that you are going to introduce such important changes in the Motor Vehicles Act and yet you do not want to consult the Motor Unions. What would you lose if you circulate the Bill for their opinion? It is very difficult for us to have correct idea of the difficulties that these motor drivers experience. What we hear generally is that the only crying grievance with regard to the motor vehicles is against the Police. Every police Inspector, every head-constable, every Sub-Inspector gets a free drive and gets ice and fruits from these motor drivers. We have had experience of travelling in these motor buses which the Honourable Members for Government have not. If we start, say, from Delhi to Sirsa, at every police station the bus stops, and we ask the motor driver, how is it that you stop everywhere. He says : "I have to take a head constable, he would occupy the front seat. If I take the head constable in the front seat, I can carry any number of passengers, and I can violate any rules on the point. You must sit behind the head constable and he will sit in front." This is what the bus driver says. That is the whole trouble.

[Mr. Sham Lal.]

No attention has been paid to the grievances of the motor drivers. No rule has been made prohibiting the police from travelling in the buses. The police are never taken to task or punished for their misdeeds. Therefore, I submit, these motor unions ought to be consulted and their grievances ought to be taken note of and suitable provisions made in the Bill to remedy those grievances. This is not an ordinary measure. If you introduce a measure of this kind, it is just possible that the transport authority may be constituted in such a manner that all these motor drivers who have purchased these buses by selling their lands or selling their houses and who have taken to this business will be ruined if any restriction is placed on the plying of motors. These bus drivers will be obliged to sell their motors at cheap rates and they might be thrown out of employment. The Government are only considering the question of railway finances. What would happen if all these bus drivers are thrown out of employment? Have you made any provision for their employment? Therefore, I submit that the Bill is of a very important nature and in no case should the Bill be referred to the Select Committee without its being circulated. I had an opportunity to discuss this with the Honourable the Member for Industries and Labour; of course he will say that this Bill is only of a permissive nature, that in this Bill the only thing given is that the Local Government may appoint a Transport authority, that it is not obligatory, that next year provincial autonomy is going to be introduced and that it would be open to the non-official members of those provincial legislatures to appoint whomsoever they like as the Transport authority. He will say "You are the future Governors, you are the future Local Governments, you may appoint Transport authority of any kind". Well, Sir, we know what sort of provincial autonomy is going to be given. We know what is the permissive nature of the Bill. In many Bills it is always pleaded that they are of a permissive nature. As soon as a certain power is conferred, it is immediately exercised and it is often argued that such exercise is lawful. Yesterday this House had an opportunity to hear this with regard to the Tariff Bill. There was a provision in the Tariff Act that the Governor General may reduce the duty in the case of textiles and it was of course a power conferred by the legislature. At that time assurances were given by several Commerce Members that this reduction would not take place without consulting this House. That was the specific assurance. Then the argument was advanced that whatever may be the assurances, so far as the statute is concerned, the Governor General had the power to reduce the duty and he has done it and therefore the Legislature could not call it unlawful. Of course, at the time when the Tariff Bill was under consideration, an amendment was moved by Sir Abdur Rah'm, our present President, that reduction should not be given effect to if it was not passed by the Legislature. That was a reasonable amendment. You cannot say it was illegal. I, therefore, submit that we cannot attach any value to the assurance given on the floor of the House. We all along thought that the assurances given on the floor of the House would hold good for ever and would bind Governments. But our faith was rudely shaken. Hereafter all assurances are to be regarded as mere scraps of paper and I may say that Germany was not more guilty in violating its promises as this British

Government has been in regard to its pledges towards India. (Hear, hear.)

Now, Sir, if an assurance is given by the Honourable Sir Frank Noyce, he might be able to keep up those assurances. What would Sir Joseph Bhole and Sir George Schuster think when they find that their successors have torn asunder all assurances and promises given by them to the Legislature and when they find that the duty on textiles has been reduced without consulting the Legislature. Looked at from that point of view, I hope the Honourable Sir Frank Noyce will realise that the Bill is not at all of a permissive nature. You need only give the power to the Local Government and you will find that that power is exercised the very next day and a Transport authority is constituted. What do we find at present in the provinces? We have many Advisory Councils constituted in the Punjab and several other Provinces. The Railway Advisory Committee, the Canal Advisory Committee and so on? What do we find? The Government gets further opportunity of obliging the title holders—the Knights and the Rai Bahadurs—who do not serve the interests of the public. You will find in this Transport authority several Knights and Rai Bahadurs being put on and they would commandeer all the buses during their elections. These title holders would say to the bus drivers: "Here we are, we have the sole authority to regulate the plying of buses, we will not allow a particular person to have a bus, we command all the buses, you motor drivers have simply to drive the buses at our bidding." In every election we find the Government officers are interfering (Hear, hear), they take part in bringing agreement between the contending candidates. Of course there is a good deal of dissension even among these title holders also, but the Government say: "look here, you, title holders, all combine against the Congress and if there is necessity you may even condemn the Government in order to win some votes. We are wise people, we can bear this condemnation, provided you all combine against the Congress." Well, Sir, this Transport authority is going to be constituted very soon and these title holders who are in the habit of making friendly gestures to the British people would find themselves as members of this Transport authority. The Government are always in the habit of loading the Committees with their own nominees. The Government will always get a number of obliging friends to serve on these committees. What happened with the Quetta Committee? Perhaps it might be said that this Transport authority would look after the convenience of the motor bus passengers. No, certainly not. It would only give the Government an opportunity to oblige their own friends and would give the motor buses new masters. I have had an opportunity of watching the working of a Transport authority in Rohtak district. The Deputy Commissioner there was the Transport authority, and he used to issue road permits. He was only the nominal authority to issue these permits, the man behind the scene was the Superintendent of the Office of the Deputy Commissioner. That was the practice in Rohtak district. Those road permits were sold to the highest bidder, they were sold like negotiable instruments each permit fetching as much as Rs. 800 or even a thousand rupees. Several road permits were issued by the Superintendent of the Deputy Commissioner's office in the name of his own wife, in the name of his own servant and in the name of his own relatives. This fact was discovered in connection with a case in Court, but nothing was done against the Superintendent.

[Mr. Sham Lal.]

He was not punished. That is my grievance against the Transport authority. If such an authority is constituted, after all some petty clerk would exercise all the authority and he would suck the blood out of these motor bus drivers. Why not have a transport authority constituted solely comprising of the Members of Motor Unions. It is a well known fact that this development of motor transport has taken place without any help from the Government. Within the last 20 years, the motor industry has developed without any aid from the Government. Have the Government opened any college for the training of motor drivers? Government have done absolutely nothing to set up a factory for the manufacture of motor cars or materials for repair of these motors. Now that the industry is flourishing purely owing to private initiative and enterprise, the Government cannot tolerate it. The Government want to control this industry. A day might come when perhaps the Government might control our cooking. We find that cart drivers, bullock cart drivers, tonga drivers all having been thrown out of employment, have taken to bus driving, thereby somehow making both ends meet. If a Transport authority is constituted what would happen. A monopoly for plying the buses might be given to some organized service, like the Gwalior Motor Transport Company or some such company might be established by a Rai Bahadur or a Knight or some hanger-on of the Government and what is now giving employment for the many poor would become a monopoly of the rich few. These monopolists would employ these drivers for four annas or six annas a day. Therefore, my submission is, I do not say that there should be no control over motor buses, but I am against this authority vesting in the Local Government, so that the Local Government may appoint any transport authority, may decide as to its composition. If you want any transport authority to be constituted,—and I certainly agree that there should be a transport authority in every district,—the majority of the members of that authority should be selected from the motor unions. It should be the concern of the poor people and should not be monopolised by any company or by Government. Government should not have any control over it. It is said that a wasteful competition has been going on. Certainly; I admit that the wasteful competition has been going on, but where has not this wasteful competition been going on? Wasteful competition has been going on in the legal profession, it has been going on in the textile industry and it has been going on everywhere.

An Honourable Member : Also in title-hunting. (Laughter.)

Mr. Sham Lal : There it is not wasteful; they are after all rewarded in one way or the other. But my submission is that it has been going on for the last 22 years. Why were you asleep? Why did you not take up this question earlier? This wasteful competition is not of today. The thing is that the revenues of the railway have gone down and a crisis has been reached, and now in the name of conveniences for passengers this Bill is being trotted out and is introduced here. What is the immediate cause? You may have some provisions in the interests of the passengers, but what is the immediate cause for this Bill? The immediate cause is the recommendation of the Transport Advisory Council which was appointed in order to see how the competition between roads and railways can be removed. A spoilt child of Government, this railway administration having failed in open competition with these motor drivers now

wants to have nomination. It is a sort of nomination, as to who shall drive the buses; that these grass-cutters, these drivers, these poor people shall not drive motor buses. It is the servants and employees of these Knights who will drive the motor buses. It is in this way that the control is going to be exercised. What I submit is that it is purely in order to help the railways that this Bill has been introduced, and of course it is said that the people are wasting their energy over wasteful competition. That is not the thing. Now with regard to motor buses what do we find? It has practically become the conveyance of poor people, poor people not desiring to be insulted by these railway officials, not desiring to bribe these goods clerks in order that their goods may be carried, not desiring to stand under the sun and under the rain in the open platform. These are people who want to travel in these motor buses and do not want to use the railways. But the railway administration says, "I am the darling of this Government, I am a Government concern, I may not be able to compete with you in open competition, you may beat me there; but I have got the power; I will go to my obliging father and say I must have this law so that these buses may be restricted and goods may not be carried over a particular area and let this business of the country also go". The starving people, the unemployed people, are rushing in different directions and you want to restrict their liberty also. You may try open competition. I had occasion to travel from Lahore to Amritsar and I found that the railway there has provided that after every one hour a train should go to Amritsar. This was done in order to compete with buses and as a result the trains are overcrowded. The fare also has been reduced. That is the best way to compete. You may compete in that way, but not as the darling son of Government having the laws in its control,—now a law against ticketless travel and now a law against overcrowded buses, allowing your railways to be overcrowded. Everything you want to do with the help of the law. Therefore, just as the sons of rich men who have got no enterprising spirit go to the dogs and ruin themselves, this railway administration though it may be a national concern is going to be ruined. Engineers getting Rs. 3,000 a month, playing bridge in their saloons and enjoying life in the railway colonies. I have seen that they do not work for half an hour, and then you talk of the loss of revenues on the railways. Go to Bhatinda and Lahore, and you will find these engineers getting Rs. 3,000 a month, doing nothing the whole day except playing bridge and drinking heavily. The ticketless traveller is to be sent to jail but the engineer who commits a theft with regard to railway money, getting Rs. 3,000 a month and doing nothing is an innocent man. If you get this patronage and if you drive out the motor buses I think the railway would not improve. If you have this Bill you will not only throw out these motor drivers out of employment but you would demoralise this railway administration. It would never make any progress just as a spoilt child makes no progress. It is not Jawaharlal who is a spoilt child, it is the railway administration which is the spoilt child of Government; and every Honourable Member of the House getting more than Rs. 1,000 is a spoilt child. (Laughter.) And these people want to keep all the power under their control. Tomorrow you will find a Bill that all the cooking in India should be done by some organised body and all the agriculture should be done by some organised body. Therefore, my submission is that it is a great inroad upon the rights of the poor motor drivers; and, therefore, if you want to have any control these motor unions themselves should

[Mr. Sham Lal.]

have that control and you should not agree to any restrictions being placed on these motor drivers without hearing them. Where is the hurry? Now it is said that the United Provinces Government have introduced a measure of this kind and I was told that it is a success. This being so, why should the Central Government introduce this measure? If, as you say, there is going to be provincial autonomy, let those Local Governments introduce measures like this and let the members there fight out these points. Why this haste on the part of the Central Government to introduce this measure? I say this is an indecent haste, to have a measure affecting the major portion of the population passed or referred to Select Committee and a report called for before the 18th September. I say there is no Bill before this Assembly which is more important from the poor man's point of view than this Motor Vehicles Bill and this is a measure about which the poor people and the motor drivers should be consulted.

Then it is said that there will be another comprehensive measure. It is stated in the Statement of Objects and Reasons that this is only an amendment of some provisions but we are going to have a more comprehensive Bill. Then let us wait for the comprehensive Bill. Why an amendment with regard to certain provisions only? The Honourable Member for Industries and Labour said that there is perhaps an impression that the sole object of this Bill is to avoid competition between road and rail and to suppress the motor traffic in the interest of the railways. But we have eyes to see and we can ourselves judge matters. We find that a crisis has been reached in the history of the railway administration. We find that a Transport Advisory Council was appointed for the purpose; and it is on account of the recommendation of that authority that this Bill is being introduced. How can we ignore this fact? I have read the recommendation of that Council. It is specially given there that it would be open to the transport authority to restrict the carriage of goods in a particular area. Now you will find goods are being carried from place to place by these motor buses. We do not want the railways to suffer; but we do want that the railway should not be clothed with any power not possessed by any other private concern; no larger powers should be given to them and they should not be allowed to suppress any other transport company or business. Let there be free competition; let the railways improve their own methods and let them make their officers honest; let them be courteous: let them be inviting to passengers; let them put down corruption. What the Government want is that, if there is anything flourishing, they should get hold of it and exploit it. I may quote an instance. In the case of the Cantonment Bill, what did the Honourable Mr. Tottenham do? He invited members of the Cantonment Association; he invited us; we discussed with them everything and you will not find that there is any opposition on our part. It is an agreed measure, because we discussed it with them: we did not know all these technicalities. Similarly, we do not know all the grievances of the motor unions or drivers: how can we have any idea of those grievances? So, let us proceed in that way, just as the Honourable Mr. Tottenham proceeded; let us have the representatives of the motor unions; let us have their opinions and the opinions of motor drivers throughout the country and then let there be a Select Committee so that we may be able to satisfy these motor drivers, so that we may be able to see that there is no hardship involved.

Where is the hurry? For over 20 years, there has been no amendment. This wasteful competition has been going on for so long and we find it in other directions as well: where is the hurry? The only hurry is that you now find this industry highly developed and you want now to suppress it, you want to control it, you want to give it to some organised services. Just imagine what would happen if throughout India these motor drivers are compelled to sell their buses because they cannot use the roads. Just imagine what would happen. It would create a commotion in the whole country. This is not a Bill of an ordinary kind. If you take the opinions of those concerned and they agree with regard to certain matters, of course there are drivers who are breaking all rules and injuring themselves, I do not deny that there should be no control: but the control should not be imposed in the manner in which it is being imposed by this Bill. I, therefore, strongly oppose the reference of this Bill to the Select Committee, and I move that the Bill should be circulated for eliciting public opinion.

Sir Ghulam Hussain Hidayatallah (Sind Jagirdars and Zamindars : Landholders) : Sir, I would like to make a few observations on this Bill. I will place a few considerations before this Honourable House in support of the motion.....

An Honourable Member : What motion?

Sir Ghulam Hussain Hidayatallah :to elicit public opinion.

Sir, this Bill is to amend an old Act of 1914. But we all know that much water has flown under the bridges since then. Under the present Government of India Act, roads are a transferred subject and under the new Government of India Act also they are a transferred subject. Railways and waterways are a central subject or, under the new constitution, a federal subject. My first point is, is this amending Bill not an encroachment on the rights of the provinces which the present and the new Acts have given them? What are the ministers for in the provinces and the Legislatures, specially now that we are on the threshold of the reforms? It is hardly fair to the provinces that the Central Government should legislate for them. This is an attempt to deprive the Provincial Legislatures of their right to legislate in regard to transferred subjects.....

Mr. N. M. Joshi : There must be co-ordination between all provinces.

Sir Ghulam Hussain Hidayatallah : Co-ordination or no co-ordination, nobody is going to subordinate the rights of the provinces to the Central Government when we are on the threshold of becoming autonomous provinces. What will be the position of Ministers in the provinces? They will have to carry out the behests of the Central Government. They will come there, responsible in name to the Legislature, but they will have to carry out the orders of the Central Government. Therefore, my first objection to this legislation is that this is an encroachment on the rights of the provinces.

My second consideration for supporting this motion for circulation is this. In India, before the railways came, there were roads; we had village roads and other roads, what we now call the provincial roads, and roads of all-India importance, what we call the inter-provincial or

[Sir Ghulam Hussain Hidayatallah.]

all-India roads. The railways, when they came into existence, built all the railways parallel to those existing roads, specially the provincial and all India roads. Who is responsible for killing the road transport? It is the railways. And today when a new form of transport has come, it does not lie in the mouth of the railway authorities to say "Oh, they are competing with us". They originally killed the transport by road. After all, what do we all want? We want the cheapest service and the best service. It is for the railway authorities to put their house in order and make their concern pay, not to the disadvantage of the motor service. After the motors have come, small men with small capital have purchased motor buses. They are either driving themselves or they have employed other drivers. Now, if some of the measures proposed by this Bill are enacted, what will be the position of those men? They will either have to sell their motors and go out of employment or do nothing. Now, I refer to page 2 of the Statement of Objects and Reasons of the Bill. The first Transport Advisory Council which met in January, 1935 recommended that provision should be made for insurance against passenger and third party risk, and the importance of having such a provision has been brought to notice in connection with several road accidents in recent months. What will be the result? The poor people have no money or security to provide for this. The result will be that the capitalists will monopolise this trade.

The third consideration that I will place before this Honourable House is this: after the petrol tax we had the road fund. What was the policy of the Central Government as regards the central fund? The Government of India's mandate to the provinces was to use this money, for the construction and improvement of inter-provincial roads, roads of all-India importance. Who encouraged in the beginning the motor transport? It is the Central Government. But I am happy to find that they are reconsidering that decision of theirs, and as every one of us today is thinking of the poor agriculturist in the rural areas, so the Government are now considering the question of allowing money out of this fund also to be used for the rural roads. Then, Sir, if the Government have really the interests of agriculturists at heart, they ought to allow the cheapest form of transport, because the agriculturists have to market their produce. Let there be competition, let there be a large number of motors running on these roads so that the agriculturists and others may get the service at the cheapest rate.

Now, Sir, one of the arguments advanced by the Mover of this Bill is stated in the Statement of Objects and Reasons. This is what is stated there: "Thereafter, in January, 1935, the Transport Advisory Council, at its first meeting, made definite recommendations to the same effect. Amendments to the Act were drafted to give effect to the recommendations as far as possible and Local Governments were consulted. The latter were, on the whole, in favour of legislation, but there were differences in points of detail". These were some of the recommendations, but I shall deal with them when the Honourable the Mover moves his Resolution. Even this makes out a strong case for circulation of the Bill. Their admission in the Statement of Objects and Reasons shows that there was not complete unanimity amongst the provinces even, and from most of the Resolutions of the Advisory Council I see that even the Ministers have

differed. I need not waste the time of the House by reading their opinions at length. This is what is stated here in the Statement of Objects and Reasons—"It is generally recognised that it will be necessary, before long, to undertake a general revision of the Act, but the Government of India consider that it is essential in the meantime to give powers to Local Governments to regulate transport motor vehicles, as well as trailers and other attachments.....". So, Sir, this Bill, as I characterise it, is a thin end of the wedge to deprive the provinces of their powers which are given to them under the present constitution and which they are going to have under the new constitution, and if you read the recommendations of the Transport Advisory Council, I do not think any man who has the good of the provinces at heart would agree with those recommendations. These are further encroachments on the rights and privileges of provincial Legislatures and the provinces. With these few words, Sir, I support the motion that the Bill be circulated for the purpose of eliciting opinion thereon.

Mr. N. V. Gadgil : Sir, I agree with the Mover of the Bill that unrestricted competition is an impossible remedy to remove the transport difficulties. At the same time, I wish to say that it is not very fair to rush this Bill through in such a short time, because it is strongly felt that sufficient notice or publicity has not been given to this measure. I might state here that apart from those who are interested in the business, there are other sections of the public equally interested in this measure. I might invite the attention of the Honourable Member in charge of the Bill to the fact that Mr. Gadgil and Mr. Gogate, two members of the Gokhale Institute of Politics and Economics, have made a detailed survey of Motor-Bus transportation in six districts of Maharashtra, namely, Poona, Satara, Nagar, Sholapur, Kolaba and Ratnagiri.....

The Honourable Sir Frank Noyce : As the Honourable Member has mentioned that publication, I hope he will be good enough to give the extracts from it which support my case.

Mr. N. V. Gadgil : As this Book was not available in the Library, I had to get your own copy. Mr. Gogate told me that he had sent two copies of this publication to the Library, but as I could not get a copy in the Library, I had to get one from your office.

The Honourable Sir Frank Noyce : I have a copy, which the authors were good enough to send me.

Mr. N. V. Gadgil : Very well. I may point out, Sir, how a very thorough survey of Motor-Bus transportation in these 6 districts has led to certain conclusions which run contrary to certain assumptions which I find in the Statement of Objects and Reasons attached to the Bill. It is not contended in this Report that there should be no regulation of motor transportation; it does suggest regulations, but they must be according to certain accepted standards, and I will read with your permission the standard that has been accepted in this Report :

"What are the primary qualities that a regulatory regime should possess? If it is to be in accord with the general competitive system and to serve well the conditions of a progressive industry, it is obvious that a rigid type of regulation runs the serious danger of stereotyping the present set of conditions. This is certainly not desirable. Even when Railways are national property, it is not desirable that the development of motor transport be arrested and stabilised at a particular point for

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all times. Looking to the vast resources sunk in railway enterprise it may be reasonable to contend that the new competitive agency should not operate in such a manner as to upset the balance of the railway system immediately and that time be afforded for progressive adjustments. But we start from the basic assumption that when new developments involved the changing of methods or narrowing of spheres of activity of old agencies, then adjustments must, however slowly, come about.

The system of regulation we contemplate must, therefore, be elastic and progressive. It cannot work by way of absolute prohibition. Neither can it or should it work by way of monopolies. The granting of a monopoly, whether to the railway or to a particular bus company, of any traffic along the route would be disastrous to public interests.

That is the standard. I shall proceed further and point out to the satisfaction of the House, at any rate to one section of it at least, that it is not merely the public including the agriculturist that would be affected if this Bill were to be enacted, but even those who are in the business,—and their number is very large,—will be very considerably affected. If we take the figures of the cars including the buses licensed for hire in these 6 districts, they work out to 2,210, that is for the year 1935, and the figures are taken from the Annual Police Report of the Government of Bombay. It will, I think, be admitted that at least 3 people are employed when one car or bus is allowed to ply, that is to say, a cleaner, a driver and an additional servant. If we multiply it, it roughly comes to 6,000, in one district, and there are nearly 350 districts in India, and the House can imagine to what extent the public will be affected by this Bill if it becomes law. What is sought in this Bill is that in the interests of safety and convenience, permit should be given only to such vehicles or services or fleet as would conform to certain standards. Over and above this, there are other categories of persons who are involved. Take for example, the agents in Poona district alone. There are nearly 60 motor stands, and I have been able to collect figures of licensed agents of about 13 stands in which 252 persons are permitted by the District Superintendent of Police to be agents for these buses. Now, add those persons to this number who do this sort of work without any license, and if you take the whole district, it will not be far wrong to state that nearly one thousand persons are working as agents, either licensed or unlicensed. Now, you can multiply this by 350, and you will arrive at a figure which will show to what extent this Bill will affect a large class of people. I do agree that this motor business is not carried on, on very economical lines. It is not very well organized, in fact there has been wasteful competition. But I may state that there are economic forces which themselves will make the business avoid wasteful methods. In these six districts, I may point out to the House certain associations of motor drivers and owners have grown up. Taking these six districts I may point out that there are 51 associations with a membership extending to 407 persons owning nearly 1,740 motor cars, buses and other things. I might incidentally state that somehow or other I was the first man to take a lead in bringing together most of the motor drivers in the Poona district, Poona taking the lead in 1929. I do agree that it was not so much for the purpose of running the business on economic lines, but to meet a specific case of police tyranny by way of additional regulation that the union was started; but from that time onwards the business is gradually organising itself and today there are certain roads on which there is no competition because the associations have established certain

regulations among themselves. Even the fare is scheduled, the time table is fairly observed, and, in fact, wasteful competition is being avoided as far as possible. Of course, there is always the difficulty that new comers may come in and upset all calculations. I am not making out a case that there should be no regulation altogether. I am making out a case that there should be regulation but not in the manner suggested in the Bill and not without eliciting public opinion all the same. What will happen if the Bill becomes an Act? Naturally in order to secure the so-called efficiency in the service, those who own more than one bus will be given the necessary permit. I propose to give the House some figures with respect to this; out of 1,309 buses that run in these six districts, 621 are owned by 621 owners, one each and only 12 persons own more than six each. That is the state of business at present. This is the case not only in India, but I have been able to find out some statistics about the state of this particular industry in the United States. There are, 3,996 Bus Companies, out of which 3,476 are operated with a service of five or less, and only 18 companies own more than 100 cars. Unless you eliminate individuals altogether and create a sort of monopoly, you must allow the present state of things to continue for some time and give those who are in the business some opportunity to move towards the elimination of wasteful competition.

Other sections of the public also are interested by way of cheap transport. The railways have prescribed certain rates. They range from four pies a mile to six pies a mile maximum. In our presidency the police rules and the District Magistrates also have laid down that nine pies per mile should be the official rate, but what do we find in actual practice? It ranges from 2.5 pies per mile to 6.2 pies per mile for long distances. If you take Poona to Kolhapur rate it works out to 2.5 pies per mile, but if you take shorter distances, say, from Poona to Islampur, it works out to 6.2 pies. Your basic idea is that there should be no competition with the railways.

The Honourable Sir Frank Noyce : No wasteful competition.

Mr. N. V. Gadgil : Yes, wasteful competition. If there had been no motor transportation at all, what would have happened is this that the interests of third class passengers would have been neglected more and more :

“ In fact it has been urged that the static condition of railway practice has during many decades been a result of the lack of competition and that under stress of motor competition it has been proving itself capable of progress and fresh adjustment.”

If there were no motor competition, I am sure the railway authorities would have been or would have continued to be as indifferent to the comforts and amenities of third class passengers as they were five years ago. Undoubtedly, this motor transportation has resulted in causing loss to the railways. I will only give two instances. So far as the Madras and Southern Mahratta Railway is concerned, I think that it has been very hardly hit,—Poona, Miraj and Kolhapur section—and so far as the Great Indian Peninsula Railway is concerned, very few people travel by railway from Poona to Ahmednagar or even to Dhond. They usually prefer to go by bus. Motor lorries are not allowed to cross Ghats after sunset. If that restriction were removed, I am sure, there

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would be greater loss to both the Madras and Southern Mahratta Railway and Great Indian Peninsula Railway. My point is this. If you were to regulate the thing saying that it must not come in competition with railway, the public will have to suffer. Travel for passengers has become cheaper, even in the matter of transport of goods, I can point out that the agriculturists have benefited as a matter of fact on account of the motor transport. The increase in the transport of perishable goods from Poona to Bombay is due to cheapness and the agriculturists prefer to send their vegetables and fruits by motor buses rather than by parcel trains from Poona to Bombay. Naturally there is a greater margin of profit which does not always go into the pockets of agents and *dalals* as they are called in Poona, but part of it goes to the agriculturist himself. But if you were to restrict that, the result will be, you may ruin the *dalal*, you may ruin some of the motor owners, but you will be incidentally ruining the agriculturist also. I therefore submit from every point of view this Bill, as it stands, is not to the benefit of the public at large, apart from the fact that it will throw at least according to my calculation two millions of people out of employment. In any case, why should there be any haste to rush the Bill through? I have received a number of telegrams and letters from various motor drivers' associations and motor owners' associations, and I think various Chambers of Commerce also have protested against any reference to Select Committee at this stage. Taking into consideration all these facts, I hope the Honourable Member in charge will see the reasonableness of my amendment at any rate because I have put down 1st February, 1937. If opinions are received by that time he will be in a position to pilot this Bill further before the Delhi Session is over. With these words, I move my amendment.

Mr. S. K. Das-Gupta (Bengal : Nominated Official) : Sir, I rise to oppose this motion for circulation of the Bill to amend the Indian Motor Vehicles Act, 1914. The purpose behind this proposal to send the Bill for circulation is, I presume, to allow the public sufficient time to consider the provisions of the Bill. But it must be well-known to Members of this House that the subject matter dealt with is not new and that it has been before the Government and the public for at least three years and ample time has elapsed since the matter was first mooted. The provisions which this Bill seeks to introduce into the existing law came up for prolonged and careful discussion before the Rail-Road Conference of 1933, and subsequently two meetings of the Transport Advisory Council considered the matter. Moreover, the proceedings of the Rail-Road Conference came in for comment in newspapers from time to time, and, as a matter of fact, the Bill does not go beyond incorporating some of the suggestions accepted by the Conference and there is really nothing very drastic or severe about the changes proposed and I think no useful purpose will be served by the circulation of the Bill and it will only mean unnecessary delay. The Honourable the Mover of the Bill, in his Statement of Objects and Reasons, has made it abundantly clear that a very early amendment of the present Act is necessary in the interest of public safety and convenience. Accidents connected with the use of motor vehicles keep alive the fear that the motor car or the bus is a dangerous vehicle, the movements of which should be restricted by stringent

legislation. As a matter of fact the Mover of the first amendment expressed his appreciation of some of the provisions of the Bill. It has been said that it is more or less the concern of the Local Government to enact laws and rules controlling the movements of motor vehicles and legislation, if any, should be undertaken by Local Governments but the motor vehicles refuse to recognise the boundaries of provinces and it is only in the fitness of things that legislation should be undertaken by the Central Legislature especially as the original Act itself is an enactment of the Central Legislature. The provisions of the Bill contained in clause 4 relate chiefly to public safety and although the question of co-ordination forms part of our consideration the provisions relating to public safety are really independent of any consideration of co-ordination. Sir, in recent years there has been a rapid growth of motor transport facilities and of course none will deny the convenience, the elasticity and the advantage of motor transport and of its immense popularity but that is the very reason why all possible measures should be taken to secure the safety of the public when they use this mode of transport. As a matter of fact, the powers which the present Bill seeks to confer on Local Governments are primarily intended in the interest of public safety and convenience. The provisions contained in clauses 3 and 5 relate to the constitution and functions of the machinery for the closer control of public transport. In Bengal such powers as it is intended to confer on the transport authorities are practically vested in the District Magistrates and in Bihar and Orissa, Rule 50 and in the Punjab, Rule 11 have also conferred similar powers on District Magistrates. Of course the United Provinces Act of 1935 has actually ushered in such a machinery and no complaint from the business community or any bus owner has been received by the Transport Advisory Council. I believe every Member will agree that it is more desirable to vest these powers in a committee than to rely upon the discretion of one individual officer. Of course it is quite possible to have differences of opinion as to how such committees should be formed, how they should function and so on but these are matters of detail which can easily be left to the Select Committee to decide. I do not pretend to deny that one of the objects of the closer control is the elimination of wasteful competition between roads and railways. At present, railways have to compete on very unequal terms with motor vehicles.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had better continue his speech tomorrow.
5 P.M.

The Assembly then adjourned till Eleven of the Clock on Friday, the 4th September, 1936.

LEGISLATIVE ASSEMBLY.

Friday, 4th September, 1936.

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

QUESTIONS AND ANSWERS.

UNIFORMITY IN PROVINCIAL EXCISE REGULATIONS.

117. *Seth Govind Das : Will Government be pleased to state :

- (a) whether it is a fact that traders are, under the existing Provincial Excise Regulations, required to procure import and export permits for importing spirituous, medicinal and toilet preparations from other Provinces, and whether they are aware that such a procedure is laid down that it results in a great handicap to the development of the pharmaceutical and drug industry of India ;
- (b) whether it is a fact that such imports from foreign countries like Germany and Japan, are allowed freely and without any restriction throughout India, and whether they are aware that the Punjab Government have made rules prohibiting import of these articles from other Provinces and the Indian States and the Bengal Government have imposed conditions for the import of these articles, resulting in almost total prohibition of their import from the other Provinces in India ;
- (c) whether the Excise regulations distinguish between portable drinks and spirituous, medicinal and toilet preparations ;
- (d) whether they are considering the feasibility of making the excise duty on spirit and spirituous preparations, as well as the excise regulations governing traffic, in them uniform ;
- (e) whether they propose to consider the advisability of instructing the Provincial Governments for mutual trust and agreement for the recovery of duty in the provinces of export, the amounts being adjusted in the inter-provincial accounts ;
- (f) whether they are aware that the excise authorities of one Province do not always accept the certificate of Excise duty levied by the Excise authorities of another Province and they make further inspections of consignments thereafter ; and
- (g) whether they propose to include in the agenda of the Conference of the Local Self-Governments and Industries, held

annually at Delhi, the subject of introducing uniform excise regulations for discussion?

Mr. A. H. Lloyd : (a), (b) and (f). The Government of India have received complaints that the position is as stated in these parts of the question and are prepared to take it that these complaints are, generally speaking, well founded, although they are not in possession of full details since Excise is a Provincial transferred subject.

(c) Yes, so far as the Government of India are aware.

(d) and (e). Since Excise is a Provincial transferred subject, the Government of India have no authority to interfere with the discretion of Local Governments in the matter.

(g) No Local Self-Government Conference is held by the Government of India. They, however, hold an Industries Conference annually. There is nothing which renders it impossible to place such a subject on the agenda of that Conference; but the Government of India do not contemplate any such step.

Mr. S. Satyamurti : In view of the answer to parts (a) and (b) of the question, in which I believe the Government admit that these complaints are true and well-founded, will they take the step of advising Local Governments, without going to the extent of giving directions, to accept the suggestion contained in this question, with a view to facilitating the whole business?

Mr. A. H. Lloyd : No. We have decided that the first move must come from the Local Governments themselves.

Seth Govind Das : When the complaint is universal in all the provinces, is it not advisable for the Government of India to advise Local Governments, because this is not a question of any particular Local Government, but the complaint is universal?

Mr. A. H. Lloyd : I should perhaps explain that the representations which have been received by us have been circulated to all the Local Governments for their consideration.

Seth Govind Das : And the Government do not think it necessary to advise the Local Governments.....

Mr. A. H. Lloyd : Government have not expressed any views on the subject as the matter is within the discretion of the Local Governments.

ARTICLE ENTITLED "KENYA" PUBLISHED IN THE *Hindu*.

118. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the leading article entitled "Kenya" in the *Hindu* of the 23rd April, 1936;
- (b) whether they have ascertained the intention of the European community in Kenya, of compelling His Majesty's Government to agree to the proposal that all financial measures, including the budget, should be approved by the Finance Committee, having a majority of European members;
- (c) whether the Colonial Officer expressed any opinion on this demand;

(d) whether any orders have been passed with respect to the reservation of Highlands for Europeans; and

(e) what the latest position of the whole question is?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The Honourable Member's attention is invited to paragraph 13 of a Despatch dated the 12th October, 1935, from the Secretary of State for the Colonies to the Governor of Kenya, a copy of which has been placed in the Library of the House.

(d) and (e). The Honourable Member's attention is invited to my reply to part (a) of his starred question No. 42 on the 1st September, 1936.

Mr. S. Satyamurti : Sir, with reference to the answer to parts (b) and (c) of the question, may I know if Government have ascertained the further progress of this matter, since last October?

Sir Girja Shankar Bajpai : Yes, Sir. It might help to allay misgivings if I were to read a relevant extract from the Despatch of the Secretary of State for the Colonies, which runs as follows :

"It seems reasonable to conclude that there would be less support for closer union"—the Despatch was on the subject of a closer union—"if it were not accompanied by such greater measure of control, but I could not contemplate any change which disturbed an important principle laid down by the Joint Select Committee." In its report discussing the relationship between different communities in East Africa, it pointed out that "the control of His Majesty's Government in the United Kingdom must remain unimpaired. The conditions in East Africa, where these widely differing communities exist side by side, demand the maintenance of an effective power of intervention by the Crown in all matters of both legislation and administration. This power will be exercised by His Majesty's Government acting through the Secretary of State. It is clear that under existing conditions the principles outlined above can only be effectively operative if the authority of His Majesty's Government remains unimpaired. The diversity of the interests to be co-ordinated and harmonised require a Government impartial and capable of long views."

Mr. S. Satyamurti : May I take it that there has been no change since that communiqué, and that there will be no change without reference to the Government of India?

Sir Girja Shankar Bajpai : As far as I am aware, not only has there not been any change, but when the Indian Congress in Nairobi addressed His Majesty's Secretary of State for the Colonies regarding the visit of Lord Francis Scott, they were informed in reply that nothing that Lord Francis Scott could say could make any difference to His Majesty's Government's attitude in this matter, and that any representations the settlers might wish to make must be submitted through the Governor of Kenya and not direct.

†119*.

OVERHAULING OF THE INDIAN TARIFF SYSTEM.

120. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled, "The Tariff Bill", in the *Hindu* of the 24th April, 1936;

† This question was withdrawn by the questioner.

(b) whether their attention has been particularly drawn to the following sentences :—" The whole tariff system has been acquiesced in only as a make-shift. Indeed, there is a general feeling that the Indian tariff system should be overhauled on scientific principles and the anxiety of the non-official members to get an assurance from the Government that the passing of the Bill does not mean the surrender of their freedom to reject the Ottawa policy for good when the Ottawa Agreement lapses by efflux of time " ;

(c) if so, whether they have any intention of rebuilding at an early date the Indian tariff system ;

(d) if so, the steps they have taken ; and

(e) if not, why not ?

The Honourable Sir James Grigg : I would refer the Honourable Member to the replies which I gave to his starred questions Nos. 41 and 106 on the 4th and 6th February last and to the supplementary questions asked by him on the former date. I have nothing to add to those replies.

Mr. S. Satyamurti : Sir, may I know if Government have considered the point, whether this tariff system works for the rich, or for the poor, or for neither, or for both ?

The Honourable Sir James Grigg : The protective part of it works for the rich.

Mr. S. Satyamurti : May I, therefore, take it that Government propose to pursue this policy of protecting the rich alone ?

The Honourable Sir James Grigg : Government would like very much to have the money to lower the general level of the tariff.

Mr. S. Satyamurti : What steps have they taken in that direction so far ?

The Honourable Sir James Grigg : They have got all the material, and, when the financial circumstances of the country permit and there is no more danger of throwing away money by excessive protection, Government may be able to consider it.

Mr. S. Satyamurti : Do Government realise that both the rich and the poor of this country may be killed, if there is no protection at all ?

The Honourable Sir James Grigg : No, Sir.

Mr. S. Satyamurti : Is that Government's policy, Sir ?

The Honourable Sir James Grigg : Which ?

Mr. S. Satyamurti : This doing away with protection, because the absence of protection will kill neither the rich nor the poor ?

The Honourable Sir James Grigg : I do not follow the Honourable Member's question ; it seems to me to have no point.

Mr. S. Satyamurti : The point is this. My Honourable friend said, in answer to my question, that they are convinced that this protection is for the benefit of the rich. I am asking whether Government have considered the question that the absence of protection may mean the killing of the rich and of the poor alike.

The Honourable Sir James Grigg : I said, no, I do not agree with that.

Mr. S. Satyamurti : May I know if Government have got any policy in this matter of revising the tariff policy of this country ?

The Honourable Sir James Grigg : If the Honourable Member will look at the questions to which I have referred, he will see what the policy of the Government of India is.

Mr. S. Satyamurti : May I know if that policy is the doing away with this protection, as early as possible ?

The Honourable Sir James Grigg : Sir, this is too long a matter to deal with in reply to a series of interrogatories across the floor of the House. If the Honourable Member will read the answers given and the references in them, he will see exactly what the policy of the Government of India is.

RESULT OF THE OTTAWA TRADE AGREEMENT ON THE FOREIGN TRADE OF INDIA.

121. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the latest result, so far as available to Government, of the Ottawa Agreement on the foreign trade of India ;

(b) whether it is a fact that Japan remains the largest buyer of Indian cotton ;

(c) whether exports of linseed to the United Kingdom fell to the ridiculously low figure from Rs. 15,837,909 in 1934 to Rs. 4,423,654 ; and

(d) what the balance of trade of India today is ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The attention of the Honourable Member is invited to the Report on the working of the Ottawa Trade Agreement for the year 1934-35 and the supplementary volume bringing the statistical tables in that Report up to October, 1935. No later statistics have yet been compiled.

(b) Yes.

(c) The figures are as given by the Honourable Member. I may, however, mention that the large exports of linseed from India to the United Kingdom in 1934 were due to practically all the available export surplus having been shipped in that year at remunerative prices, while the decline in exports in the following year was due mainly to the speculative holding of stocks by linseed interests in India in the hope of a rise in the price of the Argentine linseed as a result of rumoured drought in that country. The decline in exports of linseed from India in 1935 was not confined to the United Kingdom but applied to practically all continental countries and the United States of America. I may add that there has been a considerable improvement in the exports of Indian linseed to the United Kingdom during the current year, the value of exports for the period January to June, 1936, being about Rs. 141 lakhs as compared with Rs. 26 lakhs during the corresponding period of 1935.

(d) The attention of the Honourable Member is invited to the Accounts relating to the Seaborne Trade and Navigation of British India for the month of June, 1936.

Mr. S. Satyamurti : Apart from the export of gold, may I know if the balance of trade of India today is very much less favourable to her, than it was, say, some years ago ?

The Honourable Sir Muhammad Zafrullah Khan : The figures with regard to the last three years, for the months April to June are :

For 1934, for the three months April to June, the balance of trade in merchandise alone, apart from bullion, was Rs. 7,62,00,000 ;

For 1935, for the same three months, Rs. 5,94,00,000 ;

For 1936, for the same three months, Rs. 13,55,00,000.

Sardar Mangal Singh : Is the Lancashire Indian Cotton Committee still working ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Sardar Mangal Singh : What is the position with regard to the imports of Indian cotton now into the United Kingdom ?

The Honourable Sir Muhammad Zafrullah Khan : It is being imported into the United Kingdom at a progressive rate ; but if the Honourable Member wants the exact figures, I am afraid I shall have to ask him to put down a question.

Sardar Mangal Singh : I want to know if the same progress is being maintained this year also ?

The Honourable Sir Muhammad Zafrullah Khan : I believe so generally, but, as I have said, if the Honourable Member wants exact figures he shall have to put down a question.

INDO-JAPANESE CONVENTION AND PROTOCOL.

122. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they have received any answer to their enquiries to the Chamber of Commerce respecting the Indo-Japanese Convention and protocol ;
- (b) whether it is a fact that the protocol has worked to the economic advantage of India ;
- (c) what are the effects on the trade of India of the working of this protocol ;
- (d) what steps they have taken or propose to take for the renewal of agreements with Japan ;
- (e) whether Indian commercial and other opinion will be taken into account ; and
- (f) whether in renewing the protocol, their prime object will be the expansion of India's export market on the basis of reciprocity ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) Yes.

(c) The Honourable Member is referred to the statistics relating to the exports of Indian raw cotton to Japan and imports of cotton piece-goods from that country into India, which have been published in the *Indian Trade Journals*, dated the 14th November, 1935, 4th June, 1936, and the 18th June, 1936, copies of which are in the Library.

(d) and (e). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

(f) Yes, Sir.

SEIZURE OF THE PASSPORT OF MR. SUBHASH CHANDRA BOSE AT PORT SAID.

123. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether it is a fact that Mr. Subhash Chandra Bose had his passport seized at Port Said ;
- (b) if so, under whose orders ;
- (c) why a policeman was detailed to mount guard on him, while he was aboard ship at Port Said, and under whose orders that was done ;
- (d) why Austrian police, at the request of the British authorities, closely watched him at Bad Gastein, and under whose orders this was done ;
- (e) how many letters of Mr. Subhash Chandra Bose have so far been intercepted, and why ;
- (f) whether any informers were employed to discover evidence against him ;
- (g) whether their attention has been drawn to the statement of Mr. Butler in the House of Commons on the 30th April, that the " Marquis of Zetland's information was that, whenever Mr. Bose regained his liberty he became the focus of revolutionary activity again " ; and
- (h) whether they supplied any information on which this statement was based ; if so, what that information was ?

The Honourable Sir Henry Craik : (a) to (c). I have no information as to these parts of the question, which relate to action stated to have been taken by the Egyptian authorities.

(d) It was important that the British authorities should be informed of Mr. Bose's whereabouts, but I understand that the measures taken were not more than was necessary for the purpose and did not amount to personal interference.

(e) I am not prepared to furnish this information.

(f) No.

(g) and (h). I have seen the Under Secretary of State's statement, which was based on the evidence against Mr. Bose.

Mr. S. Satyamurti : With reference to the answer to clauses (a) and (e) of the question, will the Government please call for the information ?

The Honourable Sir Henry Craik : No, Sir, because it is not a concern of the Government of India at all.

Mr. S. Satyamurti : With reference to the answer to clause (e) of the question, may I know if his letters are still being intercepted ?

The Honourable Sir Henry Craik : I have repeatedly said that it is not in the public interest to give any details about the postal censorship.

Mr. S. Satyamurti : With reference to the answer to clause (g) of the question, may I know what is the evidence which the Government of India supplied to the Marquess of Zetland on which this answer was based ?

The Honourable Sir Henry Craik : The nature of it was disclosed in the speeches made by Mr. Hallett and myself on the adjournment motion which was discussed last Session.

Mr. S. Satyamurti : Apart from the statements made on the floor of the House, which are now part of the proceedings of this House, was any other information supplied by the Government of India to the Secretary of State, on which this answer was based ?

The Honourable Sir Henry Craik : I cannot say off-hand but I imagine that probably there was.

Pandit Lakshmi Kanta Maitra : Did the Secretary of State call for any records of the Government of India on this matter, or did the Government of India voluntarily supply them ?

The Honourable Sir Henry Craik : I cannot recollect at the moment. The matter was the subject of correspondence with the Secretary of State.

Mr. S. Satyamurti : Will the Government of India be pleased to lay on the table of the House the information supplied to the Secretary of State in connection with this matter ?

The Honourable Sir Henry Craik : No, Sir. It will not be in the public interest to do so.

PROPOSALS FOR CONCLUDING RECIPROCAL TRADE AGREEMENTS BETWEEN INDIA AND CEYLON.

124. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the speech of Mr. Peri Sundaram, at the annual general meeting of the Indian Merchants Chamber of Ceylon, reported in the *Madras Mail* of the 30th April, 1936 ;

(b) whether they have any proposals for concluding reciprocal trade agreements between India and Ceylon ;

(c) if so, at what stage the matter stands ; and

(d) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) to (d). The Honourable Member's attention is invited to the reply given by me to parts (b) and (c) of Mr. Avinashilingam Chettiar's starred question No. 50 on the 2nd September.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that in spite of India's sticking to the Ottawa Agreement and showing preference to Ceylon articles, Ceylon has not been reciprocating at all ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question, and I hope the Honourable Member would give specific instances with regard to the lack of reciprocity.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

125. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they were consulted by the Secretary of State for India before he made his announcement regarding the new rules for the recruitment to the Indian Civil Service ;

(b) if so, what their recommendations were ;

(c) whether they will place a copy of their recommendations on the table of the House ;

(d) whether they have favourably expressed their opinion on the proposal to make good the shortage of recruitment by nominations from the Civil Service Commissioners in England ;

(e) the reasons why the Delhi Examination is intended to become the main channel of Indian recruitment ; and

(f) whether they have considered the effect of this new rule on Indian public opinion ?

The Honourable Sir Henry Craik : (a) to (d). It is not in accordance with the recognised practice to give publicity to views expressed by the authorities in India in correspondence with the Secretary of State in regard to matters, the decision on which rests with the Secretary of State.

(e) As a result of the recommendations of the Islington Commission, an examination was instituted in India to be the main source of recruitment of Indians to the Indian Civil Service. With the large number of Indians now being recruited it is clear that all reasonable opportunities should be offered to them to compete in their own country, that a preference should not be given to those candidates whose parents can afford the considerable expense of sending them to England, and that there should be no artificial inducements attracting Indian candidates to London, such as arise from an insufficient or markedly irregular number of vacancies being available at the Delhi examination.

(f) Yes.

Mr. S. Satyamurti : May I take it, therefore, that the Government of India have come to the conclusion that, in order not to encourage the Indians to go to England unnecessarily, no preference shall be given to any English degrees or England training, in respect of any appointments in the Government of India ?

The Honourable Sir Henry Craik : I do not think that result necessarily follows. In the case of the Indian Civil Service the over-riding consideration is that more vacancies should be available for Indians in India.

Mr. S. Satyamurti : I am asking for the elucidation of the answer. It is said that there should be no inducement for Indians going to England for getting into the Indian Civil Service. Therefore, they want to reduce the number of vacancies there and increase the number in India. I am asking whether, in logical pursuit of that policy, Government have considered or will consider that, with regard to appointments under their control or to which they recruit, they will not give any undue preference or give no preference at all to English training or the possession of English academic degrees ?

The Honourable Sir Henry Craik : I cannot see that that is a logical consequence of the decision. In any case, I am personally only concerned with the recruitment of the Indian Civil Service and the Indian Police Service and I am not sure to what extent other Services would give preference to candidates possessing English degrees.

Mr. S. Satyamurti : Is not my Honourable friend aware that, with regard to several appointments made by the Government of India, preference is given to the possession of English academic degrees or English training in public advertisements ?

The Honourable Sir Henry Craik : That may be the case with regard to certain appointments, mainly of a scientific nature. But in the case of none of these appointments are simultaneous examinations held in England and in India.

Mr. S. Satyamurti : With reference to answers to clauses (a) to (d) of the question, my Honourable friend said that it is the practice not to say anything on matters of correspondence. I have read the Rules and Standing Orders. The word used there is "controversy" and not "correspondence". In matters of controversy between the Government of India and the Secretary of State no question can be asked as to the nature of the controversy. I ask for your ruling, Sir, whether it is open to Government to say that, in matters of correspondence—the real word being used is "controversy"—they are entitled to say that they will not give any answer.

Mr. President (The Honourable Sir Abdul Rahim) : The Chair's ruling is—and it has been said before also—that if Government think that it is not in the public interest to disclose the contents of the correspondence, then they may refuse to answer.

Mr. S. Satyamurti : I accept your ruling, Sir, but they must say that, and not take shelter behind the word "correspondence" ?

The Honourable Sir Henry Craik : I certainly think that it is not in the public interest.

Prof. N. G. Ranga : In view of the fact that the Delhi examination is intended to be the main channel of recruitment, have Government considered the desirability of raising the maximum age-limit for recruits in India for the Indian examinations ?

The Honourable Sir Henry Craik : It has been raised by one year.

Prof. N. G. Ranga : Has it now been brought to the same level as it is in England ?

The Honourable Sir Henry Craik : Yes, that is one of the recent changes.

EFFECT OF TAKING INTO THE INDIAN CIVIL SERVICE OF NOMINATED PERSONS.

126. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the statement of Mr. Peters, Secretary to the Oxford Appointments Committee, published in the *Hindu* of the 30th April, 1936 that "Oxford candidates were lower than usual, there being a growing tendency to seek professions not requiring entrance examinations" ; and

(b) whether they have considered the effects of taking into the Civil Service nominated people who do not enter by stiff competitive examination ?

The Honourable Sir Henry Craik : (a) and (b). The reply is in the affirmative.

Mr. S. Satyamurti : Has the affirmative reply not produced any effect on my Honourable friend's mind, and does he not want to pursue this matter further, if Oxford candidates were lower than usual ?

The Honourable Sir Henry Craik : I have no acquaintance with Mr. Peters and no responsibility for the views he has expressed and they really do not carry very much weight with me.

Mr. S. Satyamurti : Is not my Honourable friend of the view that those who succeed him in these Services should be at least as good as he himself ?

The Honourable Sir Henry Craik : Certainly. Even better.

Prof. N. G. Ranga : Was the number of Oxford candidates lower than usual because the British Government are doing more for the relief of the educated unemployed than the Indian Government ?

The Honourable Sir Henry Craik : That question ought to be addressed to His Majesty's Government.

INDIA'S ECONOMIC SITUATION.

127. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the paper read by the Indian Trade Commissioner before the Royal Society of Arts, London, published in the *Hindu* of the 29th April, 1936, regarding India's economic situation ;

(b) whether they propose to examine the problems suggested by him ; and

(c) if not why not ?

The Honourable Sir James Grigg : (a) Yes.

(b) and (c). The aspects of the situation which Dr. Meek brought out are a part of the general economic problem which is the constant concern of the Government of India.

Mr. S. Satyamurti : Have the Government of India done anything in the matter ?

The Honourable Sir James Grigg : Yes, Sir.

Mr. S. Satyamurti : Namely ?

The Honourable Sir James Grigg : It will take a long time to recite all that Government have done.

Mr. S. Satyamurti : Will the Honourable Member give the House one or two illustrations to show how the Government have dealt with the economic situation ?

The Honourable Sir James Grigg : I have done that on several occasions and I cannot go on repeating it every time a question is asked. It is not in accordance with parliamentary etiquette to go on indulging in vain repetitions.

Mr. S. Satyamurti : Except in our absence.

The Honourable Sir James Grigg : I may say that I was not responsible for your absence.

Mr. S. Satyamurti : You were responsible for our absence, if anybody was.

INTERNMENT OF MR. SUBHASH CHANDRA BOSE.

128. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the comment of the *Manchester Guardian* on Mr. Subhash Chandra Bose's internment ;
- (b) whether their attention has been particularly drawn to the sentence " It would be a pity if colour is lent to the belief that Englishmen are natural hypocrites by the case of Mr. Bose ", published in *Amrita Bazar Patrika* of the 25th April, 1936 ;
- (c) whether their attention has been drawn particularly to the question " Is his treatment consistent with English standards of fair play ? " ;
- (d) whether they have any intention of releasing him ; and
- (e) if so, when ?

The Honourable Sir Henry Craik : (a) to (c). I have seen the Press report.

(d) and (e). As I have stated in reply to part (i) of the Honourable Member's question No. 9, the restrictions on Mr. Bose will be maintained so long as this is necessary in the public interest.

Mr. S. Satyamurti : What is the Honourable Member's reaction to the sentence in clause (b) of the question ?

The Honourable Sir Henry Craik : In the first place this seems to be asking for an expression of my personal opinion. In the second place I really do not see why the Honourable Member should be entitled to cross-examine me about a statement published in the Press which I had not seen at all till he sent it to me, for which I assume no responsibility and with which *a priori* I may be expected to be in profound disagreement.

COMMENT OF THE *Reynold's Weekly* ON THE ARREST OF MR. SUBHASH CHANDRA BOSE.

129. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the comment of the *Reynold's Weekly*, on the arrest of Mr. Subhash Chandra Bose particularly to the sentence " It was just like the Government of India to arrest Mr. S. C. Bose on the eve of the Congress at Lucknow " ;
- (b) whether they propose to ask the British Government to take action against the paper ; and
- (c) if not, why not ?

The Honourable Sir Henry Craik : (a) I have seen the Press report.

(b) and (c). No : I see no reason for any such action.

VIEWS OF THE FINANCE MEMBER ON INDUSTRIALISATION BY A PROTECTIVE POLICY.

130. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they have received a memorandum from the Indian Chamber of Commerce, Calcutta, criticising the views of the Honourable the Finance Member on industrialisation by a protective policy ;
- (b) whether they have examined the facts, figures, statements and arguments contained in the memorandum ;
- (c) whether they are prepared to controvert any of the facts, figures, arguments in the Memorandum ;
- (d) whether their attention has been drawn to the following sentences particularly, " The speeches of the Honourable the Finance Member discouraging the grant of protection are often interpreted by the public as implying an official policy against protection, and have an extremely unfortunate and adverse effect on the growth of industries " ;
- (e) whether they propose to take any action to correct the impression in the country ; and
- (f) what their answer to the Committee's hope is that they will give their careful consideration to this question and take suitable steps to reassure the public that they will give effect to the policy of protection less haltingly ?

The Honourable Sir James Grigg : I have already said on previous occasions that as a Member of the Government of India, I am bound to accept the policy of discriminating protection coupled with a due regard for the imperative revenue necessities of the country and the other safeguards recommended by the Fiscal Commission and adopted by the Government of India. The letter from the Indian Chamber of Commerce, Calcutta, appears to be directed to the support of the unrestricted extension of the accepted policy and continues a controversy which I am afraid cannot be suitably dealt with in reply to a question but which I am perfectly prepared to deal with on the proper occasion.

Mr. S. Satyamurti : With reference to the answer to clause (d), will the Honourable Member consider what the effect of his speeches will be on the interests concerned in this country, since he constantly talks against protection ?

The Honourable Sir James Grigg : I am entitled to my own opinion just as much as any other Honourable Member in this House is.

Mr. S. Satyamurti : But my Honourable friend is a Member of the Government of India, while we are not. I am asking whether my Honourable friend, in his speeches, will remember his responsibility as a Member of the Government of India, committed to a policy of discriminating protection.

The Honourable Sir James Grigg : As long as I make it clear that it is my personal opinion, I am perfectly entitled to give expression to it.

Mr. S. Satyamurti : I want to ask the Leader of the House—I do not know whether he is in the position of the Prime Minister, so far as the Cabinet of the Government of India is concerned,—I should like to know from him, whether the Government of India accept this position, that the Honourable the Finance Member of the Government of India can go about and make speeches supposed to be in his own personal capacity, against the established policy of the Government of India. He constantly says they are my personal views. The point I raise is of great constitutional importance. If the Honourable the Leader of the House likes, he can take his own time to answer this question. I should like him to give his considered reply to this question, whether the Government of India are going to allow individual Members of Government to air their views against the accepted policy of Government on the ground that they are their own personal views.

Mr. Ram Narayan Singh : It is not ordered Government but anarchy.

Seth Govind Das : In what capacity is the Honourable the Finance Member in this country ? Not in his personal capacity as Sir James Grigg ? But as the Finance Member of the Government of India.

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be discussed.

Mr. S. Satyamurti : I want an answer to my question from the Leader of the House.

Mr. President (The Honourable Sir Abdur Rahim) : Apparently the Leader of the House wants time to consider this question.

The Honourable Sir Nripendra Sircar : I have got no orders from the Chair to answer this question of my Honourable friend, Mr. Satyamurti.

Mr. S. Satyamurti : If a question is put and if the Honourable the President does not disallow it, the Government are bound to answer that question.

The Honourable Sir Nripendra Sircar : My Honourable friend wants me to express my opinion on a constitutional question. I am here to answer questions asking for information from the Government of India and not to answer questions asking for my personal opinion on constitutional questions.

Mr. S. Satyamurti : I am not asking for any opinion from the Leader of the House. I am simply asking what is the position of the Government of India with regard to public speeches made by Members thereof. Do they give them the liberty to express their personal views which are against the accepted policy of the Government, on the ground that they are only their own personal views ? I am asking for no expression of opinion at all. I want to know what is the position or the attitude of the Government of India in this matter ?

The Honourable Sir Nripendra Sircar : I do not know what is meant by 'what is the position of the Government of India.' Does that expression mean my personal opinion as to the position ?

Mr. S. Satyamurti : No, no. The position of the Government of India.

The Honourable Sir Nripendra Sircar : I cannot express Government opinion. I can only express my personal opinion today.

Mr. S. Satyamurti : If my Honourable friend wants notice of this question, I will put it down, if you, Sir, so direct. I merely want to get an answer to this important constitutional question, namely, the rights of individual members of Government to give expression to views which are against the accepted policy of Government.

The Honourable Sir Nripendra Sircar : I shall accept short notice.

Mr. K. Ahmed : Why don't you ask for the adjournment of the House to discuss this question and move a substantive resolution ?

ENCOURAGEMENT OF THE INDIAN COASTAL SHIPPING.

131. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article, entitled "Indian Coastal Shipping", in the *Hindu*, dated the 27th April, 1936 ;
- (b) whether they have examined the suggestions made therein ; and
- (c) whether they propose to encourage Indian coastal shipping on the lines British shipping is encouraged ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to.

(b) The article made no specific suggestion for adoption by the Government of India.

(c) The Honourable Member is presumably referring to the grant of subsidies by His Majesty's Government to tramp shipping. If so, I would refer him to my reply to part (c) of his starred question No. 1741 asked on the 17th April, 1936.

Mr. S. Satyamurti : Is there any proposal to grant any subsidy to coastal shipping ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : Does my Honourable friend realise that, when the Government of India Act, 1935, comes into force, we shall not be able to give any protection to Indian coastal shipping ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot offer any interpretation of the provisions of the Government of India Act, 1935.

Mr. S. Satyamurti : Is the Honourable Member considering the problem of Indian coastal shipping ? Is he considering any steps for the encouragement of Indian coastal shipping ?

The Honourable Sir Muhammad Zafrullah Khan : I have answered that question when answering starred question No. 1741 on the 17th April, 1936.

Mr. S. Satyamurti : Apart from the quota system which has been agreed to by Sir Joseph Bhore, which I think my Honourable friend is carrying on, is there any other step, under the contemplation of the Government of India, to encourage coastal shipping ?

The Honourable Sir Muhammad Zafrullah Khan : Of what kind ?

Mr. S. Satyamurti : Of encouraging coastal shipping in India ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is aware of the position with regard to the quota between different interests and so far as the question of subsidy is concerned, I have given my answer. I do not know what other steps the Honourable Member has in view.

Pandit Lakshmi Kanta Maitra : Is it not a fact that several representations have been made to the Government of India for granting subsidies to inland coastal shipping companies ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question, I have not got information here about representations made by coastal shipping.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

132. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article, entitled "The New I. C. S. Recruitment Rules" in the *Hindu*, dated the 28th April, 1936 ;

(b) whether their attention has particularly been drawn to the following sentence, "The decision of His Majesty's Government, however much they may try to camouflage the fact, involves nothing less than the introduction of differential standards for Indian and British candidates for the I.C.S., based on the racial discrimination" ; and

(c) whether they acquiesced in this decision ?

The Honourable Sir Henry Craik : (a) and (b). Yes.

(c) As I have already stated, it is not in the public interest to give the views expressed by the Government of India in matters the decision on which rests with the Secretary of State.

Mr. S. Satyamurti : Do the Government of India now accept that these rules are sound and are in the best interests of the country ?

The Honourable Sir Henry Craik : Is that not putting the question over again ?

Mr. S. Satyamurti : In the question, I asked about the past, but now I am asking about the present.

The Honourable Sir Henry Craik : The answer is, yes.

"ARTICLE ENTITLED "THE ZANZIBAR ENQUIRY" PUBLISHED IN THE *Hindu*.

133. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article, entitled "The Zanzibar Enquiry", in the *Hindu*, dated the 7th April, 1936 ;

(b) whether a special officer has been deputed to Zanzibar to watch the progress of the enquiry by Mr. Binder ; and

(c) what the latest position is in the matter ?

Sir Girja Shankar Bajpai : With your permission, Sir, I shall reply to questions Nos. 133, 139, and 140 together.

As announced in their communiqué, dated the 23rd May, 1936, the Government of India, with the concurrence of the Secretary of State for the Colonies, deputed Mr. G. S. Bozman, I.C.S., to act as observer on their behalf during Mr. Binder's enquiry into the working of the clove legislation in Zanzibar. Mr. Bozman returned to India on completion of Mr. Binder's enquiry. Further action in the matter must depend on Mr. Binder's report, which is awaited.

Mr. S. Satyamurti : In the meantime, will the Government take steps to see that the situation does not change for the worse, if it does not change for the better ?

Sir Girja Shankar Bajpai : As far as I am aware there is no action contemplated by the Government of Zanzibar which can affect the situation adversely.

Mr. S. Satyamurti : Will the Government of India expedite this matter, because it seems to me my Honourable friend is as well aware as myself, that any delay is likely to cause greater disaster to the Indian merchants ?

Sir Girja Shankar Bajpai : I think I stated in answer to a supplementary question of my Honourable friend the other day that both in regard to the clove legislation and the debt legislation, the Government of India are pressing for an early decision.

ZANZIBAR INDIAN NATIONAL ASSOCIATION'S MEMORANDUM SUBMITTED TO THE RIOT INQUIRY COMMISSION.

134. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the text of the Zanzibar Indian National Association's memorandum submitted to the Riot Inquiry Commission of Zanzibar, published in the *Hindustan Times*, dated the 12th April, 1936 ;

(b) whether they have enquired into the facts mentioned in the Association's memorandum ; and

(c) if so, the results of such enquiry ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The memorandum was submitted to the Riot Inquiry Commission who must have taken all the relevant factors into account.

(c) The results of the enquiry will be found in the Report of the Commission, a copy of which has been placed in the Library of the House.

Mr. S. Satyamurti : Do the Government of India consider any action called for, on their part in regard to this ?

Sir Girja Shankar Bajpai : The only allusion there was in the report as a circumstance directly affecting the Indian community was the effect of the debt legislation upon Arab mentality and we have taken that into account in our representation to the Secretary of State for the Colonies.

ARTICLE ENTITLED "INDIA'S DEFENCE" PUBLISHED IN THE *Statesman*.

135. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article, entitled "India's Defence", in the *Statesman*, dated the 15th April, 1936 ;

(b) whether their attention has been particularly drawn to the sentence, "The Russians have now found their enemies elsewhere and, having settled down to cultivate their garden, are possibly beginning to be glad that they did not succeed in destroying Britain" ; and

(c) whether they propose to examine the question of the defence of India from a new angle of vision ?

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

(c) The problems of Indian defence are consistently reviewed in the light of changing conditions but it must be remembered that the duty of the armed forces in India is primarily to maintain internal security and protect the frontiers against local aggression. Any larger emergencies are matters of joint Imperial policy for which India is not solely responsible.

Mr. S. Satyamurti : May I know, with respect to that part of the defence forces which is maintained, either primarily or secondarily for defence against foreign enemies,—using that phrase in the larger sense as opposed to frontiers,—whether the Government of India get any opportunity, from time to time, of placing before the authorities who decide Imperial foreign policy, the need for adjusting Indian defence forces, in view of events like those mentioned in clause (b) of the question ?

Mr. G. R. F. Tottenham : Yes, Sir, they get full opportunity of discussing matters of that kind.

Mr. S. Satyamurti : What is the machinery by which the Government of India are enabled from time to time to place before the authorities who decide this question of imperial foreign policy, the view of the Government of India ?

Mr. G. R. F. Tottenham : They can do so by correspondence.

Mr. S. Satyamurti : Is there any regular machinery which, for example, meets once in a year or once in two years or oftener or less often, in order to bring to bear on this very important problem the views of the Government of India as such ?

Mr. G. R. F. Tottenham : No, Sir ; there is no regular cut-and-dried machinery of that kind.

Mr. S. Satyamurti : May I take it, therefore, that, so far as the defence forces are intended for purposes other than local peace or frontier peace, somebody gives the orders, and we have got to foot the bill ?

Mr. G. R. F. Tottenham : I have explained that the forces of India are not maintained for purposes other than internal security and the defence of the frontier against local aggression.

Mr. S. Satyamurti : May I take it, therefore, that Indian forces are no part of Imperial defence for any purpose whatever ?

Mr. G. R. F. Tottenham : Only in part.

Mr. S. Satyamurti : How much ?

Mr. G. R. F. Tottenham : As the Honourable Member is well aware, if an Imperial emergency arises and if the situation in India permits, it has been the custom in the past and will be the custom in the future, for India to lend a detachment of her troops for Imperial purposes.

Mr. S. Satyamurti : May I take it, therefore, that if there is any foreign invasion of India, India's frontiers will be protected against foreign enemies by other than Indian defence forces, and they will have to take no part in that defence ?

Mr. G. R. F. Tottenham : Certainly they will take a share in the defence, but it would be impossible for the Indian defence forces as at present constituted to resist on their own an attack by any major power.

Mr. S. Satyamurti : To the extent, therefore, to which the Indian defence forces have got either to defend her frontiers against foreign enemies, or to defend Imperial interests, will the Government of India suggest to His Majesty's Government a machinery by which the views of the Government of India, in the light of these and other similar facts, may be brought to the notice of those who decide such questions ?

Mr. G. R. F. Tottenham : I think there is ample machinery for that purpose at present.

Mr. S. Satyamurti : Is there any machinery except correspondence ?

Mr. G. R. F. Tottenham : What other machinery can there be in the circumstances ?

Mr. S. Satyamurti : There can be conferences between the representatives of the Government of India and the representatives of His Majesty's Government, at which all these and other relevant considerations may be discussed, and they can come to a conclusion as to what should be the size and cost of the Indian defence forces.

Mr. G. R. F. Tottenham : Of course there are from time to time, as the Honourable Member is aware, such things as Imperial Conferences at

which India is represented and at which matters of this kind are often discussed. But besides those Conferences the existing machinery seems to be perfectly adequate for the purpose the Honourable Member has in view. The Secretary of State after all is a member of the British Cabinet as well as Secretary of State for India, and we are in close touch with him.

Mr. S. Satyamurti : Did the Government of India address the Secretary of State on the matters mentioned in clauses (a) and (b) of the question ?

Mr. G. R. F. Tottenham : These, Sir, are views expressed by a certain newspaper in India. I do not think there is any necessity, because a paper in India expresses views of this kind, for us immediately to address the Secretary of State on the subject.

Mr. S. Satyamurti : Is it not a very "friendly" newspaper ?

Prof. N. G. Ranga : Is there any joint standing committee or Council consisting of the representatives of these two Governments concerned in this matter, to review the external defence questions of India from time to time ?

Mr. G. R. F. Tottenham : No, Sir ; there is no joint standing committee, but there is the Committee of Imperial Defence in England.

Prof. N. G. Ranga : Are there any representatives of the Government of India on that Imperial Defence Committee ?

Mr. G. R. F. Tottenham : Certain representatives of the Government of India often attend meetings of sub-committees or other boards of the Committee of Imperial Defence.

Prof. N. G. Ranga : Do they attend as fraternal delegates or have they got a right to vote ?

Mr. G. R. F. Tottenham : I suppose if they attend they can vote ; I do not know.

Sardar Mangal Singh : May I know what steps the Government of India contemplate to take for the protection of the civilian population against gas attacks ?

Mr. G. R. F. Tottenham : I am unable to discuss that matter.

Sardar Mangal Singh : They are taking steps in England for the protection of their civilian population. If there is a gas attack here in Simla or Delhi, how would you protect the civilian population ?

Mr. G. R. F. Tottenham : That hardly arises out of this question ?

ORDER OF THE DISTRICT MAGISTRATE OF MIDNAPORE SERVED ON MR. AMARENDRA NATH CHATTOPADHYAYA.

136. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the sentence in the order of the District Magistrate, Midnapore, on Mr. Amarendra Nath Chattopadhyaya, M.L.A., text of which has been placed on the table of the House, on the 7th April, 1936, that, "In particular, you shall not attend any meeting called for the

purpose of discussing the establishment of such Union Boards, nor shall you remain present in any meeting at which such establishment may be discussed" ;

- (b) whether their attention has been also drawn to the following portion of the order, "I hereby direct that while you are in the district of Midnapore you shall abstain from inciting to or encouraging by speech or action, opposition to the carrying out of the provisions of the Bengal Village Self-Government Act, 1919" ;

- (c) whether they have made enquiries as to the cause of passing of such an order on an Honourable Member of the House ; and

- (d) if so, what the reasons are ?

The Honourable Sir Henry Craik : (a) and (b). Yes. A copy of these orders was laid on the table on the 7th April, 1936.

- (c) Yes.

(d) The orders were passed on Mr. Chattopadhyaya to prevent him from encouraging or inciting others to oppose the peaceful application of the provisions of the Village Self-Government Act in certain areas in which it had been lawfully put into force.

Mr. S. Satyamurti : Has the Honourable the Home Member considered that this order is a very comprehensive one, viz., he shall not attend any meeting called for a particular purpose and he shall abstain from inciting to or encouraging by speech, etc. ? Does the Honourable Member realise that this is too much of an interference with the freedom of speech of an Honourable Member of this House ?

The Honourable Sir Henry Craik : That seems to be asking me for my personal opinion on an order passed by an officer subordinate to the Local Government.

Pandit Lakshmi Kanta Maitra : May I know under what provision of the law this action was taken against this gentleman ? What is the provision of the law which empowers the District Magistrate to issue an order like that ?

The Honourable Sir Henry Craik : It is one of the special Bengal Acts. It will take me some little time to trace it.

Pandit Lakshmi Kanta Maitra : Where is the Act which prevents a man from attending a meeting ? You will see the question itself. "You shall not attend any meeting called for the purpose of discussing the establishment of such Union Boards, nor shall you remain present in any meeting at which such establishment may be discussed." Is there anything political or terroristic about it ?

The Honourable Sir Henry Craik : The order was passed under section 4 of the Bengal Public Security Act, 1932.

Prof. N. G. Ranga : Are the Bengal village self-governing institutions being imposed upon the villagers against their will or are they established with their co-operation ? If they are established with the co-operation of the villagers what is the objection to Mr. Chattopadhyaya taking sides in the question whether the villagers should have these self-governing institutions or not ?

The Honourable Sir Henry Craik : That is a question, which ought to be addressed to the Bengal Government. I have no knowledge of the circumstances in which this particular Act was introduced.

Prof. N. G. Ranga : In view of the fact that this particular Act relates entirely to non-political affairs and the village self-governing institutions are expected to be established there only for the benefit of the public for non-political purposes, I should like the Government of India to say under what authority they have permitted this particular order to be still in force as against an Honourable Member of this House ?

The Honourable Sir Henry Craik : The Bengal Village Self-Government Act presumably is an Act that concerns local self-government in Bengal which is a transferred department entirely under the Ministers of the Local Government. I have no responsibility whatever for that and I do not know anything about it.

Pandit Lakshmi Kanta Maitra : Does the Honourable Member realise that in the body of the question itself there is not the faintest suggestion that he was going to incite people to violence or disaffection against Government ? If so, will the Honourable Member kindly enlighten us as to how action is called for under that drastic provision of the Bengal Criminal Law Amendment Act which is intended to combat terrorism in Bengal ?

The Honourable Sir Henry Craik : That seems to me to contain an argument.

Pandit Lakshmi Kanta Maitra : It does not. In view of the fact that the body of the question itself discloses that there was no intention on the part of this gentleman by addressing people about the formation of union boards, to encourage or incite to violence or disaffection against the Government—that being in the very nature of the order itself—will the Honourable Member now explain to the House why it is that action was taken under that emergency law which is intended mainly to combat terrorism in Bengal ?

The Honourable Sir Henry Craik : I imagine that the District Magistrate who passed this order in exercise of a statutory power had good ground for considering that the order was desirable for the maintenance of the public peace and tranquillity.

Seth Govind Das : Did the District Magistrate consult the Local Government when he passed this order ?

The Honourable Sir Henry Craik : The Local Government have taken responsibility for this order, yes.

Pandit Lakshmi Kanta Maitra : In view of the fact that this order of the District Magistrate is a serious encroachment on the privileges of an Honourable Member of this House, in that an Honourable Member wishing to address a meeting in his own constituency was prevented from doing so, did the Honourable Member make any inquiries as to the circumstances which led this District Magistrate to pass this order.

The Honourable Sir Henry Craik : The Honourable Member is getting more and more argumentative : I cannot reply to all that.

Pandit Lakshmi Kanta Maitra : I am not. I simply want to know from the Honourable the Home Member whether he made any inquiries, because an Honourable Member of this House has been prevented from addressing a meeting in his own constituency, and, as is disclosed from the order, the question is not of a political character, nor such as would incite to murder or terroristic activities. That being so, did the Honourable Member make any inquiries from the Bengal Government as to why this action was taken under this drastic provision of the law, which was not intended to tackle this kind of action ?

The Honourable Sir Henry Craik : If the Honourable Member will refer to the answer given to part (c) of the question, he will see that I replied "yes".

Pandit Lakshmi Kanta Maitra : That is not the point. You, Sir, as the custodian of the rights and privileges of Members of this House.....

Mr. President (The Honourable Sir Abdur Rahim) : What is the answer to part (c) ?

The Honourable Sir Henry Craik : The answer is "Yes".

Mr. S. Satyamurti : Do Government propose to take any action to protect the right of free speech of Honourable Members of this House in their own constituencies at least, provided they are satisfied that speeches are not in the direction of inducing people to disobey authority or to commit acts of violence ?

The Honourable Sir Henry Craik : That is a very wide question : it does not seem to me to arise out of this.

Mr. S. Satyamurti : Yes, it does. Mr. Chattopadhyaya is a Member of this House, and he went to address meetings in his own constituency, in regard to a very legal act. I am simply asking, in order that we may know our own position, to decide our future course of action. Will Government take any steps to protect the right of free speech of Members in their own constituencies, subject to the right to prohibit speeches if they tend to excite to civil disobedience or acts of violence ?

The Honourable Sir Henry Craik : The Honourable Member had better put down a question on that.

Mr. S. Satyamurti : May I know what are the results of this inquiry, in answer to part (d) ?

The Honourable Sir Henry Craik : I answered that in reply to part (d).

Pandit Lakshmi Kanta Maitra : We could not understand it : will you kindly give the answer again ?

Mr. President (The Honourable Sir Abdur Rahim) : He has given his answer.

Pandit Lakshmi Kanta Maitra : We could not follow it : this is an important matter.

Mr. President (The Honourable Sir Abdur Rahim) : Perhaps the Honourable the Home Member will repeat the question. The point is, as the Honourable Member cannot follow the answer, will he repeat the question.

The Honourable Sir Henry Craik : The answer was :

"The orders were passed on Mr. Chattopadhyaya to prevent him from encouraging or inciting others to oppose the peaceful application of the provisions of the Village Self-Government Act in certain areas in which it had been lawfully put into force."

INDIANISATION OF THE ARMY.

137. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- whether their attention has been drawn to a leading article, entitled, "Indianisation of the Army", published in the *Amrita Bazar Patrika*, dated the 11th April, 1936 ;
- whether their attention has been drawn to the full text of the speech of Sir Philip Chetwode, former Commander-in-Chief of India ; and
- whether their attention has been drawn particularly to the sentence, "The pace of Indianization would be hastened not only by the production and constant flow of the right stamp of Indian officers, but also by the display of a little more good-will on the part of political India and a little more help and less of the perpetual criticism and crabbing" ?

Mr. G. R. F. Tottenham (a) to (c). Yes.

Mr. S. Satyamurti : Does the Honourable Member agree with the opinion of Sir Philip Chetwode, especially in clause (c) of the question ?

Mr. G. R. F. Tottenham : The Honourable Member appears to be asking that part of his original question which was disallowed by you, Sir, presumably on the ground that it asked for an expression of opinion.

Mr. President (The Honourable Sir Abdur Rahim) : You are not bound to answer any question if it is asking for an opinion.

Mr. S. Satyamurti : You will see, Sir, that clause (c) says that the pace of Indianisation would be hastened by a little more help and less of the perpetual criticism and crabbing. If we know it, we may do less of it. I want to know—since this gentleman is no longer the Commander-in-Chief in India—whether this represents the position of the Government of India today, because it is a very important problem ; and if by less criticism, we can get more Indianisation, I would like to do so. I want to know.

Mr. President (The Honourable Sir Abdur Rahim) : If it does not imply an expression of opinion, certainly it should be answered.

Mr. M. Ananthasayanam Ayyangar : Has the policy of the Government of India changed in view of what Sir Philip Chetwode has stated ?

Mr. G. R. F. Tottenham : No : the policy of the Government of India remains what it always has been.

Mr. M. Ananthasayanam Ayyangar : Therefore, the pace of Indianisation would not be accelerated in spite of this statement ?

Mr. G. R. F. Tottenham : Not on account of it or in spite of it.

Mr. S. Satyamurti : May I know if the policy of the Government of Indianising the army depends not only on the production and constant

flow of the right type of Indian officers, but also on the display of a little more good will on the part of political India ? Has that anything to do with the pace of Indianisation ? Is it merely an attempt to try to buy political peace or a threat to keep it back, unless we do not criticise ?

Mr. G. R. F. Tottenham : The policy of the Government of India is, as I have already explained, what it always has been. It is not affected in any way by criticism, but it might be easier without it.

Mr. S. Satyamurti : May I take it the only question will be efficiency of the Indian army and nothing else, that the pace of Indianisation will depend only on the efficiency of the Indian recruits, whether ranks or officers, and will have nothing to do with political criticism ?

Mr. G. R. F. Tottenham : Certainly, yes.

Sardar Mangal Singh : Do the Government of India intend to call a meeting of the military conference which was held in Delhi last April again, to consider the question of producing the best material for the Indian army ?

Mr. G. R. F. Tottenham : I cannot see how that question possibly arises out of this, but still the answer is 'yes'.

Sardar Mangal Singh : When ?

Mr. G. R. F. Tottenham : That will depend rather on when the Honourable Members of the Council of State arrive, who are taking part in the Conference.

Sardar Mangal Singh : But the Government know when they are arriving ?

Mr. G. R. F. Tottenham : But we have not been able to ascertain their wishes individually.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

138. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- whether it is a fact that pending approval of the negotiations between India and Japan by Britain, provisional arrangements for holding such conference for fresh Indo-Japanese pacts, are being made ;
- whether these negotiations are being carried out between India and Japan directly or through the intervention of Great Britain ; and
- when and where the proposed conference is likely to be held ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

Mr. S. Satyamurti : With reference to the answer to clause (b)—the latter part of it—is there any intervention of Great Britain in these negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : No. The negotiations are going on direct between India and Japan.

Prof. N. G. Ranga : Is the conclusion of these trade conversations and negotiations now going on likely to be postponed until a trade pact is arrived at between England and India ?

The Honourable Sir Muhammad Zafrullah Khan : The two negotiations have nothing to do with each other ; they are both being carried on independently.

APPOINTMENT OF AN OFFICER TO WATCH THE INTERESTS OF INDIANS IN ZANZIBAR.

†139. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they have examined the suggestions of the Imperial Citizenship Association that an officer should be deputed to Zanzibar with a watching brief on behalf of Indians whose interests are threatened by the clove decrees ;
- (b) whether they have come to any conclusion on the matter ; and
- (c) if so, when they propose to make the appointment ; if they do not propose to do so, the reasons why ?

INDIAN CLOVE GROWERS' INTERESTS IN ZANZIBAR.

†140. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the statement of Mr. P. S. Doctor, leader of the Zanzibar Indian Deputation, regarding Indian Clove Growers' interests in Zanzibar, published in the *Hindustan Times*, dated the 17th April, 1936, and the need for watching carefully the enquiry by Mr. Binder ;
- (b) their arrangements in this behalf ; and
- (c) what the latest position is ?

CERTAIN STATEMENTS CIRCULATED BY THE ROYAL CONSUL GENERAL FOR ITALY, CALCUTTA.

141. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the following statements in a paper circulated by the Royal Consul General for Italy, Calcutta ;

- “(1) It is a proved fact that only England and her Dominions and Colonies have uttered statements about poisonous gas employed by Italian troops. In all the rest of the world, no responsible personality has made such statements, and even the press of the rest of the world has confined itself to reproduce, in some instances, the news of the British telegraphic agencies, the bad faith of which is well-known.
- (2) Undoubtedly, it is criminal on the part of men who, here and elsewhere, are engaged in preaching the ideal of peace and justice, to give credit to facts about which they are unable to produce the proofs, while science is in a perfect position to ascertain them ; and this is done with the only object in view to create an atmosphere of war and to dig an ever increasing deep abyss amongst the nations.

† For answer to this question, see answer to question No. 138.

- (3) Authoritative expressions of sympathy for the Italian enterprise are being received from abroad.”

- (b) whether they propose to take any steps to stop circulation of any such statements through the means of Indian Post Offices ; and

- (c) if not, why not ?

Sir Aubrey Metcalfe : (a) Yes.

(b) and (c). As the circulation of these communiqués has now stopped, it is not proposed to take any steps in the matter.

Mr. S. Satyamurti : Why is the Government so patient, in view of this statement,—“ the news of the British telegraphic agencies, the bad faith of which is wellknown ” ?

Sir Aubrey Metcalfe : The Government of India always have to be patient. They learn how to be in this House.

Mr. S. Satyamurti : I congratulate my Honourable friend on the neat answer he has given, but I submit that is no answer to my question. I am asking why the Government of India allow the postal agency to be utilised in this manner. Just look at (2) ‘ It is criminal on the part of men who, here and elsewhere, are engaged in preaching the ideal of peace and justice, etc.’ I want to know why the Government of India are setting this example of acquiescing in such libellous statements being circulated all over the country with the aid of the Indian taxpayer's money ?

Sir Aubrey Metcalfe : It is somewhat difficult for the post office to discover always exactly what is inside communications of this kind. I think the Honourable Member will agree that the post office in India is used by other people than by the Italian Consulate for correspondence which is definitely anti-British and anti-Government.

Mr. S. Satyamurti : Is the Honourable Member aware that most of our letters are censored, some are destroyed and are stolen ? May I know when all that is done to the Indian taxpayer, why the Italian Consul should be treated as a superior person, whose letters ought not to be interfered with ? Our letters are stolen.

(No reply.)

PETITION FROM THE AMRITSAR COMMERCIAL ASSOCIATION TO THE BOARD OF INLAND EXPERTS FOR ENQUIRY INTO THE INDIAN INCOME-TAX SYSTEM.

142. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the petition from the Amritsar Commercial Association, Amritsar, to the Board of Inland Experts for Enquiry into the Indian Income-tax System c/o The Central Board of Revenue, Simla ;

- (b) whether they have enquired into the allegations contained in the petition ;

- (c) whether they have taken any steps to remedy their grievances ; and

- (d) if so, what they are ?

Mr. A. H. Lloyd : (a) Yes.

(b), (c) and (d). The representation of the Amritsar Commercial Association was received in May, 1936, and was passed on to the Expert Advisers to the Government of India on income-tax subjects for consideration. The Expert Advisers have not yet submitted their report.

Mr. Lalchand Navalrai : May I know, Sir, if in conducting their inquiry, the income-tax experts are taking any evidence to know the grievances of the people ?

Mr. A. H. Lloyd : The expert advisers of the Government of India spent fully six months in going round the country meeting representatives of all interests concerned in various large towns.

Mr. S. Satyamurti : What is the procedure, the Government of India contemplate taking, on receipt of the Report of these experts ?

The Honourable Sir James Grigg : I would rather wait until the Report is received and then decide what procedure we should adopt. If the Honourable Member means whether public opinion will be taken on it in some form or other, certainly.

Mr. S. Satyamurti : And the opinion of this House ?

The Honourable Sir James Grigg : I don't want to give any undertaking until I see in what form the Report is sent to us and what action we are likely to take on it.

Mr. S. Satyamurti : May I take it that the Government have not decided not to consult this House ?

The Honourable Sir James Grigg : That is so.

Mr. Lalchand Navalrai : May I know why when consulting the public they have taken no evidence or kept no record of the grievances of the people ?

The Honourable Sir James Grigg : They received a number of written representations ; they had interviews with representative bodies ; whether they have actually taken short-hand notes of the oral evidence, I do not know, but the Honourable Member may take it for certain that they have fully discussed in all large towns with all representative bodies everything they wished to put forward in relation to income-tax. I should think it is extremely likely that a large part of the discussions were informal.

Mr. Lalchand Navalrai : Will there be anything on record to show what the actual grievances of the people are ?

The Honourable Sir James Grigg : I imagine the Report will contain all that.

Mr. Ram Narayan Singh : What are the terms of reference ?

The Honourable Sir James Grigg : I gave those in this House several times a year ago.

ARTICLE ENTITLED "THE MADRAS BUDGET" PUBLISHED IN THE *Madras Mail*.

143. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article, entitled "The Madras Budget", in the *Madras Mail*, dated

the 26th February, 1936, commenting on the Honourable the Finance Member's speech ;

(b) whether their attention has been drawn particularly to the sentence ; "So that once more Madras may be left with only the consciousness of her own good virtues while others walk off with the spoils" ; and

(c) whether they pressed Sir Otto Niemeyer to meet the claims of Madras ?

The Honourable Sir James Grigg : The Government of India have no doubt that in making his recommendations Sir Otto Niemeyer took into account the claims of all Provinces.

Mr. S. Satyamurti : May I know whether my friend is aware that Madras has balanced her Budget for many years by pursuing a parsimonious policy of expenditure, and whether the Honourable Member is satisfied that Sir Otto Niemeyer did not give any reasonable consideration to the claims of Madras as was given, for example, to Bengal ?

The Honourable Sir James Grigg : I don't quite follow what the Honourable Member says. Does he suggest that Sir Otto Niemeyer did not give any consideration to the claims of Madras ?

Mr. S. Satyamurti : As much as he did to other provinces ?

The Honourable Sir James Grigg : The Honourable Member must realise that virtue is sometimes its own reward, and that necessity sometimes must have more consideration than virtue.

Mr. S. Satyamurti : May I take it, therefore, that the Government of India's policy is that insolvent provinces should be given as much help as they can, rather than the solvent provinces who have striven to balance their budgets at great sacrifice of the nation building departments ?

The Honourable Sir James Grigg : Shall we say necessitous provinces ?

Prof. N. G. Ranga : Is it not a fact, Sir, that this phrase necessitous provinces is the result of the permanent settlement of land revenue in Bengal and United Provinces all of whom are able to show surplus Budgets ?

Mr. President (The Honourable Sir Abdur Rahim) : Order, order.

Mr. S. Satyamurti : What is the net concession given to Madras, as a result of Sir Otto Niemeyer's Report, and the conclusions thereon accepted by the Government of India ?

The Honourable Sir James Grigg : I think, as far as Sir Otto Niemeyer's inquiry proper was concerned, Madras got nothing ; it has got a few odds and ends in regard to the adjustment between the centre and the provinces, but those are matters between the Government of India and Madras, and not matters arising out of Sir Otto Niemeyer's inquiry.

Mr. S. Satyamurti : Do the Government of India realise that the result of Sir Otto Niemeyer's recommendations is that the provinces have to become insolvent, before they can force the Government of India to give any kind of subventions to them ?

The Honourable Sir James Grigg : I don't accept that. When I said just now that Madras got nothing, I meant by way of initial subsidy. Madras will get a pretty good percentage of the ultimate distribution of income-tax and Honourable Members opposite can accelerate that, and by supporting the Railway Bill a little more than they have so far done.

Mr. S. Satyamurti : May I know if the Government of India propose to take any steps to make the Railways pay, instead of asking us to support impossible Bills ?

The Honourable Sir James Grigg : Yes, Sir, but I don't accept the expression impossible Bills.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that so far as Bengal was concerned, her claims were ignored by Sir Otto Niemeyer ?

(No reply.)

DISPUTE REGARDING THE TINNEVELLY-TIRUCHENDUR RAILWAY LINE.

144. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) at what stage the dispute between the Tinnevelly District Board and the South Indian Railway, on the Tinnevelly-Tiruchendur Railway line, stands ;

(b) whether they have perused the legal opinion of Mr. T. R. Venkatarama Sastry, Advocate, Madras, and *ex-Advocate* General ; and

(c) whether they propose to settle this matter in a satisfactory manner, as early as possible ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Notice has been given by Government that the existing arrangements will terminate on 31st March, 1937, from which date the District Board will have to make their own arrangements for working the railway.

(b) Yes.

(c) Government consider that the terms they have offered the District Board are fair and reasonable.

Mr. S. Satyamurti : Have Government considered the opinion of Mr. T. R. Venkatram Sastri to the effect that, if the negotiations do not prove successful, there is an obligation on the Secretary of State to arrange to work the Railway ?

The Honourable Sir Muhammad Zafrullah Khan : I have considered the opinion.

Mr. S. Satyamurti : And have the Government taken any steps to expedite the negotiations, in order to avoid either the Railway not being worked at all, or the Secretary of State having to work it, according to the opinion of this Advocate ?

The Honourable Sir Muhammad Zafrullah Khan : I said I have considered the opinion. I did not say I agreed with it. There is no question of expediting negotiations. The view that the legal opinion to which the Honourable Member has referred takes is that the Secretary of State is bound to arrange for the working of this Railway ; the view that the

Government of India take is that this contract is terminable, and they have given notice to terminate it.

Mr. S. Satyamurti : Have Government taken any steps either to revise their opinion, or at least to see that their opinion is sound, in view of the opinion of the Madras Advocate, and have they taken legal opinion subsequently ?

The Honourable Sir Muhammad Zafrullah Khan : Government see no reason to reconsider that the position they have adopted is not open to objection.

Mr. S. Satyamurti : Are their terms of notice final, or can we negotiate this matter, to see if there can be a smooth settlement ?

The Honourable Sir Muhammad Zafrullah Khan : Government have, in addition to giving notice and subject to the notice, made an alternative offer to the District Board which they think is perfectly fair and reasonable.

Mr. S. Satyamurti : Will Government be prepared to consider any counter-offer from the District Board of Tinnevelly ?

The Honourable Sir Muhammad Zafrullah Khan : That is a hypothetical question. Let a counter-offer come first.

APPOINTMENT OF A COMMITTEE TO ENQUIRE INTO THE WORKING OF THE POLICY OF PROTECTION.

145. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they propose to appoint a Committee to examine how the policy of protection has been worked in this country from the point of view of industries, large and small consumers and general tax-payers ;

(b) if so, when ; and

(c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) Does not arise.

(c) No case has been made out for such a Committee.

Mr. S. Satyamurti : May I know whether the Government accept that the policy of protection has got to be examined from all these points of view, that is, industries, large and small, consumers and general tax-payers ?

The Honourable Sir Muhammad Zafrullah Khan : The policy is kept under review from these and other points of view.

Mr. S. Satyamurti : When was any enquiry made last, from these relevant points of view, into the working of protection in this country ?

The Honourable Sir Muhammad Zafrullah Khan : Information is constantly coming in, which is examined as it comes in.

Mr. S. Satyamurti : By whom is it examined ?

The Honourable Sir Muhammad Zafrullah Khan : By the relevant departments concerned.

Mr. S. Satyamurti : Is there any expert, scientific, economic, or political, who applies his mind to the question, apart from the departmental examination of simply noting and filing ?

The Honourable Sir Muhammad Zafrullah Khan : Government consider that no conditions have arisen which justify any further examination than the departmental examination to which this information is subjected.

Mr. S. Satyamurti : Are Government, on the whole, satisfied with the results of the policy of protection, so far pursued in this country ?

The Honourable Sir Muhammad Zafrullah Khan : That is a very large question on which I cannot give a categorical yes or no.

Mr. S. Satyamurti : Will Government have this question examined by a competent expert committee, because of these constant alarms and excursions ?

The Honourable Sir Muhammad Zafrullah Khan : I have already given a reply to that.

Mr. S. Satyamurti : Examination by the departments concerned has satisfied the Government that there is no need for an expert enquiry ?

The Honourable Sir Muhammad Zafrullah Khan : Government are satisfied that no case has been made out for setting up a committee of the kind that the Honourable Member has suggested in this question.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to part (d) of starred question No. 24 asked by Mr. S. Satyamurti on the 4th February, 1936.

CIRCULAR re SUPPORT TO SHIPPING COMPANIES.

Attention is invited to the statement laid on the table on the 9th April, 1936, with reference to parts (b) and (c) of starred question No. 1308 asked by Mr. N. V. Gadgil on the 1st April, 1935.

Information promised in reply to starred question No. 491 asked by Prof. N. G. Ranga on the 14th February, 1936.

PERSONS ARRESTED IN CONNECTION WITH THE " AGENCY REBELLION " IN THE MADRAS PRESIDENCY.

(a) (i) About 100. This represents only the number of arrests for offences under sections 121, 121A and 122 of the Indian Penal Code and not on minor charges such as abetment, giving false information, intentional omission to give information.

(ii) Ninety-one.

(iii) Fifty-four.

(iv) Number remaining at present in the Madras Jails is 27.

(v) None in the Madras jails.

(vi) (a) Six.

(b) Nil.

(vii) Twenty-seven in the Madras Jails. Five in the Andamans.

(viii) Four died in jails in the Madras Presidency. One died in the Andamans.

(b) Mr. Vegiraju Narayana Raju died of spru on the 8th April, 1929. Intimation of his death was sent to the District Magistrate, Kistna, for communication to his relatives.

(c) Mr. Gomer Mallu Dorai is at present in Jail. He has not served the full term of his sentence.

(d) He is due for release in the usual course on 11th May, 1949. His case is due for consideration under the fourteen year rule in August, 1936.

(e) (i) to (iv). Gamu Gautauna Dora's wife and daughter were not arrested. Gautauna Dora's daughter, Sanyasamma, married Chelikantamayyadora five years ago, and is living with him at Pedda Burada village in the Gudem taluk of the Vizagapatam District and doing cultivation and cooly work.

Gautauna Dora's wife died about 8 or 9 months ago.

(f) and (g). The rebellion area has been peaceful since 1934 and transport facilities have been much improved. There have, however, been minor disturbances in recent years in other parts of the Agency Tracts and it cannot be stated with assurance that there is no likelihood at all of trouble arising in future in the rebellion area.

The case of three prisoners were reviewed recently under the 14 year rule, but it was not considered advisable to release them and their cases will be considered again when they have completed 20 years, including remissions. The Government of Madras are examining the cases of all the remaining prisoners to see whether they can be released unconditionally or on condition of residing elsewhere than in the Gudem Agency without danger to the peace of the area.

Information promised in reply to the supplementary question asked by Pandit Lakshmi Kanta Maitra in connexion with starred question No. 1383, dated the 23rd March, 1936, by Mr. Muhammad Azhar Ali.

ELECTRICITY SUPPLY IN THE SHAHDARA TOWN OF THE DELHI PROVINCE.

At Shahdara the number of electric conductors below the height of 15 feet is 49. The average height of these conductors is 12 feet. All these conductors are adequately guarded, and are not accessible without the help of a ladder or other special appliance. They, therefore, conform to rules 62 (2) and 64 (4) of the Indian Electricity Rules, 1922.

Information promised in reply to unstarred question No. 552 asked by Dr. N. B. Khare on the 7th April, 1936.

PERSONNEL ORGANISATION ON STATE RAILWAYS AND THE ACTIONS TAKEN THEREON BY THE RAILWAY BOARD.

Mr. Heseltine made an enquiry into the personnel organisation on the East Indian Railway in 1927. He recommended certain reductions in superior and subordinate posts, some of which were accepted. He also advised against any extensive reform of the personnel organisation on the East Indian Railway until further experience had been gained of the form of organisation which had then recently been introduced on the North Western Railway.

2. In 1934, Mr. Pope examined the personnel organisation on the North Western and East Indian Railways and recommended the adoption by the East Indian Railway of the organisation in force on the North Western Railway. This recommendation has been accepted and is in process of adoption.

Information promised in reply to unstarred questions Nos. 571 to 573 asked by Mr. N. M. Joshi on the 7th April, 1936.

OLD EAST INDIAN RAILWAY LEAVE RULES FOR THE STAFF EMPLOYED IN THE EAST INDIAN RAILWAY SCHOOLS.

Question No. 571.—(a) Yes.

(b) The reply to the first part of the question is in the affirmative. As regards the latter part, the enclosure referred to does not create a new department of railway service but merely provides for the grant of leave under definite rules to railway servants who are allowed vacation.

(c) No. These are the rules made by the Governor General in Council to suit the conditions of railway services.

(d) No.

(e) and (g). Generally speaking the new leave rules are not as liberal as the Fundamental Rules but leave in case of sickness and on medical certificate can be granted under the new State Railway Leave Rules.

(f) No.

(h) Yes.

(i) There may be some cases of this type.

(j) Staff who do not enjoy full vacation or those who may have leave on average pay due to them can avail of it but those who have no leave on average pay due to them cannot get leave on average pay but can avail of leave on half average pay under the New State Railway Leave Rules.

(k) and (l). Orders have been issued that staff who come under the rules referred to should be allowed to count their previous service for leave and may carry forward such leave as may be due to them in May, 1935.

(m) No. Staff appointed in the Oakgrove School on or from the 1st April, 1930, are governed by the New State Railway Leave Rules.

(n) Government regret that they are not prepared to liberalise the leave rules.

APPOINTMENT, DISCHARGE AND DISMISSAL OF STAFF IN THE EAST INDIAN RAILWAY SCHOOLS.

Question No. 572.—(a) Yes.

(b) Government understand that the Agent, East Indian Railway, has under consideration draft rules which provide for schools to be managed by Divisional Superintendents acting through an executive Officer. The rules regarding appeals will be the same for teaching staff as for other railway staff.

(c) These Schools were and are at present managed by Committees.

(d) This was not the only factor taken into consideration.

(e) Government do not consider that the arrangement contemplated is contrary to the Railway Board's decision.

(f) Government are aware that Executive Officers referred to will be railway officers.

(g) Very probably.

(h) I would refer the Honourable Member to the reply given to the latter portion of part (b) of question No. 1156 asked by Mr. P. S. Kumaraswami Raju on the 29th March, 1935.

(i) Government have no information.

(j) As regards the first part, only the Headmaster of the East Indian Railway High English Indian School at Asansol enjoys the same scale of pay as Headmaster

of High English Indian Schools maintained by the Government of Bengal. Headmasters of the East Indian Railway Indian Schools at Sahibganj, Jamalpur, Dinapore and Tundla do not enjoy the same scales of pay as Headmasters of Government schools of the provinces in which they are situated as they do not possess the requisite qualifications. The Headmasters of these four schools have been placed on lower scales of pay according to the advice given by the Director of Public Instruction of the Province concerned. Headmasters of Railway Schools have not the same powers as Headmasters of Government Schools.

The reply to the latter part of the question is in the negative.

GAZETTED RANK FOR THE FOUR HEADMASTERS OF THE EAST INDIAN RAILWAY INDIAN HIGH SCHOOLS.

Question No. 573.—(a) Yes.

(b) The considerations were the importance of the posts, the status of the holders, and the practice of Local Governments.

(c) The present Principal is a gazetted officer. The others hold honorary gazetted rank.

(d) As regards the scales of pay I would refer the Honourable Member to the information laid on the table of the House in reply to the first portion of part (j) of question No. 572 asked by him on 7th April, 1936. The Headmasters of the Railway Schools have not been given the same powers as Headmasters of Government Schools of the Provinces in which these schools are situated.

(e) No.

Information* promised in reply to part (d) of starred question No. 1648 asked by Mr. M. Ananthasayanam Ayyangar on the 16th April, 1936.

EXPENDITURE INCURRED BY THE GOVERNMENT OF INDIA ON DELEGATES SENT TO LEAGUE OF NATIONS, ETC.

Year.	In what connection expenditure was incurred.						Amount.
1924-1925 ..	International Labour Conference	..	..	..	..	..	27,125
1925-1926 ..	Do. do. do.	..	..	..	..	..	16,859
1926-1927 ..	{ Indian Delegation to the League Assembly						12,114
	" " " International Labour Conference	..	..	..	..	..	25,570
1927-1928 ..	{ " " " League Assembly						42,934
	" " " International Labour Conference	..	..	..	..	..	25,663
1928-1929 ..	{ " " " League Assembly						8,686
	" " " International Labour Conference	..	..	..	..	..	29,714
1929-1930 ..	{ " " " League Assembly						8,403
	" " " International Labour Conference	..	..	..	..	..	87,616
1930-1931 ..	{ " " " League Assembly						50,552
	" " " International Labour Conference	..	..	..	..	..	44,449

*Information in regard to India's contribution to the League of Nations from the year 1921 to 1936 is contained in the statement on page 1893 of the Legislative Assembly Debates, dated the 26th February, 1936.

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Year.	In what connection expenditure was incurred.		Amount.
1931-1932 ..	Indian Delegation to the League Assembly ..	..	21,428
	" " " International Labour Conference ..	..	43,918
	" " " Disarmament Conference ..	..	4,320
1932-1933 ..	" " " League Assembly ..	..	3,641
	" " " International Labour Conference ..	..	15,111
	" " " Disarmament Conference ..	..	5,694
1933-1934 ..	" " " League Assembly ..	..	2,320
	" " " International Labour Conference ..	..	14,967
	" Delegate " Child Welfare Commission ..	..	1,358
	" Delegation " Disarmament Conference ..	..	173
	" " " League Assembly ..	..	630
1934-1935 ..	" " " International Labour Conference ..	..	19,491
	" Delegate " Child Welfare Commission ..	..	460
	" Delegation " League Assembly ..	..	3,034
1935-1936 ..	" " " International Labour Conference ..	..	32,700
		(Revised Estimate).	
	" Delegate " Protection and Welfare of Children and Young People Commission, etc.	..	1,752

Information promised in reply to starred question No. 1655 asked by Mr. K. M. Jedhe, on the 16th April, 1936.

CONFIRMATIONS OF OFFICIALS AND INFERIOR SERVANTS IN THE BOMBAY POSTAL CIRCLE.

(a) As regards the first part, all such officials have since been confirmed. The reply to the second part is in the affirmative.

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

Information promised in reply to starred question No. 1812 asked by Sirdar Jogendra Singh on the 21st April, 1936.

ORDERS FOR THE DEMOLITION OF BUILDINGS ISSUED BY THE DELHI MUNICIPAL COMMITTEE.

(a) The Government have seen the newspaper article referred to by the Honourable Member. The relevant bye-law, permitting reconsideration of a decision has been revised so as to mitigate delay due to such reconsideration.

(b), (c) and (e). Till the beginning of this year all building cases, without any distinction between original and appellate cases, were entered in a single register: consequently it is regretted that in spite of every effort it has not been possible for the Delhi Municipality to collect the statistical details asked for.

(d) Under a bye-law framed under section 31 of the Punjab Municipal Act. The second part does not arise.

RULING RE ADJOURNMENT MOTIONS.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I promised yesterday to give a ruling with reference to the adjournment motion standing in the name of Mr. Satyamurti which was disallowed by the Governor General acting under rule 22 (2), whether the President can act on an order....

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : We cannot hear.

Mr. President (The Honourable Sir Abdur Rahim) : whether the President can act on an order passed by the Governor General under rule 22 (2) before leave had been granted by the House for the motion being made. The previous ruling of mine on this point which Mr. Satyamurti has asked me to reconsider was to the effect that the Governor General, acting under rule 22 (2) can, if he so chooses, pass his order disallowing a motion at any stage; that is to say, as soon as notice has been given of such a motion and before leave has been granted by the House. I have reconsidered the matter, and I have had the advantage of its being argued fully from both sides of the House, and I shall now state the conclusions at which I have arrived on further consideration. The first stage is the giving of notice to the Secretary of a motion for adjournment which an Honourable Member wishes to move, and then the President has to see whether the motion is in order according to the Rules and Standing Orders of the House. Then he ascertains from the Members of the Assembly whether the Honourable Member who has given notice has leave of the Assembly to move the motion. If any objection is taken, he has to find out whether not less than 25 Members are for leave being granted, and then he puts down the motion for being heard at 4 o'clock the same day. Now, rule 22 (2) says :

"The Governor General may disallow on grounds aforesaid (that is, on grounds that the moving of such a motion would be detrimental to the public interest or that it is not primarily the concern of the Governor General in Council) any motion for adjournment under rule 11, notwithstanding the consent of the President, and if he does so, the adjournment shall not be permitted by the President, and no further discussion of the motion shall take place."

The President cannot rule out a motion on those specific grounds. It does seem from the wording of this rule that the Governor General is to pass his order after the President has given his consent to the motion being moved, or, when the motion is being heard at any subsequent stage, he can disallow the motion. I must here observe that paragraph 49 of the Manual of Business and Procedure does not correctly set forth, at least so far as the wording is concerned, rule 22 (2), and I do not quite understand how this paragraph came to be drafted in that way, for the language is not the same as that of rule 22. And I have no doubt that confusion has arisen to some extent owing to the wording of paragraph 49 of the Manual of Business and Procedure. It may be that it may make no practical difference in any particular case whether the order is passed by the Governor General before or after consent of the President has been obtained to the motion being moved. But what I have to lay down is what is the proper time at which the order is to be passed by the Governor General, and on further consideration I have come to the conclusion that the proper time at which the Governor General is expected to pass an order, if he so chooses, disallowing a motion notwithstanding that it has

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been consented to by the President is after the consent of the President has been given. ("Hear, hear" from Congress Party Benches.) On the question whether it may make any substantial difference, I may observe that it may be worth the while of the Governor General to know whether the President found the motion in order and whether Members of the House or any number of Members of the House were for leave being granted for the motion being heard on the ground that it is a definite matter of urgent public importance. The Governor General,—it is not inconceivable—may in some cases be influenced in the passing of his order by these facts. Anyhow, on further consideration, I must hold that my previous ruling was wrong, and I must express my regret if that has caused inconvenience to any one. I am obliged to Mr. Satyamurti for having raised this question again. (Applause from Non-Official Benches.)

MOTION FOR ADJOURNMENT.

STRICT NEUTRALITY ON THE PART OF LOCAL GOVERNMENTS IN RESPECT OF PROVINCIAL ELECTIONS.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, I want to ask for leave to move my adjournment motion—to consider the activities of the various Provincial Governments, especially of the North-West Frontier Province, against the legitimate activities of the Congress with respect to elections.

The Honourable Sir Nripendra Sircar (Leader of the House) : I have no objection at this stage which can be taken before you.

Mr. President (The Honourable Sir Abdur Rahim) : The motion will be taken at 4 o'clock today.

STATEMENT *RE* DEMONSTRATIONS AGAINST THE RULING OF THE CHAIR.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Mr. President, had I any intimation that you intended to make any statement with reference to the incidents which occurred towards the close of the sitting of this House on the 2nd instant, I would have been in my seat yesterday to say what I had to say with reference to those matters. In a sense, that omission perhaps is fortunate in that I have now had an opportunity to read in cold print the statement made by the Chair and also the benefit of the Chair's advice that I and those who think with me should consider calmly over these incidents and I take this early opportunity of making my position and of those who think with me clear as regards those incidents.

In the beginning I should observe that it was one of those rare occasions even in the life of this House and while I have read of similar occasions and events in other public Assemblies, more often than not they have been largely the result of a deliberate action by which any section of the House intended to express its protest by the kind of conduct which you have called a demonstration. In fact, it is to the credit of this particular occasion that without any premeditation of any kind the integral part, nearly the majority, of this House spontaneously, without any deliberation of any kind, as a natural instinct of a resentment,

undertook to do what they did on that evening. For it was not a calculated act to offend any individual person but nonetheless it was the spontaneous expression of what they believed to be a protest against wrong. With great deference to your position and the numerous personal qualifications with which you are endowed, I maintain that the attitude of that section of the House that evening was amply justified and I say that with great sense of responsibility, not as a mere matter of phrase making as it is often used but with the amount of anxiety and care which I have devoted to its consideration and while your rulings or judgments may not be questioned in the sense that they should be obeyed no more and no less than the judgment of a tribunal, no man may surrender his judgment to another man, however eminent he may be. In a recent judgment of the Privy Council, the Lord Chancellor took the opportunity of pointing out that even while the judgment of a tribunal may be enforced against a person it does not involve the privation of his personal liberty of judgment to differ from that tribunal and to express that difference in the most unmistakable language. There is therefore a real distinction between the obedience to the ruling, whatever it may be and accepting its correctness, a distinction which I have no doubt with your long judicial experience you will easily appreciate and understand. It is not merely a matter of toleration but it is a matter of appreciating that while one's judgment one has a right to maintain to be right, another individual has an equal right and privilege to differ from it and to express it in his conduct. You have been pleased to state that it is not the concern of the Chair whether any group of individuals remain in the House during any particular debate and to that extent your wide experience ought to show you that in all public assemblies of this kind a walk out is a method, a well known method of active protest against what they believe to have been wrong conduct not necessarily of the Chair but of the incidents taken as a whole. Our conduct was not intended to express any personal want of confidence in you as you are well aware how that matter stands but undoubtedly our conduct was intended to express an active protest at the incidents taken as a whole, particularly of the conduct of the Government in the matter of that motion as well as undoubtedly to express a disappointment according to us of the ruling as given by you, for it had the effect, according to our conception, of preventing a defeat of a measure on that occasion. It is in that spirit and in that spirit alone that we have dared to take the step we did take spontaneously supported by the integral part being nearly the majority of this House. I am also aware that on many occasions of this kind men in your position have even come to the conclusion that the House could not continue its sittings any longer in that it was not sufficiently well constituted. It was for you to exercise that privilege or not according to your discretion but I would even venture to invite an opinion that the occasion demanded that having regard to what occurred the House was not representatively constituted, to use the language of many of the rulings of the House of Commons and that the matter could not have gone in the manner in which it dragged its course for some 15 minutes thereafter. In order to enable you to appreciate the position that we took up, it is necessary to remember and appreciate the events that took place as a whole. It is not in us to ask you to come to a particular judgment but it is undoubtedly in us to influence you, to advise you, and to argue before you, so that you may come to a right judgment in all public matters. It must be remembered,

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therefore, what was the occasion. It was what was described as an adjournment motion, and in the very nature of the rules of this House it can only be raised on a matter of urgent public importance of a definite character, and in our view there can hardly be any difference once a motion of this kind is admitted, because it is common ground and can only be admitted if it is definite, if it is urgent, and if it is of public importance. In order, therefore, that your judgment may be influenced on that occasion, it is somewhat difficult for you at all events to appreciate the degree of importance of any particular motion for the very rules require and involve that before it can be allowed it shall and must be a matter of public importance. Nonetheless, the greater the importance of the matter as you may conceive it, the greater the care required to regulate the debate in such a manner that the purpose of it, at all events one of the most important purposes of it may not be defeated by any conduct either of a group or of any individual Member of this group. It is your bounden duty to see, having regard to the very importance of the matter, that the House shall record its opinion, at all events shall have a reasonable opportunity of so doing, and it is all the more urgent for that reason.

You may perhaps remember—and I have studied the matter with care since the incident occurred—that matters of urgent public importance can be raised even in the Assemblies of those countries where they are self-governing, and you cannot forget that a censure of Government for an act or omission which we have a right to conceive to be wrong is a great instrument of value, both in its public aspect as well as in the language which was used during the discussion of the last two days as a deterrent at all events to any irresponsible and irresponsive Government. It is one of those valued rights which is expressly conferred upon this House and all the more to be cherished, because there are other methods of expressing disapproval of the measures of Government where the Opposition is the alternative Government. There at all events their appeal to the country results in the displacement of those who have been guilty of those wrongs. In this land, where we are not yet in that position, you must appreciate the nature of an adjournment motion before it can be ever allowed to be dealt with in the manner in which as it accidentally happened that day. It must be remembered that for that very reason a limited time is allowed for the motion between four or any earlier hour upto six. It must also be remembered that the Chair has no discretion in allowing any Member to address the House for more than the space of fifteen minutes. It is also a matter of common sense and I hope it is clearly apparent to everybody in this House that on an occasion like this, and having regard to the limitations of time, if every Member who wanted to address the House occupies the allotted time, not more than seven, barely eight could address the House, unless the only object of a motion like this is that it shall be talked out. All those considerations were present to us, as they must be present to you and as they ought to be present to those who are opposed to us and it cannot be complained on their part that some one or the other of them had not an opportunity to address the House on a matter of importance. It gives me great pleasure to note, Sir, in the statement that you made that you called the attention of the Members of the Government that they should rise at an early stage if they have to make out any case because after all every case of this kind involves or at all events in most

of this kind involve some form of displeasure or censure upon the Government. All that you can do is to give the opportunity which the law has given but although you may take the horse to the water, you cannot make him drink. If those who have any answer to make do not care to get up at an earlier stage, their dereliction of duty cannot be an excuse, as it happened, for higher right or privilege. (Applause.) It was their obvious duty if they so desired, if they had any case to make. Undoubtedly it is up to you, when many Members of the House wish to address the House on an occasion of this kind, that those only will catch your eye who, rightly according to you, will throw a light on the question under debate. That privilege they have, but if I am to understand by that rule that any Member of this House, because he happens to be on the Treasury Bench—an expression that is sometimes used here, but it is undoubtedly our treasury that is in their possession (Laughter)—imagines that he enjoys any higher privilege by reason of that position, I think it is due to you and to your position that you should make that clear at the very earliest possible opportunity. (Applause.) For how can it be? When a Member moves a motion for adjournment, it is intended to call for an answer. The charge is laid, the reasons are given, the Members of Government sit in their places watching the running down of sand in the hope that the sands will so run out that then, at all events, they will be able to go out of this House and say to themselves for one day at all events we have escaped your censure. (Hear, hear.) That certainly cannot be in any sense of the term an attitude that ought to be encouraged or an attitude that can be regarded as right. Even on this occasion, by the time my Honourable friend, Sir Muhammad Zafrullah, got up to speak, nine Members had already addressed the House.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair made it quite clear in its statement that it did not desire that its ruling should be criticised on this occasion. ("Hear, hear" from the Official Benches.)

Mr. Bhulabhai J. Desai : While I recognise the pleasure of those who enjoyed this interruption....

An Honourable Member from the Official Benches : Is it an interruption?

Mr. Bhulabhai J. Desai : it was not my desire to criticise it.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair wanted to make that quite clear.

Mr. Bhulabhai J. Desai : I will make that again clear. I thought I had made it amply clear at the very commencement of the observations that I submitted. It is permissible to me or to anyone to say, "another judgment was possible", a remark which does not at all involve any reflection on the judgment arrived at by you or by any other tribunal, however eminent. I, therefore, Sir, will only say one word and will pass on to a further consideration which I have got to place before you. I thought, Sir, I ought not to omit to make the statement that six Members had already spoken against this motion and three in favour. It is also a fact, which I think I am entitled to mention without questioning your judgment, that it required little more than a mere suggestion, it required almost a pressing request before the Member in charge would rise from

[Mr. Bhulabhai J. Desai.]

his seat, and in fact his grievance was that he would not get up to reply because only two Members from the Congress Benches had addressed the House. I fail to understand either its meaning, its purpose or its justification, for he ought to have known, as I pointed out before, that there are at the most eight speakers available if each one of them speaks for fifteen minutes.....

Mr. F. E. James (Madras : European) : Why not bring in a no-confidence motion ?

Mr. Bhulabhai J. Desai : and if, therefore, men, who have no defence to make, get up here constantly, talking about their interests in this land but who are always wanting to get something out of it (Hear, hear), if two of them get up here and called the attack of the Congress vitriolic, there was no reason why the Member of Government did not get up. If they had got up, I have no doubt that they would have caught your eye earlier than others, but they got the protection from their friends. Sir, I have no objection to any Member of the House entertaining any opinion or even expressing it in any language he likes but he may not say that on a proper examination of the Rules of this House, a proper examination of the events as they have occurred, any other man may not entertain, as honestly and as earnestly, a different opinion of their conduct. I quite agree. I was pleased to note in your statement that the Chair is not concerned with the opposition between two parts of the House nor with the motives which prompt the Parties or an individual. I quite agree that, while the Chair may not impute motives to any Member or a Group, the Chair is human enough to understand the obvious consequences of conduct either of men or of Groups. While, therefore, you may not impute motives, you cannot fail to take note of the object and purpose of the conduct of men, otherwise we should have been in vain in an Assembly of this kind if we did not exercise our judgment and our common sense as to the conduct of men and the purpose of the motives that lie behind it. In that sense, Sir, the object of the intervention of the Finance Member was perfectly obvious. Its object was obvious and if any justification is required, I have had the advantage of a calm consideration of reading his speech in print. In your statement you say—and say it rightly—and I accept your judgment upon it that Sir Muhammad Zafarullah had replied to the debate as it had gone so far. What more there was to be done ? It was quarter to six. If Sir Muhammad Zafarullah had replied to the debate as far as it had gone and, knowing that there was two hours' limit for discussion, it was inevitable that the intervention of any other person could only have been intended for an obvious purpose. Nonetheless, I have had the advantage of reading that speech : I will not comment on it on this occasion. I will only say this that if ever there was a doubt as to the purpose of that intervention that doubt has now entirely been dispelled by the substance of his speech. There is nothing added to the matter by way of reply on the motion before the House and he had the cold satisfaction of bringing certain matters to which I will not refer now, but I will ask the Government to remember that the lie in the soul will merit its own punishment and it will not be long in coming if this is the kind of method by which they are going to carry on the business of this House. We feel that, while we respect

your judgment, we are not bound to agree with it and we feel that we have done right by ourselves, we have done right by our conscience and we have done right by those who look to us for protection. (Loud Applause from Congress Party Benches.)

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

ORDER FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : I have received an Order from the Viceroy and Governor General :

"In exercise of the power vested in me by sub-rule (2) of Rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. S. Satyamurti to move the adjournment of the House for the purpose of considering 'the failure of the Government of India to enforce strict neutrality on the part of Local Governments in respect of political parties and their propaganda for the ensuing provincial elections especially in the North-West Frontier Province' on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Signed) **LINLITHGOW,**
Viceroy and Governor General."

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Is that a fresh Order or the old Order ?

Mr. President (The Honourable Sir Abdur Rahim) : It is a fresh Order.

Mr. S. Satyamurti : Is it dated today ?

Mr. President (The Honourable Sir Abdur Rahim) : It is dated 4th September.

STATEMENT RE DEMONSTRATIONS AGAINST THE RULING OF THE CHAIR—contd.

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, on behalf of this side of the House, Government officials and their Supporters, I desire to convey our assurance that any ruling and decisions given by the Chair will be faithfully and strictly carried out in letter and in spirit. If observations made by the Chair do not amount to ruling or decisions, but are meant for the guidance of this House for better conducting its proceedings, they will be followed in exactly the same spirit. My Honourable friend, the Leader of the Opposition, has made a statement today which I do not desire to deal with at length. It is a statement of justification, there is not one word of regret in it for what I may legitimately call deplorable and disgraceful exhibition which took place on a particular day.

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muhamadan) : Certainly not.

The Honourable Sir Nripendra Sircar : One ground offered is that it was spontaneous. Sir, spontaneity seems to be greater than charity in covering a multitude of sins. You may spontaneously throw inkpots on the other side. That does not seem to matter in the least. Sir, my Honourable friend gave us the benefit of his knowledge of a Privy Council Ruling, and said that the Privy Council ruled.....

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, on a point of order. I submit the word 'disgraceful' is out of order. I have got here May's Parliamentary Practice. At page 325 of May's Parliamentary Practice, we have the following :

"The use of temperate and decorous language is never more desirable than when a Member is canvassing the opinions and conduct of his opponents in debate."

Illustrating that, it is said, 'contemptuous or insulting language of any kind' ought not to be used. At the foot-note of that page a number of unparliamentary expressions are given. "Disgraceful"—143. ib. 827,—this word is unparliamentary. I want your ruling, Sir, on this point.

The Honourable Sir Nripendra Sircar : Sir, as I understood my Honourable friend to read from May's Parliamentary Practice, I must not use the word 'disgraceful' in respect of an opponent in debate. There was no debate. The people who were acting in that manner were not those engaged in a debate and if it soothes my Honourable friend's feelings, I will use the word "lamentable" and withdraw the word "disgraceful". Will my Honourable friend see further down in that list that one of the words used is "dirty trick" which is an unparliamentary expression, frequently used against the Government.

Mr. S. Satyamurti : The Honourable Member cannot take exception to any unparliamentary expression except at the time it was used. He cannot sit tight for six months, and then one fine morning come out with this objection.

The Honourable Sir Nripendra Sircar : I am not taking any objection now because that expression has not been used now.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had better proceed with his speech. (Laughter.)

The Honourable Sir Nripendra Sircar : I will describe that incident as lamentable and deplorable, provided these words are not barred by the foot-note in May's Parliamentary Practice. That is a mild description of the exhibition which took place here the other day. The Privy Council ruling says that the suitor has got to obey the ruling, although his personal opinion may be different and he is quite free to entertain a different opinion. The Privy Council ruling does not go on to say that in confirmation of that right of personal opinion and as demonstration in support thereof as soon as the judgment is delivered, he can throw books and papers at the Judge and indulge in war whoops and wild dances. If it were like that, the ruling might have been of some assistance to my Honourable friend.

Now, Sir, my Honourable friend also referred to 'walk out' as a constitutional protest. But no one objects to the walk out, and no one has objected to the walk out, but the walk out was accompanied with things

which cannot be described in parliamentary language and so I should not try to describe them. That is the gravamen of the accusation against them.

Then, Sir, one little point remains. The point was made and my Honourable friend was attacking the behaviour of the Government in the Honourable the Commerce Member getting up late. I would remind the House that it has happened practically every time during adjournment motions and I will give a recent instance at once that the Government Members have been out-manoeuvred by getting up early. The last instance which must be fresh in the minds of this House is the adjournment motion on the new recruitment rules for the Indian Civil Service. It is in our recollection it must be also in yours, Sir, that there was a tremendous shout for closure, repeated shouting for closure, with the result that the Member in Charge, and he was the only person who could deal with it competently, he got up—that is Sir Henry Craik. After the Honourable Sir Henry Craik resumed his seat, we found there was no anxiety for a division then because still more than 15 minutes were left and the Home Member was followed by Pandit Govind Ballabh Pant with the result that the points which were made by him in his usual forceful manner could not be met at all from this side of the Government.

Then, Sir, one statement which is inaccurate,—I hope that is a parliamentary expression,—which fell from my Honourable friend opposite was that the Honourable the Commerce Member had finished. Indeed he had not. He made it perfectly clear.....

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Sir, on a point of personal explanation, I have just corrected the transcript of the official writer. I have never used the words "he had finished". I merely gave the quotation of the Chair that the Honourable Sir Zafrullah Khan replied to the debate so far as it had gone.

The Honourable Sir Nripendra Sircar : I accept the correction,—in so far as the reply had gone, I will put it before the House whether it was possible for a Government Member to finish in 15 minutes knowing that although there was this great anxiety for a division, the debate was not confined to the specific and definite matter which was the subject-matter of the motion of adjournment. That was the failure of Government.....

Mr. M. Asaf Ali (Delhi : General) : Is not that a reflection on the Chair ?

The Honourable Sir James Grigg (Finance Member) : Let the Chair take objection.

The Honourable Sir Nripendra Sircar : Sir, I do not suggest that the points which were taken were irrelevant ; points may be made to have a bearing on the one definite matter which is the subject-matter of the motion. But the fact remains that although two speakers were set up by the largest group of the Opposition, the points discussed were not merely the failure of Government to place the matter before the Assembly. They discussed the Tariff Board, they insinuated or rather suggested that we select men from time to time merely to sign across dotted line and that is the reason why that decision agrees with our previous forecast. They attacked the constitution of the Tariff Board, attacked the whole of the policy of protection, dilated on the effect of this measure which has been approved by Government on the textile industry ; they raised the constitutional point as regards our powers and referred to previous assurances given. If in

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meeting these charges two Members, the Commerce Member and the Finance Member, have taken half an hour, I submit there is nothing about which any complaint can be made. Is it the complaint that half an hour has been taken by Members of Government when all these points had to be discussed ?

Another inaccuracy,—again I am open to correction,—was this. My Honourable friend said that six members had spoken in opposition and three in support of the motion. According to my counting Mr. Joshi, Pandit Malaviya, Mr. Chettiar and Pandit Govind Ballabh Pant make not three but four. It has also to be remembered that if it is our idea that every Member should take up the full 15 minutes permissible under the rules, it is rather curious that nine speakers had spoken and finished in an hour and three-quarters and Mr. Ramsay Scott and Dr. Dalal took a few minutes each.

An Honourable Member : What about Pandit Malaviya ?

The Honourable Sir Nripendra Sircar : He may have done the same ; I make no point of it. Now it is obvious that the whole scheme was that there was not going to be a debate. Raise all your points, make all your comments and come out with all your insinuations and charges through the mouth of two speakers, and then there was not going to be any debate. That, Sir, is a curious side-light.....

Mr. Bhulabhai J. Desai : Sir, I should like to point out that you stopped me from examining this matter and dealing with it. I have no objection but I wish to point out to you that while they say they wish to obey your judgment or rather expression of opinion, I am afraid, it is not being done.

The Honourable Sir Nripendra Sircar : The point was made that six Members had spoken in opposition and three for the motion, and that Sir James Grigg was very late, and so on. These were points raised by my Honourable friend.

Mr. M. S. Aney (Berar Representative) : Sir, on a point of order, your statement clearly indicated that you did not want a debate over this matter. I am afraid the statement which the Honourable the Leader of the House is making is nothing but creating points of debate over the same.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair thinks that there should be no debate on its statement. The Chair made this clear in that very statement and it does not propose to allow any debate on this matter.

The Honourable Sir Nripendra Sircar : As a matter of fact I have no other points in connection with the incidents of that day, and those I have discussed are obviously relevant. I really do not want to take up further time of the House except repeating the assurance with which I started. I will not go into the matter of what was relevant or irrelevant in the speech of the Honourable the Finance Member, having regard to your ruling. Otherwise I would have gone into it. With that I resume my seat.

THE INDIAN MOTOR VEHICLES (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the Bill further to amend the Indian Motor Vehicles Act, 1914.

Mr. S. K. Das-Gupta (Bengal : Nominated Official) : Sir, the point which I was pursuing when we dispersed last evening was that, under existing conditions of things, railways had to compete on unequal terms with other transport agencies. The belief that, as monopolists, they enjoy the privilege of working unfettered by any restrictions has become rather ancient. The railways, as you know, have several Statutory obligations to discharge. Their freight rates are controlled by a series of complicated rules and their passenger rates are also subjected to a statutory maximum, and in the matter of wages to be paid to their employees their hands are tied and their working hours are also limited. It is also well known that they have to construct and maintain a permanent way the entire cost of which is borne by them. It is certainly desirable that if competition is inevitable it must be on fair terms and wasteful competition is to be avoided. It is very unfair to assume that the proposed legislation has been conceived in a spirit of giving undue advantage to any monopolistic concern and of stifling the motor transport industry in this country. The public can legitimately demand cheap transport facilities but this should be provided on economic lines and not to be obtained by cut-throat competition.

In India there are about 13,000 miles of metalled road in close vicinity of railways on a considerable proportion of which intensive competition between motor interests and the railways is taking place causing a loss of nearly 1½ to 2 crores of rupees per year to the railways. I believe none can view with equanimity the effect of this uneconomic competition on the railway finances. He must be a bold man who would say that the time has come for us to eliminate the railways altogether. The existence of the railways is essential if the trade and industry of the country are to develop on normal lines. They are also necessary to meet the needs of the passenger traffic. If the railways are to remain something must be done to prevent this increasing inroad on their income by unfair competition. But the point which I want to stress is that apart from the question of competition with the railways, even in the interest of the bus-owners themselves it is necessary that the problem of motor transport should be properly tackled. We know that unfair and cut-throat competition has been the cause of ruin of many bus-owners and the plying of motor buses which could scarcely be considered roadworthy has very often been responsible for unfortunate road accidents of a very serious nature. The safety of the travelling public must be the primary concern of the Government and as I have more than once stated before the main object of the Bill is to amend the law with that end in view. The fear that the transport committees will conduct themselves in a way that would injure the interests of the poorer section of the bus-owners appears to me to be groundless. In the United Provinces where such committees have actually been set up, all interests have found representation, and I believe the representatives of bus-owners are also there in the committee. I hope my Honourable friend, Mr. Dey, will be able to enlighten us more upon this point.

Lastly, I do not share the view of my Honourable friend, Sir Ghulam Husain Hidayatallah, that the present Bill seeks to encroach upon the powers of Local Governments. It will be seen that all the amendments

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proposed seek to confer power upon Local Governments which it will be left entirely to them to use.....

Sir Ghulam Husain Hidayatallah (Sind Jagirdars and Zamindars : Landholders) : What about the Legislature ?

Mr. S. K. Das-Gupta : It is quite possible that a time will come when the claims of the road interests in opposition to the railways will be admitted ; and time alone perhaps will show how this Bill itself will work ; but in the meantime it must be admitted as a simple proposition that it is no good duplicating facilities where they exist, while they could be diverted to places where no facilities exist at present ; and I can assure that there is no reason to fear that the road interests will be adversely affected by the proposed law. Sir, I oppose the motion for circulation and support the original motion.

Sardar Mangal Singh (East Punjab : Sikh) : Sir, I have very carefully listened to the speech of the speaker who has just resumed his seat....

Mr. N. M. Joshi (Nominated Non-Official) : Did you hear it ?

Sardar Mangal Singh : I heard him. The Bill before the House raises the very important issue of the co-ordination of rail and road. Let me point out at the very beginning that by the word co-ordination the railways are trying to put all the restrictions on one side. I would be thankful if the Member in charge of the Bill can point out a single instance in which any restriction has been placed on the railways as against the motor road traffic....

Mr. S. K. Das-Gupta : There are several.

Mr. N. M. Joshi : The Indian Railways Act, for instance.

Sardar Mangal Singh : You mean imprisonment for ticketless travellers ?

Mr. N. M. Joshi : There are other sections, I think.

Sardar Mangal Singh : The object of the present legislation is to put further restrictions on road transport. The railways in the past have been trying to attack the roads in several ways. They have increased the freights on petrol and tar and other road materials ; and they have also reduced their fares in competition with motor transport. They have introduced cheap return and single journey tickets. In my province they have also introduced steam coaches—what we call “dabbas”—small trains which are run parallel to the motor lines. But the railways have failed in every respect, because, as my Honourable friend, Lala Shamlal, pointed out yesterday, there are big officials with fat salaries, and it is difficult for them to come in competition with the ordinary traffic ; and now the railways come forward and claim protection as against private competitors. I would submit that the motor industry is very necessary for the development of our national industries. Motors can reach the farthest places where the railways cannot reach. Motors have provided facilities for the agriculturists to market their produce. For instance, fruits and vegetables produced in Rawalpindi can be brought immediately to Delhi and other big cities and this is very

beneficial to the agriculturist. The Government of India and particularly the Viceroy are very anxious to help the agriculturists and if they want to help the agriculturists, I would submit that no restriction should be placed on the motor traffic as against railways. If the railways cannot compete in the open market, if the railways cannot come up to the mark, then they had better shut up shop and go home. Today they claim that they should be protected as against motors. What will happen tomorrow when the air traffic will come ? Will the Honourable the Railway Member come before this House and claim protection ? The times are coming when most of the traffic will be taken by air-ships ; and I submit that the railways should not be given any protection as against the private competitors. The result of this Bill would be to drive away the owner-drivers from the field. If you read this Bill along with the recently contributed article by Mr. Hawks, the Commercial Manager of the North Western Railway, the object of the legislation becomes very clear. In the course of that communication he says :

“ The crux of the whole matter is to rid the country of owner-driven lorries and buses who by cut-throat competition between themselves ruin each other, and to place road transport in the hands of properly constituted and well-organized companies working large fleet of lorries in specific areas or selected roads.”

This is the object of the Bill, that in future the licences would be granted to big companies in which the railways could have large shares and ultimately the whole of the traffic would be controlled by those companies and those companies will be controlled by the railways and that is the whole scheme underlying this legislation....

The Honourable Sir Frank Noyce (Member for Industries and Labour) : It is nothing of the kind. I must repudiate that insinuation. This Bill has no intention whatever of limiting the running of motor buses to big companies. That will be a matter entirely for the transport authorities which will be set up by the provinces.

Sardar Mangal Singh : I do not say that it is written in the Bill but I say, in spite of the explanation of my Honourable friend, that this would be the result of the working of this Bill.

The Honourable Sir Frank Noyce : My Honourable friend may be perfectly correct that that will be the result, but he has no justification whatever for imputing any motives.

Sardar Mangal Singh : I certainly do not impute any motives to my Honourable friend the Member in charge of Roads, but I do certainly impute those things to the railway officials who have sponsored this legislation.

Then, Sir, further on after advocating that the motor traffic should be handed over to the proper constituted companies, he says this :

“ The railway authorities could then negotiate with such companies as regards the fixation of rates, and in fact could go a step further and be shareholders in such companies. Having achieved this, the next step would be the enactment of legislation separating vehicles into lorries, no vehicle being licensed to carry both passengers and goods.”

This legislation, Sir, is evidently intended to drive away the owner-drivers from the field. It is stated that about 800 crores of rupees have been sunk in railways, and in order to protect that it is intended to put

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restrictions on motor transport. That is the plea advanced by Government. Sir, if you calculate the capital that has so far been invested on the motor industry, you will find that that investment is also very considerable, and from that industry Government derives a considerable income. Every gallon of petrol consumed gives the Government ten annas; similarly, in the form of taxes Government derives a large income, and therefore, Sir, I submit that this Bill should not be rushed through. All that the amendment of my friend, Mr. Sham Lal, demands is that we should wait and consult all those who are intimately connected with this industry. I have received a number of letters all of which show that there is intense dissatisfaction in my province. Several meetings have been held in various places protesting against the enactment of this legislation. They have also organized a deputation, which will come up to Simla shortly. I also understand that the Punjab Motor Union have decided to observe a one-day *hartal* on the 7th as a protest against this Bill. I submit, Sir, there is great dissatisfaction among the people intimately connected with this industry, and therefore we should not rush through this piece of legislation; on the other hand, we should consult all those who are closely connected with this industry. The motor dealers in Lahore have also held a meeting and protested against the enactment of this piece of legislation, and in that meeting responsible firms were represented, firms like Naraian Das and Company, Piarey Lal and Sons, the General Motors, the Ford Motor Car company, and several others attended that meeting. All these Indian and foreign concerns have entered their unanimous protest against the enactment of this legislation. Sir, a large number of people, about several lakhs, are interested—drivers, cleaners and others intimately connected with this industry are going to be affected by this measure. The Kirkness-Mitchell Report says that we have about fifty thousand buses and lorries in this country, and if we calculate the people who depend on this industry or who are in any way connected with it, apart from the number who travel, you will find that the total number of people who will be affected by this measure will run into several lakhs. If therefore you impose these restrictions, I think, that several thousands of people will be thrown out of employment. The country is already suffering from unemployment, and I am sure Government would not like to add to the number of the unemployed by enacting this piece of legislation. If we enact this legislation, many more thousands of people who have pawned their lands and their jewellery and purchased motor lorries for just earning their livelihood will be thrown out of employment, and if you grant licences to companies and restrict their areas, and if you also drive away the owner-drivers, there will be many thousands added to the list of unemployed and the whole economic fabric will be thrown out of gear. I, therefore, submit, Sir, that the Government should wait before they bring forward this Bill. There is no urgency about it. Law and order will not suffer if this law is not passed. We have been carrying on without this law for the last several years. Surely we can get on without it for six months more. I am disappointed, Sir, that the Honourable Sir Frank Noyce, who should have advocated the cause of Roads being the Member in charge of Roads, should have succumbed to the pressure of Railways. Instead of defending the road transport, he has himself sponsored a Bill which injures the motor

lustry. The Government have taken 3 or 4 years to arrive at their conclusion, and during all this time,—I shall be glad to be corrected if I am wrong,—they have not consulted even a single non-official body...

The Honourable Sir Frank Noyce : That, Sir, is not correct. We have had the views of certainly one important non-official body as I mentioned in my speech, the Indian Roads and Transport Development Association, which is the premier body of its kind in the country.

Sardar Mangal Singh : I accept the correction, but so far, in our province there are several Motor Unions, there are several Associations connected with Road Transport, but nobody so far has been consulted, and as far as I understand from the proceedings of the Transport Advisory Council, even the Government of my Province have dissented from its views. They did not want any legislation on these lines. My point is that the public has not been consulted, they have not been taken into confidence, those people whose livelihood depends on this industry have not been consulted. The Government of India generally take several years for considering any questions. Whenever we ask a question, they say that the matter is under consideration, and when we ask them to wait for 6 months in any matter before taking definite action, they say No. Why should you rush through this Bill. No catastrophe will fall on the country. With these remarks, I submit that the Government should wait and at least in one case they should accede to the wishes of the Opposition, and this measure can be taken up in the Delhi Session next cold weather. I support the motion for circulation for eliciting public opinion.

Mr. F. E. James (Madras : European) : Sir, I think it is right that this Group should express itself on this Bill. During the last Budget debate, we tabled a motion drawing attention to the specific problem of co-ordination of all forms of transport, and one of our proposals was that Government should, as early as possible, and, if feasible, at this Session, introduce a Bill dealing with certain forms of regulation in respect of motor transport. I must in the first instance acknowledge the work which the Honourable Member in charge of this Bill has done in the meantime in accordance with the assurance which he gave to the House at the time with regard to this piece of legislation. I should also like to pay a tribute to the work which was done by those who attended the meeting of the Transport Advisory Council. In doing so, I do not necessarily commit us to any particular approval of all the things that were done there; but I thought I ought to acknowledge the extremely hard work which they did and the immense amount of ground which they were able to cover.

It is quite clear that this Bill is surrounded by a great deal of suspicion, and there are some very good reasons for that suspicion, on which I wish to touch before dealing with the Bill itself. I wish to reiterate our view that interests connected with transport in this country ought to have representation upon the Transport Advisory Council. We have always maintained that view, and we still are at a loss to know why the Government turns a deaf ear to our representations in that matter. As at present constituted, the Transport Advisory Council is nothing more nor less than an annual conference between the Central and Provincial Governments, in which the railways are

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specifically represented, to deal with matters relating to transport problems affecting both roads and railways. I would point out to the Honourable Member the difficulty of the Local Governments on a Bill like this. Although the Local Governments concerned attended that conference and took full part in its deliberations, what is the position of the representatives of the Local Governments in this House? Supposing any Local Government has any fear about any particular amendment that is proposed in this Bill, can its representatives in this House give expression to the views of that Local Government? No; because here they do not so much represent the Local Government as support the whip of the Central Government. Therefore, they cannot be expected to represent the views on the floor of this House of their Local Governments in regard to this Bill. Again, I would point out—(I am not making necessarily a complaint of the constitutional point, I am only pointing out that that is the position),—I would suggest that, had there been representation of transport interests on the Central Advisory Council, there might not have been such very wide-spread demand for the circulation of this measure. For the measure would have been scrutinised by those representatives, possibly it might have been modified as a result of their views, and therefore, it is probably unlikely that the same feeling of suspicion would have surrounded the introduction of this Bill. I would remind the Honourable Member in charge, of the different outlook of His Majesty's Government in the United Kingdom with regard to this matter. They also have a Transport Advisory Council, and if the House will study the composition of that Council, it will find that amongst its representatives are the following: Local authorities in England and Wales and Scotland; users of mechanically propelled vehicles; users of roads,—even pedestrians find a place on that Council, I am not suggesting they should do the same here;—pedal cyclists; railways; canals; coastwise shipping; harbour and docks; labour—labour have three representatives. (Mr. N. M. Joshi: "Hear, hear.") I am glad to point out that trading interests, including agriculture, have five seats. Even at this stage, I do appeal to the Honourable Member in charge to reconsider this question of the admission of representatives of the public, particularly, of the transport interests affected, to the membership of the Transport Advisory Council. I would suggest that the difficulties which he has mentioned in his opening speech as increasing daily in regard to this problem will increase still more in the future unless that Transport Advisory Council is made more fully representative of transport interests and the public. Then, Sir, there is one more criticism I am bound to touch upon, which has relation to the last meeting of the Transport Advisory Council. I understand that the agenda of that Council, which was circulated to all Local Governments, was of a strictly private and confidential nature. It was marked, I believe, "strictly private and confidential". That precluded even the Local Government representatives to the Transport Advisory Council from consulting transport interests in the provinces which they were supposed to represent. I suggest that another of the reasons why there is so much suspicion in regard to this Bill is that even the Local Government representatives who attended the Transport Advisory Council were not permitted by the confidential nature of the agenda to consult transport and other interests in the very provinces which they represented. The matter was raised

recently in the Madras Legislative Council, and in reply to a question which was put by a colleague of mine in that Council the Minister in charge made the curious reply that as the Transport Advisory Council was a meeting of official representatives therefore the agenda was necessarily private and confidential. There could not have been a better argument for admitting the representatives of the public to the Transport Advisory Council. I do therefore press very strongly on behalf of the Group for whom I am now speaking, that there should be a more generous appreciation of the interests of the public in regard to this question. Surely, it is not merely a struggle between the Central Government and the Provincial Governments; it is a problem in which every tax-payer and every road user is vitally interested.

Now, Sir, I will come to the Bill itself, and, of course, my first comment on it is to re-echo what the Honourable Member himself has said in his own speech. He said:

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"We fully recognise the necessity for a more comprehensive measure and we shall continue our efforts to frame it. But meanwhile the difficulties which are increasing daily render urgent the enactment of legislation which will at least meet the immediate needs of the situation."

I acknowledge his difficulty, and as far as we are concerned, we welcome the fact that he is prepared, at any rate, to do something to meet the problem which is daily becoming more urgent. We should have liked to have some indication of the further steps which he proposes to take to deal more comprehensively with this situation. After all, it is a matter which requires vision and enterprise. The story of the same problem in England is somewhat different from here. They had a Royal Commission, which was then followed by a conference over which Sir Arthur Salter presided, consisting of representatives of the railways and of the road transport interests. As a result of that, there came legislation. Is it too much to hope that in the coming months some similar conference might be convened by the Honourable Member in order to deal with this problem really comprehensively before we embark upon the experiment of Federation? As far as the details of the Bill are concerned, I do not propose at this stage to deal with them. I would, however, point out that the Bill does not curtail the powers of the Local Governments; if any, it increases them, and I think perhaps my Honourable friend, Sir Ghulam Hussain Hidayatallah, was confusing the Bill with certain resolutions which are proposed in regard to the road fund.

Sir Ghulam Hussain Hidayatallah: I made the statement that it was an encroachment on the rights of the provincial Legislatures.

Mr. F. E. James: My Honourable friend made that statement and that is the statement which I am attempting, probably without much success on his part, to controvert. There are five main points of criticism with regard to the Bill which I would like to put forward at this stage. The first point is that we think it is necessary that in the Bill itself, there should be some indication as to the nature of the classes of licenses which are to be issued by the transport authority in the provinces for transport motor vehicles. For example, it would seem from the Bill as at present drafted that three different classes of licenses will be required: first, a license for motor vehicles used for the carriage of passengers and goods for hire or reward, secondly a license for motor vehicles used for the carriage of goods only for hire or reward, and thirdly a license for motor

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vehicles used by industrial, trading or commercial organisations for the carriage of goods only in connection with their own trade or business, that is to say, without hire or reward. There is a great need for uniformity throughout the provinces in regard to the types of licenses which are issued. Now once the licenses are prescribed, there would necessarily be some differentiation in the powers given to the transport authorities with regard to those licenses. For example, we should not agree to empower transport authorities in the provinces to refuse a license for a private lorry. Such licenses should be given on application automatically. The authorities should have no discretion to refuse such licenses and regulations relating to hours of work and keeping of records and so on should not apply to them any more than they at present apply to private vehicles. These three types of licenses would roughly correspond with the licenses which are at present issued by the licensing authorities under the English Road and Rail Traffic Act, 1933. That is the first point.

The second point is this. What does the Honourable Member contemplate when in the Bill he uses the phrase transport authority? Is it to be one officer for each province or district in a province? Is it to be one representative authority for the province operating through district officials? Or is each Local Government to be left entirely to its own devices to appoint what type of transport authority it wishes? We suggest that this matter wants going into very carefully and possibly something on the lines of the English system might work in the provinces whereby there would be provincial Transport Advisory Councils in place of the present rather cumbrous Boards of Communications. In England the official chairman of the local or regional traffic is the transport authority who is empowered to issue licenses on his own behalf. Perhaps in the provinces, if there were a transport advisory council representative of the interests concerned, and an officer called a transport authority who would operate throughout the presidency or the province concerned, working in the districts through district officials,—something along these lines might be most suitable. But the House would be glad to know whether the Honourable Member has definite views in regard to this matter or whether he proposes to leave it entirely to the provinces to set up what type of authority they wish.

The third point which we suggest is if you are going to establish in the provinces transport authorities who have very wide powers the Bill should generally prescribe some method whereby there should be an appeal from the orders of those authorities to an independent tribunal. In some cases, the appeal under the Bill is to the Local Government and in some cases the Local Government is empowered to make rules as to appeals. In the interests of both the railways and the road transport the appellate authority should be an independent tribunal, not necessarily the Local Government but some person or body set up by that Local Government which would be more judicial in character. In the English Act there is an Appeals Tribunal set up which is appointed by the Minister of Transport and which consists of three persons, the Chairman being a person appointed on the recommendation of the Lord Chancellor and therefore being a person of high legal standing, the two other persons being appointed by the Minister on the recommendation of the Board of Trade and in view of the conflicting interests involved I do suggest that this matter should be looked into very carefully.

The fourth main point is that we have some distaste for conferring upon even Local Governments very wide rule and regulation making powers without providing some safeguard for eliciting opinions on those rules or regulations before they are made effective. There should be specific provision, we suggest, for publication in gazette for a period before they become effective or for their being laid on the table of the Legislature. Those are the main points.

There are other matters that are probably not less important, which I shall not deal with in any detail. First of all, the powers which this Bill confers on the transport authority to limit the number of transport vehicles on any road. That is a matter that I should be very reluctant to agree to unless I were perfectly sure as to the conditions under which these powers would be conferred. Secondly there is power given to the transport authority to fix authorised stations for the taking up and setting down of goods and passengers. Surely in the case of passengers this would be confined entirely to municipalities. And I would like to ask the Honourable Member in charge whether he thinks it advisable or even feasible to fix authorised stations for the setting down of goods. Surely the carriage of goods by motor transport means their carriage from one place of business to their destination or from one godown to another godown. To give the transport authority power to fix authorised stations for the setting down of goods might lead to a tremendous amount of inconvenience and injustice. Then there is a third point on which we are not at all certain and that is the principle of fixing maximum and minimum fares. It seems to us that the power given to the transport authorities to fix maximum and minimum fares involves a questionable principle. Then there is the definition of the term "transport motor vehicle". There is also the provision relating to third party insurance, particularly in regard to the insurance companies which are to be specified by the Local Government. At present we think that that is a power which should not be given to Local Governments. There should be certain conditions which an insurance company should fulfil before being able to enter into such contracts. Those specific provisions should be laid down in a schedule to the Act, so that any company fulfilling those conditions should automatically come on the list on application.

Sir, I suggest that the House need not necessarily take a party view of this measure. The object of this Bill, as I understand it, is not to profit this industry or that, is not to fetter road transport for the sake of the railways, but to help to provide better transport and cheap transport for the people of this country. If road transport is to be regulated, then I suggest that it is only fair that the task of a thorough overhaul of railway expenditure should be undertaken *pari passu*. (Hear, hear.) My Honourable friend, the Member in charge, did quote from the Otto Neimeyer Report and I should also like to quote from some of the passages which he quoted. The last sentence of his quotation reads as follows:

"I believe that both the early establishment of effective co-ordination between the various modes of transport and the thorough-going overhaul of Railway expenditure in itself are vital elements in the whole provincial problem."

There is a feeling that underlies the suspicion which surrounds this Bill that we have not heard so much lately about this thorough-going overhaul of railway expenditure. It would help the general attitude of the House towards this Bill if during this debate we could hear what if anything is going to be done in regard to this particular matter. (Hear, hear.)

[Mr. F. E. James.]

hear.) Now, Sir, I know that there are many who have moved for the circulation of this Bill for public opinion. I say quite frankly that we would prefer a reference to a Select Committee with instructions that the Select Committee should hear both the railway and the road transport interests and should then take time for their own report which should be published in the Gazette so that the amended Bill could be taken up at the next session of the Assembly. The point about that is that we believe that the opinions received on the amended Bill would be of more value than the opinions received on this somewhat sketchy Bill we have before us now. We also do not care very much for the rather constant proposals for circulation which are moved in this House. We believe that this House has a certain representative character and that Members cannot really divest themselves of all responsibility for constructive legislation. If the non-official Benches at any rate are in any way representative, as they claim they are, then the House ought to retain its responsibility for dealing with problems like these without undue delay. The circulation of this Bill does mean a certain amount of delay; it means that the Bill will come back to us at the time of a very crowded Budget Session when Members will hardly have had time to recover from the excitement of their provincial elections. But there it is, and we recognize on these Benches, in spite of our view, the general feeling that this Bill should go for circulation. Therefore, we would, in all the circumstances, suggest to the Honourable Member in charge of the Bill that he should accept the motion of my Honourable friend, Mr. Sham Lal, which requires the circulation of this Bill for public opinion before the 31st December of this year.

Mr. N. M. Joshi : Mr. President, I have great sympathy with the objects underlying this Bill. These objects, as I understand them, are, first, to bring those branches of the transport industry which are not under public control at present, under public control. The Railways are under public control, but the bus industry is not under public control. I sympathise with this object. The second object as I understand of this Bill is to bring about a co-ordination between the different branches of the transport industry—between the railways and the bus services. More than this. If I have understood the speech of the Honourable Member in charge of this Bill rightly, there is also a desire on the part of the Government to bring about a co-ordination, so far as the transport services are concerned, between the different Provinces. I feel, Mr. President, that these objects are not only legitimate but deserve our support. Unfortunately, though these seem to be the objects of this Bill, the Bill as it is framed does not carry out these objects fully. The proposals in the Bill for public control over the bus industry are very meagre. The proposals for bringing about a co-ordination between the Railways and the bus services are hardly mentioned in this Bill. I, therefore, feel, Mr. President, that although the objects of this Bill are wider, the Bill as it is framed is based upon a very narrow foundation. I hope the Select Committee when it meets will widen the foundations of this Bill and make it a sound measure. The principle underlying the Bill as it is placed before this Legislature is that Government should exercise control on behalf of the public over the bus services in the country in order to secure the safety of the passengers who take advantage of its services.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : But not for the sake of the Railways.

Mr. N. M. Joshi : The second principle underlying this Bill is to regulate competition between the Railways and the bus services. The third principle, if I may call it, is to bring about a co-ordination between the regulations made by the different Provinces. Mr. President, I have sympathies with the principles of this Bill. It has been admitted that during recent years India has developed to a large extent the motor transport industry. Crores of rupees are invested in this industry. It has been said that hundreds of thousands of workers get employment in this industry. Unfortunately, as there is no sort of public control over this industry, the transport is in a deplorable condition. The motor cars and motor buses used for this purpose are rickety and unsafe. (An Honourable Member : "Question.") Well, Sir, some people may question, but I am entitled to express my opinion. There is absolutely no regulation regarding the hours of work of the drivers. The Royal Commission on Labour five years ago made a recommendation that the Government of India should take some steps to regulate the hours of work of the drivers of motor cars and motor buses, both in the interests of the employees and in the interests of the passengers also. I, therefore, feel that some kind of public control is absolutely necessary for the motor transport in this country. So far as the first principle underlying this Bill is concerned, namely, that there should be public control for the sake of safety, the Bill seeks to secure it, in the first place, by means of licences laying down conditions as to the cars being in a sound condition, regarding the maximum number of seats that should be permitted for each vehicle and such other methods. I feel that this public control is absolutely necessary in the interests of the passengers. The cars that are used at present are not good cars. They are much less comfortable. Then, Sir, I feel that the Government of India have done a right thing in giving powers to the local transport authorities to lay down conditions as regards hours of work which are to be put in by the drivers of motor cars. A driver who works for 12 hours or 14 hours a day and becomes tired and exhausted is dangerous to the passengers. It is, therefore, necessary that the hours of work for the people who work on the bus services should be regulated. I would suggest to the Government of India and to the Select Committee that they should lay down in the Bill itself that the hours of work for the employees of the bus services should not exceed 8 per day and I say this not only in the interests of the employees, who are very important, but in the interests of passengers themselves. Many years ago the hours of work in Great Britain on British railways were regulated not in the interests of the railway employees but in the interests of the railway passengers. Unfortunately, in our country even today there is not a general rule regulating the hours of work for the railway employees. There is a law fixing the hours of work for certain classes of railway employees but not for all classes of railway employees. For instance, people who work on railway stations, such as, station masters, still work 12 hours a day and these station masters are a danger to the safety of the public. Unfortunately, the Government of India do not take care to regulate the hours of work of these railway employees. I, therefore, suggest to the Government of India that, although they cannot by this Bill regulate the hours of work of all classes of railway employees, they should without any delay bring forward a legislation

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regulating the hours of work of all railway employees. Although this regulation is necessary in the interests of the employees, I feel that it is also necessary in the interests of the railway passengers.

Then, Sir, I find from this Bill that the Government of India do not propose to regulate the wages of the employees of the bus services. If the employees of the bus services are to be the safe drivers, then not only their hours of work should be regulated but they should be paid well. A discontented driver is a danger to the passengers and a bus employee must be a contented man. He, therefore, must be paid properly. I, therefore, suggest to the Government of India and the Select Committee that the Bill should make provision for regulating the wages of the employees of the bus services.

Then, Sir, I find that the regulations made by the Government of India for insurance is a step in the right direction. Sir, some years ago this Legislature discussed the question of the workmen's compensation and at that time I suggested to the Government of India that they should consider a scheme of compulsory insurance against workmen's compensation. I am glad that, although the Government of India were not willing to consider the general question of compulsory insurance, I heard yesterday the Honourable Member in charge of the Department of Industries and Labour suggesting that he was going to appoint a Committee to consider the question of compulsory insurance.

The Honourable Sir Frank Noyce : Only within the scope of this Bill. I wish my Honourable friend to be under no misapprehension on that point.

Mr. N. M. Joshi : I know the general views of the Honourable Member very well. Still, when the Honourable Member, with all his views in favour of the private industry and leaving everything free, comes forward and suggests that he is willing to take one step towards compulsory insurance, it is open to me to make a few suggestions to him. I suggest to him that when he appoints a Committee for the consideration of a scheme for compulsory insurance, he should not only give direction to that Committee to consider a scheme for a compulsory insurance of the passengers by the owners of the motor cars but he should give a direction to the Committee to consider a scheme for compulsory insurance against accidents which are met by the employees of the bus services and the employees of other services who come under the workmen's compensation law. After all, if he is going to consider this Bill and bring forward a scheme for compulsory insurance by means of a Committee against accidents met with by the passengers, there are the accidents to the drivers also who are entitled to workmen's compensation.

The Honourable Sir Frank Noyce : I wish my Honourable friend had done me the honour of reading the clause in question. He will see that it covers everybody who suffers. It reads "requiring the owners of motor vehicles or any class of motor vehicles to effect policies of insurance against liabilities incurred through the death or bodily injury of any person caused by or arising out of the use of such vehicle in a public place." That covers employees as well as third parties.

Mr. N. M. Joshi : Well, Sir, if the Honourable Member suggests that the Committee will consider the scheme for compulsory insurance against workmen's compensation which a driver is entitled to obtain, I shall only make one further suggestion to him and it is this, that in considering the question of compulsory insurance the Government of India should also consider the question of the Government themselves starting a scheme of insurance. The Insurance Companies in this country are making a lot of profit and if there is to be a compulsory insurance, I suggest that the Government should themselves come forward with a scheme of that kind. A scheme conducted by the Government is bound to be a cheaper one and it will be in the interests of the public if they suggest to the Committee which they propose to appoint to consider a scheme of compulsory insurance through a Government Insurance Agency.

Sir, the Government of India through this Bill also propose to regulate competition—competition, in the first place, within the motor industry itself—by regulating the fares, by regulating the number of cars to be run on particular routes and by regulating similar conditions. I feel that this regulation is necessary. At the same time, I must confess that there are certain matters which will cause either inconvenience to the public or corruption among those people who will be invested with authority. I understand the hesitation of some Members in giving power to the transport authority to regulate the number of cars to be run on a particular route. It is quite possible that the monopoly may pass into the hands of one company and it is quite possible that, if the power of issuing licences is given to Police officers, as my Honourable friend, Mr. Sham Lal, said yesterday, there may be a great deal of corruption arising out of this Bill. Therefore, although I approve of the general principle of regulating competition by means of even restricting the number of cars to be run on particular routes, I shall decide my attitude towards some of these details after I see what kind of transport authority is established for issuing licences and supervising the regulation of this measure. Yesterday my Honourable friend, Mr. Gadgil, and my Honourable friend, Mr. Sham Lal too said that the motor industry is being organized. They have big Unions and it is this organization of private motor industry into a big Union which will lead to the danger of private monopoly. I, therefore, feel that if this industry is organized, it will be wrong for Government to allow a private monopoly to come into existence. The sooner we therefore take measures to bring this industry under public control the better it will be for the interests of the public. Sir, I have so far dealt with one aspect of this question. I would like to deal with the most important aspect of this question in which I am interested. The object of the Government of India, as I understood it, is wider, but the machinery which they propose to create and establish under this legislation is on a very narrow basis. If the Government of India want to regulate competition between Indian railways and the motor bus service, it cannot be done by establishing Provincial Transport Authorities. It can only be done by establishing a Statutory Transport Authority at the Centre. The Government of India therefore have failed to create a machinery by which their object will be served. I am aware that the Government of India have created a sort of central machinery; they call it Transport Advisory Council. But that Transport Advisory Council, the constitu-

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tion of which was explained by my Honourable friend, Mr. James, is not a representative body. It consists of the Ministers from the Provinces, and everybody here knows what the Ministers in the Provinces are at the present time (Hear, hear) ; they are tools in the hands of the Secretaries.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Is the Honourable Member justified in making aspersions upon the representatives of the people in the Provinces behind their backs ?

Mr. N. M. Joshi : I am entitled to express my opinions. Moreover, these Ministers are not private persons living in *purdah* ; they are men in public life, and I am entitled to express my opinion about them. I, therefore, suggest to the Government of India that if they want to bring about co-ordination between the railways and the bus services, it is absolutely necessary for them to create a Statutory organization and machinery at the Centre representing all interests connected and concerned in this industry. An Advisory Council consisting of representatives of railways and the Ministers from the Provinces will not command the confidence of any section of the public in this country. I therefore suggest to the Government of India that when the Bill is being considered in the Select Committee, they should insert a clause by which a proper machinery will be created for bringing about co-ordination between the Indian railways and the bus services. I suggest that that organization and that machinery should be a fully representative one. It must first represent those people who make use of the roads, who make use of the railways. I mean the passengers. Secondly, it should represent the general public, which may not be passengers at all making use of this service but who may be pedestrians on the roads. Thirdly, let it also represent those people who have invested capital in this industry. I insist that the Board should also consist of representatives—an equal number of representatives of those people who invest their money in the industry and representatives of labour engaged in this industry. If a proper organization or machinery for controlling and co-ordinating the railways and the bus services is established, I have no doubt the kind of co-ordination that will be brought about will meet with the approval of the public. I also suggest that the Central authority to be created should not only be advisory, but should have plenary powers in certain matters. For instance, in London, the British Parliament, when they wanted co-ordination between the London railways and the London bus services and the London tramways, established the London Transport Board with plenary powers to manage these industries. I suggest to the Government of India to consider an organisation like the London Transport Board to be established in India. Under this Bill powers are given to provincial transport authorities. I agree with my Honourable friend, Mr. James, that one of the defects of this Bill is that the constitution of the Provincial Transport Authority is not mentioned here at all. I feel that if these Provincial Transport Authorities are to have the confidence of the public and if we want to avoid corruption and monopolies being created, it is absolutely necessary that the Provincial Transport Authorities should also be representative bodies. If they are not representative bodies, they will not be able to command the confidence of the public.

Before I close, I should like to say one word about the co-ordination between the various provinces. My Honourable friend, Sir Ghulam Hussain Hidayatallah, yesterday said that this Bill was an encroachment upon the powers of the Provincial Governments. I feel that although I am in favour of some kind of decentralisation, there are people who go mad over provincial autonomy. After all India is one country and if we begin to think of provincial autonomy and making provinces absolutely independent of one another, then within a few years time, India will cease to be one country. It may be too late to talk about it later on and the independence given to the provinces will go against the interests of this country, then I must continue to talk about it on every occasion. I am not against some kind of decentralisation, but there is a limit and that limit must be observed in the interests of the public in this country. Let us consider the question of the motor vehicle industry. The motor vehicle is a fast vehicle and travels sometimes at the rate of 50 or 60 miles per hour. It cannot be restricted within the boundaries of one province. The motor vehicles must cross different provinces. If the different provinces make different regulations, it cannot be to the convenience of the people to have to take licences from different provinces for the motor bus service. It is absolutely necessary in the interest of the bus service itself that there should be proper co-ordination and some central control over the regulations to be established. I hope, Sir, that if my suggestions are accepted and the Government of India establish a proper statutory transport authority both at the Centre and in the provinces and then regulate competition, bring about co-ordination between the branches of the industry, I have absolutely no doubt in my mind that not only will the industry be efficiently conducted, not only will the employees of this industry be contented and happy but the public in this country will get cheap and comfortable transport. I, therefore, support this motion.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member in charge is going to make a statement now, which may shorten the debate.

The Honourable Sir Frank Noyce : Sir, in view of the general desire which has been expressed—I think it is correct to say—from all quarters of the House that this Bill should be circulated for public opinion, I am prepared to accept the motion that it should be circulated for public opinion to be received before the 31st December. In other words, I accept the motion which was put forward by my Honourable friend, Mr. Sham Lal. In doing so, I should like to make it perfectly clear that I still hold, for the reasons I gave in my opening speech, that this is a matter of considerable urgency, and it is for that reason that I would suggest to the House that the 31st December is a more suitable date than those mentioned in the other amendments as, if opinions are received by that date, we shall be able to decide what modifications, if any, should be made in the Bill before it is brought forward in the next Session of the Assembly. I may perhaps add a personal reason which is that the next Session of the Assembly will be my last, and I should not like to leave this measure in an unfinished condition. In the circumstances, I would ask you, Sir, whether you wish me to wind up the debate now or whether you consider further discussion of the measure desirable.

Mr. President (The Honourable Sir Abdur Rahim) : In view of the statement that has been made by the Honourable Member, is there any desire on the part of other Honourable Members to continue the debate ?

(No one stood up.)

The Honourable Sir Frank Noyce : Sir, I should like to thank the House for the way in which it has dealt with this Bill. That may seem a somewhat surprising statement on my part in view of the fact that the proposals of Government have met with a certain amount of opposition and that I have accepted the amendment that the Bill should be circulated for public opinion in spite of my own conviction, as expressed in my opening speech, that it was desirable it should be proceeded with immediately. My reason for thanking the House for its attitude to the Bill is that it has discussed the Bill on its merits ; and, if I may say so, the opinions of those who have opposed it or have suggested substantial modifications in it have been very reasonably expressed. I must confess that I am somewhat appalled at my rashness in accepting a motion that the Bill should be circulated for public opinion. My Honourable friend, Mr. Gadgil, who has made a very careful study of the question and who made a specially helpful contribution to the debate told us that in six districts in Bombay there were no less than 51 motor associations. If that is any guide to the total number of motor associations throughout India, I am not at all sure that the House will not equally with me regret its rashness next February or March when it receives a body of opinion running into several substantial volumes. However, that is a matter for the future.

It is perhaps unnecessary for me to deal with the various criticisms of the Bill which have been put forward in the course of the debate at such length as I should have done if we on this side had been pressing the motion that it should go to a Select Committee. Those points will be duly noted by those to whom the Bill is circulated for public opinion, and, as I have said, we shall doubtless get a very great volume of opinion upon them. But I should like to say a few words about some of the arguments which have been adduced, and I will start with my Honourable friend, Mr. Sham Lal. Mr. Sham Lal read us the lecture, which he so often reads to this House, on the subject of corruption. His suggestion was that, if motor transport authorities were constituted, they would in the main be composed of title holders, Knights and Rai Bahadurs, and that there would be great opportunity for corruption. I waited, Sir, with somewhat eager anticipation to hear to whom he proposed to hand over the control of motor transport ; and after a bit he told us that he thought that the best motor transport authority would be a body the majority of people on which would be the motor-bus-owners. Sir, I hope the House will not take the simile which I am about to make....

Mr. Sham Lal (Ambala Division : Non-Muhammadan) : Sir, may I make a personal explanation ? I did not say the bus drivers, but the representatives of the motor unions.

The Honourable Sir Frank Noyce : I am sorry if I said motor-bus drivers ; I should have said, and this I did say, motor-bus owners. As I was saying, I hope the House will not take the simile I am about to make anything like literally. But I would suggest that, if you handed over the control of motor transport to motor-bus owners, it would be rather

like asking for a report on the efficiency of a new burglar alarm from a body, the majority of which consisted of those who endeavoured to make illicit entrances into houses by night. I think it is correct to say that there are cases—I know of some myself—in which the owners of motor-buses and other forms of motor transport have titles and are Rai Bahadurs.

That brings me to the further point raised by my Honourable friend, Sir Ghulam Hussain Hidayatallah,—it was also mentioned by Mr. James—in regard to the constitution of the transport authorities. It is, as we on these benches know only too well, absolutely impossible to satisfy all sections of the House, even all sections of the same party or group. My Honourable friend, Sir Ghulam Hussain Hidayatallah, complains that this Bill is an encroachment on the powers of Local Governments. My Honourable friend, Mr. James, wants the Bill tightened up : he wants the constitution of the transport authority specified clearly in it. How are we going to satisfy those two conflicting views ? Our object has been—and I should have thought it was an object which would meet with an almost general measure of agreement in this House on the eve of Provincial Autonomy—our object has been to leave powers in this matter to the Local Governments. All that the Government of India are concerned with is that a transport authority should be established, an authority which can exercise adequate control over the motor transport. As to the nature of that authority we consider that the Local Governments are the best judge....

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Not the local Legislatures ?

The Honourable Sir Frank Noyce : That is a point to which I was coming later. We are on the eve of Provincial Autonomy, and it is for the local Legislature to keep its Local Government up to the mark in this as in other matters. I have greater hopes of Provincial Autonomy, evidently, than some of my Honourable friends opposite. It is for the local Legislatures to see that the transport authorities are constituted in the way they consider desirable. I had hoped, if this debate had continued longer than it has done, that the representative from the United Provinces would have told us the nature and constitution of the transport authority in that province and the way in which it is working. As he has not done so, I may perhaps tell the House that the transport authority in the United Provinces is the sort of transport authority for the provinces that we have in mind. The Government of the United Provinces have established under the Act passed last year, I think it was. Here I should point out to the House that the transport authority was set up under rules framed under that Act : even the local Legislature evidently did not ask that the full particulars of the transport authority should be included in the Bill itself. It has been established under rules and this is its composition : It is called the Board of Traffic and Communications : its membership consists of a Member of the Board of Revenue who shall be the President, the Secretary to the Government in the Local Self-Government Department, the Deputy Secretary to the Government in the Police Department, the Chief Engineer to the Government in the Buildings and Roads Branch of the P. W. D., one representative of broad gauge railways and one of narrow and metre gauge railways operating in the province, four members elected by the non-official Members of the United Provinces Legislative Council, one member nominated by the United Provinces Automobile Association, two

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members, not being Government servants or servants of a district or municipal board, to be nominated by Government to represent, one the municipal boards and the other the district boards, two members to be nominated by Government to represent the Chambers of Commerce in the United Provinces. That, Sir, is the sort of body that we hope other Local Governments will establish under the powers which will be conferred upon them by this Bill; and I venture to maintain that that is the sort of body that should hold the scales even between road and railway enterprise. Some Members may hold that there ought to be more representation of motor interests, more representation of municipal or district boards, that the representation in some detail or other should be altered. But I think that the body as a whole is a distinctly representative one and that the example of the United Provinces in this respect can well be copied by other Local Governments....

Pandit Govind Ballabh Pant : I hope not.

The Honourable Sir Frank Noyce : The Honourable Member knows more about his province than I do.

Pandit Govind Ballabh Pant : Yes; I do.

The Honourable Sir Frank Noyce : As regards the controlling authorities for the different traffic areas, I hope their composition will be considered more satisfactory by Pandit Govind Ballabh Pant. Unfortunately its president is a government official and that possibly prejudices it in his eyes from the outset. The president is the Commissioner of the Revenue division from which the traffic area takes its name; the members are a Superintendent of Police nominated by Government, an Executive Engineer, Buildings and Roads Branch of the Public Works Department also nominated by Government, one Member of the Legislative council resident within the traffic area, and three non-officials to be nominated by the Government who shall be (1) a representative of municipal boards within the area, (2) a representative of district boards within the area and (3) a representative of owners of public service vehicles plying within the area. Now, Sir, in spite of the objections of my Honourable friend about which he will probably have more to say at a later stage of the Bill,—I think the constitution of the transport authorities in the United Provinces, they may be regarded as satisfactory.

Pandit Govind Ballabh Pant : I would have said many things, had you not accepted the motion for circulation, and pointed out to you how this thing has been working there.

The Honourable Sir Frank Noyce : Before leaving the point raised by Sir Ghulam Hussain Hidayatallah, I would merely deal with one or two other considerations very briefly. One is that under the new Constitution, mechanical vehicles come in the concurrent list which gives Local Governments as well as the Federal Government power to deal with them; and the second is that the present Bill is the result of agreement with the provinces....

Sir Ghulam Hussain Hidayatallah : My point is : are not roads a transferred subject under the present constitution and under the new

constitution? If it was not a transferred subject why did you allow the United Provinces to legislate?

The Honourable Sir Frank Noyce : Roads may be a transferred subject, but mechanical vehicles are not.

Sir Ghulam Hussain Hidayatallah : Why did you then allow the United Provinces to legislate?

The Honourable Sir Frank Noyce : They legislated with the previous sanction of the Governor General. Roads under the new Constitution are, I think I am correct in saying, completely within the purview of the provinces. Mechanical vehicles are not. They come in the concurrent list.

Sir Ghulam Hussain Hidayatallah : Then the best way will be this. Let the Government of India take over all the provincial roads.

The Honourable Sir Frank Noyce : I submit, Sir, that my Honourable friend is mixing up two things. Roads and Motor Transport are not the same subject. The Government of India under the present constitution and the Federal Legislature, in the exercise of their concurrent powers under the new Constitution, can control motor transport.

I have very little to say with reference to the speech of my Honourable friend, Mr. Gadgil, which, as I mentioned just now, I regarded as specially helpful. He referred to the Report drawn up by his namesake and Mr. Gogate regarding the conditions of motor transport in certain districts of the Bombay Presidency. I am sorry that he did not go on to give further extracts from that report which would, I think, have supported our case, of which he admits the force himself, for the regulation of competition. If I recollect that report correctly, it cited a number of instances in which those people on whom so much sympathy has been bestowed, who have sold their houses and their lands to buy motor-buses, have found that they were really no better off by doing so. They have found competition there even more severe than in other walks of life, and they have had to shut down and sell their buses very speedily.

My Honourable friend urged that the system of regulation should be elastic and progressive. That is exactly the position under the Bill. The powers given in it are permissive; they can be exercised in an elastic and progressive way. The word "shall" hardly occurs in the Bill at all.

Then, he mentioned cases in which fares are already scheduled and buses are working to a time table, and he told us that that system was working very well. That I think is a point of very great interest. If this can be done in some cases, there can be no hardship in making it compulsory in all cases, but you will never get it done in all cases unless you have powers to make it compulsory.

He referred also to the case of perishable goods. That will be a matter for the transport authority. I endeavoured to make it clear in my opening speech that there is no intention under this Bill to restrict legitimate competition, and it will be for the transport authority, which, we hope, will hold the scales evenly between road and railway interests, to decide when the general public interests are best served by allowing goods to be carried by road rather than by rail. It is obvious, I think, that there must be many cases—we all know of them in which it

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is far better that vegetables, fruit or fish should be sent by road rather than by rail owing to the inconvenience of the railway timings.

My Honourable friend, Sardar Mangal Singh, raised the point that all the restrictions in this Bill are on one side. He said there was not a single restriction on Railways, but that we were placing all the restrictions on motor transport. If he had thought about the matter a little longer, he would, I think, have realised that the distinction is due to the fact that the restrictions on the railways are already there. For one thing they have got to work on a fixed track instead of being able to move about from place to place. The Bill will enable certain obligations to be imposed on buses, but a great many, if not all, of those obligations, have already been imposed on the Railways. The fixation of maximum and minimum rates, the publication of time tables, the limitation of the number of passengers, provision for regular stations, the regulation of the conduct of passengers and drivers, limitation of the hours of work, compulsory insurance and other restrictions have already been imposed upon them. Those obligations already exist in the case of Railways. Is it altogether unfair to impose them on buses? The Honourable Member then went on to say that if you want to help the agriculturist, no restrictions should be placed on motor buses. That brings me to a point to which I wish greater attention had been paid in the course of this debate. I think most of the speakers have recognised the desirability of controlling motor traffic, but hardly a single speaker has referred to the question of the effect on railway finances. It is all very well for Sardar Mangal Singh to say that, if you want to help the agriculturist, no restrictions should be imposed on motor transport. The inevitable end of that would be that the Railways would cease to exist. If the most paying of all your traffic, or if even the greater part of it is to be diverted to roads, what is going to happen to the Railways? They will be confined to the carriage of heavy goods such as coal, iron and steel, mineral ores, grain and other things, which nobody else wants to carry. And what rates are the Railways going to charge for carrying such goods if they are to be kept alive?

I have already dealt with my Honourable friend's idea that there is a Machiavellian intention behind this Bill of securing the grant of monopolistic licenses to big companies. Big companies may be the most efficient method of dealing with motor transport, but that, I can assure my Honourable friend, has not been the object of the Government of India in bringing forward the Bill. It is for the Local Governments and the transport authorities to see that the interests of the small owners are looked after properly.

Now, Sir, I come to the points raised by my Honourable friend, Mr. James. I hope that all the reasons for suspicion which he mentioned in regard to this Bill, or at least most of them, will have been removed by the fact that we have agreed to circulate it for public opinion. One of the points he made was that the interests connected with motor transport in this country are not represented on the Transport Advisory Council. The reason for that is perfectly simple. It is that the Transport Advisory Council is a purely official body. It is a body constituted to implement policy. We had a body to formulate policy in the shape of

the Road-Rail Conference of 1933 which laid down the general principles which should govern this question of road development and road-rail competition. The Transport Advisory Council is engaged in implementing that policy. I submit that it has enough to do for the next two or three years in getting on with the good work. A time may come, and certainly will come, when it may be advisable to summon a larger body, but for the time being we want what one might call an executive body. There are various ways of ascertaining public opinion on these matters. The Provincial Governments have their Boards of Communications and through those they can ascertain the public view. It may be, and possibly, will be found desirable in time to enlarge the Transport Advisory Council to include non-official interests, but if you do, there is grave danger of its becoming a debating society. Take motor interests, for example. I gather from my Honourable friend that he does not regard the Indian Roads and Transport Development Association, whose views the Transport Advisory Council had before it, as representative of all the motor interests in this country. It possibly is not, but how are you going to choose the representatives of those interests. Does he suggest that we should have a representative of motor interests from every province? At the Road-Rail Conference we had two representatives of this Legislature on the Standing Committee on Roads. The difficulty that would arise if you were to enlarge the Transport Advisory Council is that it would become entirely unwieldy, that the discussions would go on for a very lengthy period and that we should get nothing done. My Honourable friend is always in favour of action, and I hope he will realise the force of my contention. He asked me, and I think it was a very reasonable request, what lacunae in this measure we hoped to fill when we bring forward a more comprehensive measure. They are really not very numerous; they include powers of control in respect of dangerous or congested localities of roads, control over the professional driver, that is, the man who drives a motor vehicle for hire or reward either as a private chauffeur or otherwise, control over the drivers of public transport motor vehicles, all of whom are not necessarily employed for hire or reward and some questions connected with registration. We framed a re-draft of sections 9 and 10 of the existing Act and we sent it to Local Governments, but as these points proved more controversial than we had anticipated, we thought it desirable to postpone their further consideration and to get on with the present measure. I will have the question examined again and see whether it is now possible to include suitable provisions on these points in the amended Bill. My Honourable friend raised the question of the private lorry, and I think it might make things easier, shall I say, if I said at once that I agree with the point that he raised. I should like to make it perfectly clear that we have no intention of interfering with the private lorry carrying private goods, carrying goods belonging to its owner and no others beyond requiring it to take out a road service permit. I think it will be quite obvious to the House that it is in the interests of the owner himself that that condition should be laid down. Otherwise, he will be liable to harassment from the people that we heard so much about from my Honourable friend, Mr. Sham Lal. Unless he has got some definite evidence that he is carrying his own goods in his own lorry, he is liable to be held up on suspicion that he is working for reward or hire. As regards the nature of the transport authority, the second point raised by my Honourable friend, I think I have already said

[Sir Frank Noyce.]

sufficient. He raised the question of an appeal to an independent tribunal. That is a matter which I will undertake specifically to refer to Local Governments when we send them the Bill for further opinion. We have, as I explained, secured a very large, in fact almost unanimous agreement from the Transport Advisory Council, from the representatives of the Local Governments in regard to this Bill generally. I think four or five of them have reiterated that agreement, one or two have suggested modifications in certain details. The point raised by my Honourable friend is obviously one that would conveniently have been discussed in Select Committee if we had decided to go to the Select Committee. As it is, we can now get public opinion in regard to it. The last important point he raised was the objection, I think, to wide rule-making on the part of Local Governments. He urged that there should be previous publication. If he will look at clause 5 of the Bill, as regards section 11, he will see that previous publication is provided for, and I have no doubt that that is also the case—I cannot say offhand without looking it up with the other sections of the original Act to which we are now making additions. If that is not so, it is a matter which can be put right. His last point was in regard to the provision of authorised stopping places for taking up and setting down goods. That is a minor point, but it was included because it was raised by at least one Local Government. I am not at all sure that they had not tried it already but wanted proper authorisation for it. They have found the necessity for it a necessity which can be explained on a more suitable occasion.

Now, Sir, I turn to my Honourable friend, Mr. Joshi. I am very glad indeed to have his support for the general principles of the Bill. With his usual indefatigable zeal, he wants the scope of it enlarged. He would like us, above all, to lay down in the Bill the hours of work for employees and to include provisions regulating their wages. I cannot imagine any measure which would be more satisfactory from the railway point of view. I leave it at that for the present, except to say that it would be extremely difficult to enforce such provisions. I sympathise with Mr. Joshi's objects but it would be extraordinarily difficult to enforce these provisions in the case of a multitude of small bus owners. I was very interested to hear from Mr. Joshi that he regards me as one who is anxious to leave everything free, as an advocate of *laissez-faire* in all labour and industrial matters. I am sorry that my Honourable friend, Sir Homy Mody, is not here today, for I should have liked to hear what he has got to say about that charge. I do not think there is any Member on these benches who has brought forward more restrictive legislation in the last five years than I have, restrictive I hope the House will agree in the best sense of the word. I will say no more about Mr. Joshi's statutory transport authority for the whole of India than that it is not possible to constitute it under the present constitution and will not be possible under the new one without amendment of the Government of India Act. My own view is that, in all probability, a Statutory authority for the whole of India is bound to come. I think Mr. Joshi is foreseeing an inevitable development of the future but in that matter, as in so many others, we have to leave the future to take care of itself.

There is just one point that I should like to make in conclusion. I want to make it perfectly clear that, though the Government of India have

agreed to circulate the Bill for public opinion, they stand by what I said in my opening speech. They regard the adequate control of motor transport in the provinces as absolutely essential to provincial participation in the road development fund and that is a position from which they would find it impossible to resile. The House will have further opportunities of discussing the subject and hearing our reasons for the position I have taken up when I place before it the revised Resolution regarding the road development account.

All I would say in conclusion is that I very much hope that the Bill will receive the dispassionate consideration of all the interests affected and that the House will not be misled when it comes up again by, what I am sure will happen, the immense volume of opinion that will be received from individual motor interests. I hope this House at any rate will look at the matter from a far wider point of view. There does seem to me, if I may say so, a tendency to forget that the railways also belong to India, that they are the property of India and that they are a very valuable property. (Interruption.) I repeat that they belong to the country and it is advisable to keep in a state of good repair an asset which, whatever views my Honourable friends opposite may hold about their present ownership, will come to the country wholly and completely sooner or later. Our object in putting forward this amended Bill has been to hold the balance even as far as possible between the two great competing methods of transport, road and railway. It is a real endeavour to carry into effect that blessed word to which so much lip service is paid but in regard to which so little is done—that blessed word 'co-ordination' and I hope that when the Bill comes back to the House it will be in that spirit that it will consider it.

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

“ That the Bill further to amend the Indian Motor Vehicles Act, 1914, for certain purposes (Amendment of sections 2, etc.), be circulated for the purpose of eliciting public opinion thereon by the 31st December, 1936.”

The motion was adopted.

THE CANTONMENTS (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Defence Secretary) : Sir, I move :

“ That the Bill further to amend the Cantonments Act, 1924, for certain purposes, as reported by the Select Committee for the second time, be taken into consideration.”

This is a fairly long Bill which contains a good many clauses and it is perfectly true that so far we have had little or no opportunity of discussing its merits on the floor of this House. That does not mean, however, either that the Bill has not received very full consideration or that any very long discussion is now absolutely necessary. It took Government in the first place nearly two years to make up their own minds as to the extent to which they thought it was desirable to amend the present Act. 18 months ago the Bill was introduced in this House and referred to a Select Committee.

[Mr. G. R. F. Tottenham.]

[At this stage, Mr. President (The Honourable Sir Abdur Rahim, vacated the Chair which was then occupied by Mr. Deputy President (Mr. Akhil Chandra Datta).]

But, before the Select Committee met, it was referred informally for the opinion of the All-India Cantonments Association and of the Army Commanders. A year ago, the Select Committee met and made drastic alterations in the structure of the Bill, as a result of which the Bill was recirculated for obtaining public opinion. Last Session in Delhi, the Select Committee met again and considered the opinions that had been received and made a few further amendments in the Bill. The reports of both Select Committees were unanimous; there were no minutes of dissent; and on both occasions the Select Committee contained a majority of Honourable Members who I am quite sure would not support Government, or any proposal brought forward by Government, unless they thought there were good and solid grounds for doing so. I do not wish to make too much of that fact, but the result, I hope, is a measure that will meet with general acceptance by this House. The mere fact that it has taken too much of that fact, but the result, I hope, is a measure that will meet shows, I think, that it is not an unimportant measure. It does, in fact, contain matters of considerable importance, both to the military authorities and also to the civil population in cantonments. I must now therefore endeavour to summarise for the benefit of the Members of the House the main features of the Bill.

From the military point of view, the first and most important point is that the Bill recognises and confirms the principle that cantonments are primarily places for soldiers to live in and therefore that military interests in cantonments must predominate, also that in certain places, such as frontier cantonments, and in certain exceptional circumstances the exigencies of military service may make it necessary to depart for a temporary period from the recognised methods of municipal administration through an elected body. In the second place, the Bill improves the system of municipal control over building in Cantonments; and, thirdly, it puts on a proper footing the system of payment for water supplies received from the Military Engineer Service. This will put an end to the losses that have been incurred under the present system, losses which, I may mention, amount to something in the neighbourhood of five lakhs a year and which at present, in practice, are made good out of the pockets of the general taxpayer for the benefit of the limited number of persons who live in cantonments.

On the other side of the picture, there are the advantages of the Bill from what I may call the civil or non-official point of view. In the first place, there are the provisions of the Bill which put an end for all time to that system of one-man administration in cantonments which is known now as "the Corporation Sole" and also to nominated boards. The system of election is introduced for the first time in all cantonments in India, even though in the smallest cantonments there may be only one elected member. In the second place, there is the provision in the Bill which makes it compulsory for all cantonment boards, except in the very smallest cantonments, to appoint a committee of their members containing a non-official majority for what I may call the primary administration of Bazaar areas, that is to say, those areas in cantonments in which civil interests may be

said to predominate over those of the soldiers. Thirdly, there are the provisions in the Bill which will replace the present military executive officers by a service of civilian executive officers who will be recruited through the instrumentality of the Public Service Commission and whose salaries, which will be considerably lower than the salaries paid now to the military executive officers, will be paid in equal shares by Government and by the Cantonment Fund.

Now, for the sake of convenience, I have tabulated in this manner the main features of the Bill on the one side and the other. But I do wish to make it clear that no system of cantonment administration will ever work smoothly so long as we continue to regard the interests of the civil population in cantonments as being necessarily opposed to the interests of the military population, or the interests of the military population as being necessarily opposed to those of the civil population. There is, and there must be, a community of interests. It may be true that the civil population in many cantonments has now increased in size beyond the minimum requirements of the soldiers. Nevertheless it is a fact that the soldiers in cantonments could not get on without some civil population to supply their requirements. Equally, it is true that the civil population themselves could not exist were it not for all the trade and business that they get from the soldiers. In fact, Sir, I think, if we were to make a referendum to all the civil inhabitants of cantonments and ask them to choose between two alternatives, *one*, whether they would prefer to remain in cantonments under military rules and regulations, or, *two*, whether they would prefer to separate themselves from cantonments and run their own affairs completely, I have very little doubt that a large majority would be in favour of the first alternative. (*An Honourable Member*: "Question.") This being so, Sir, the need for co-operation between the two elements in cantonments is obviously essential if our scheme of administration is going to work smoothly, and this fact I think was very rightly recognized by the Select Committee. There was a feeling in certain official quarters that I had gone much too far in accepting this suggestion about Bazaar committees. It was argued that we were going to set up two kings in Brentford—that we were going to introduce two parallel organizations which were bound to come into collision with each other. On the other hand, it was argued that it might be a good idea on paper to set up a Bazaar Committee, but that in practice these Committees would exercise no real power unless the powers to be given to them were actually specified, enumerated and tabulated in so many words in the Act. Well, Sir, I think the Select Committee took the right line about that. They recognized, as indeed is constitutionally proper, that the authority of these Bazaar committees must be derived from the Board as a whole. They recognized that fact and they recognized that the extent of the powers to be delegated to these Bazaar committees must in consequence be capable of variation according to the success and ability with which they were exercised. At the same time they did ask Government whether they could give an assurance that the committees would be given a real chance of making good, and that assurance I very gladly give today. As soon as this Bill has been passed, as I hope it will be passed, instructions will be issued to all the cantonments concerned to bring these Bazaar committees into existence and to give them a real chance of exercising real powers; and, Sir, if those powers are exercised temperately and reasonably, for the good of the cantonment as a whole, I believe the Bazaar committees may

[Mr. G. R. F. Tottenham.]

be a success and also incidentally, relieve military officers of a good deal of detailed work which they now find rather uncongenial.

Then again there was the question of water supplies. It was urged in certain quarters that as these supplies were to be supplies for the civil population in cantonments, it should, therefore, lie with the elected members of the cantonment boards alone to decide whether they would take their supplies of water from the Military Engineer Services or from some other source. Here again I think wiser counsels prevailed. The Select Committee recognized that the decision in this matter must formally and constitutionally be the decision of the board as a whole, but on the assurance, which I again gladly give, that Government will not use their official majority on the board solely for the purpose of forcing a cantonment to take its supplies of water from the M. E. S. when the elected members of the board can show that they are prepared and anxious to take their supplies from some other source which will be cheaper for the inhabitants of the cantonment.

Finally, I come to the last point which I want to mention now. There is this big question of what is known as the land dispute in cantonments. That is a question that does not come directly into the provisions of this Bill, nor indeed can it, but there are one or two clauses in the Bill which touch upon it incidentally, and I know that Honourable Members opposite do attach considerable importance to the discovery of some satisfactory settlement of this long-standing dispute. Now, I am not going into the rights and wrongs of the dispute today. It is a complicated question and I should not be able to do so in the time at my disposal. Nor am I going to admit for a moment that the dispute is the fault of Government and that house-owners in cantonments, as a class, are entirely blameless or have been unfairly or harshly treated. Personally, I think, as a class, house-owners in cantonments have done exceedingly well out of Government during the last one hundred years or so, and it is an undoubted fact that during that period very very large sums of money have passed into their hands from the pockets of the general taxpayer in this country. On the other hand, I do recognize that a very large proportion of the friction which has unfortunately been associated with cantonment administration for the last few years is ultimately due to this land dispute, and I entirely agree that if a solution could be reached, it would be a blessing to both parties. All I can say is that I have done my very best to reach such a solution and I think that we are in a fair way to success. We have done two things. In the first place, Government have decided not to bother any more about their claim to be the owners of land in cantonment Bazaars. By that I do not mean that Government hereby formally relinquish their claim to be the owners of such land, any more than that they relinquish their claim to be the owners of land in cantonments generally. What I mean is that Government do not intend to enforce that claim in Bazaars. They are going to remove their Military Estates Officers entirely from Bazaars and they are going to hand over their rights in land in Bazaars to Cantonment Boards to make what they like of them—and when I say Cantonment Boards, I mean naturally the Bazaar Committees of those Boards if, as I hope, these Committees function successfully. In this connection there is perhaps one matter in the Bill to which I ought to make a reference, as I believe there has been some misunderstanding on the subject. One of the

clauses of the Bill makes it compulsory for the Cantonment Board to refer building applications to the Military Estates Officer before according municipal sanction to them. Now that provision applies only to building applications on land which is under the control of the Military Estates Officer and I have just made it quite clear that land in Bazaars will not be under the control of the Military Estates Officer. The result, therefore, is that it will be unnecessary for Cantonment Boards in future to refer applications for the erection or re-erection of buildings in Bazaars to the Military Estates Officer. They will, under the provisions of this Bill, be entitled to do what they have not been able to do hitherto, and that is to refuse to grant municipal sanction to the erection or re-erection of a building in a Bazaar if they are satisfied that the building represents an encroachment, but whether they do so or not will be entirely within their own discretion and they will not have to refer the matter to the Military Estates Officer.

Now, Sir, I said we had done two things. The second thing, as Honourable members may have seen from the Communiqué which was recently published in the press, is that we have had a full and frank discussion with the All-India Cantonment Association regarding the position of house-owners outside Bazaars. The result of that discussion in a nutshell is that, if the house-owners on their side are now prepared formally to forego their claim to be the owners of the soil—and that is a thing they have never done hitherto—if they are willing to do that, we on our side are prepared to deal with them in the most generous way consistent with the necessity for safeguarding of our own contingent interests in the land and the necessity for preserving the amenities of the cantonment and preventing over-building and over-crowding. There are one or two small points still outstanding, but I believe myself that a satisfactory agreement can and will be reached on these points and I think that the agreement will prove satisfactory to both parties.

Now, Sir, that is all I have to say for the moment. I should not be so rash as to claim that this Bill, or the land agreement that I have just mentioned, is going to usher in anything in the nature of a millenium in cantonments. Difficulties, I am afraid, will arise and there will be differences of opinion; and those differences of opinion can, as I said, only be solved in a spirit of co-operation. What I do claim is that we on our side have gone as far as we possibly can to make the way to that co-operation easy. I should also like now to acknowledge the very great assistance that I have received personally in the preparation of this Bill both from the military authorities themselves, from the All-India Cantonments Association as at present constituted and, last but not least, from the members of the Select Committee who were good enough to go through it in great detail and reached the agreement that we have arrived at. In view of what I have said I do hope that the Bill will commend itself to the House and will not meet with opposition.

Sir, I move.

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

“That the Bill further to amend the Cantonments Act, 1924, for certain purposes, reported by the Select Committee for the second time, be taken into consideration.”

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadian) : Sir, I am very glad to note the very fine spirit in which the

[Mr. N. V. Gadgil.]

Honourable Mr. Tottenham has moved the consideration of the Bill, because it is a unique experience that during the last 18 months at least one official from the other side had been pleased to appreciate what little we have done to understand each other's difficulties both in the course of our sittings in the Select Committee as well as in the open House.

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

I am glad that the Mover does not claim that millenium will dawn as soon as this Bill is passed into an Act. Though we have agreed in the Select Committee and though we also propose to agree here, it should not be understood that we are quite satisfied with the measure taken as a whole. At the same time, it will be but fair on my part to state that after the assurances given by the Honourable Mr. Tottenham, at least the measure deserves a fair trial at the hands of the residents of the various cantonments. I do not know how far this House appreciates the importance of this Bill. There are only 90 cantonments and if we take the civil population only it certainly concerns the civic rights and liberties in municipal matters of nearly 50 lakhs of people. One great thing which we have been able to achieve in the course of our discussion in the Select Committee was that every cantonment will have an elected Board. Its size may differ from one elected member to the maximum number of 7 but at the same time we cannot brush aside the fact that this has been a great improvement over the original Bill as it was introduced in the last Delhi Session. Personally, even now I think that if Government accepts that in certain matters it is always better to be less cautious and if my Honourable friend, Mr. Tottenham, had taken the risk of giving an elected majority, I am sure there would have been no want of co-operation on the part of the Cantonment Board. I do agree with him though not in all respects that military interests ought to prevail, but I do add a rider to this principle, namely, that they must prevail to the extent which has been defined by one of the former Commanders-in-Chief. The health, the welfare and the discipline in the army are the only things that ought to matter and no more than that. If this limitation is kept in mind while delegating functions to the Statutory Bazaar Committee which is proposed in this Bill, I am sure that there will be less and less friction and more and more of co-operation. (Hear, hear.) The real trouble with the Cantonment administration has always been firstly the great prejudice that has existed and that does exist that the military authorities are somehow or other always rough and ready in their methods. This is not the time nor the occasion when I should give instances of their doing many things without very great regard for strict application of laws and general principles, for I do not want to mar the atmosphere in which this Bill has been moved. But it should not be understood at the same time that the whole prejudice is gone. Its elimination will depend to the extent to which the spirit that has pervaded the whole speech of my Honourable friend, Mr. Tottenham, pervades in the administration of this Bill when it becomes law.

An Honourable Member : Impossible.

Mr. N. V. Gadgil : If this is an impossibility, well the other thing also will be an impossibility because both are dependent upon each other. Now, Sir, the Bazaar Committee, I do admit, is a sort of agreement arrived

at in the Select Committee. Somehow or other we could not persuade the Government to accept our demand for having an elected majority in the Cantonment Board. We would have very much liked the Government to accept it, but somehow or other we could not. Then if that were not possible we suggested that there should be a division of functions in terms of territories in the sense that that part of the Cantonment which is exclusively or predominantly populated by civil population should be so administered so far as the municipal matters are concerned that the popular voice ought to prevail. It was due really to an honest desire on the part of the Government to accept this decision that this arrangement of Bazaar Committee was accepted. (Hear, hear.)

I am always willing to give everybody his due, but nothing more than that. So that was the understanding, and I hope that that understanding will be carried to the best of their ability through the various stages of the Bill. The Bazaar Committee consists of the elected Members and there are going to be two officials, the Health officer and the Engineer and we do recognize the propriety of having these two on the Bazaar committee so as to avoid further friction and further trouble after the decisions are taken by the Bazaar Committee. I am glad to note in connection with this that although the Government have not given up all their claims to land in the Bazaar area, yet from the assurance that has been given at least I gathered that Government will hereafter not trouble themselves about the ownership or put any undue or harsh obstacles in the way of permission for building in the particular area. There is another matter which I want to refer, although it is not very relevant to this Bill. In the original Act, the Local Government has been empowered to divide every Cantonment into wards or communities for the purpose of election. I think in the Punjab, if I am right, the cantonments are usually divided into wards and there is no question of dividing them into communities and this is an agreeable surprise in a Province which is supposed to be very communal. I think a lead on that line should be given for every cantonment. We have experienced very great trouble in the Bombay Presidency especially after this amended Bill was published in the Government gazette. Resolutions after resolutions have been passed by several Cantonment Boards and curiously enough with official votes that the additional seat or seats that may be available when this Bill becomes law should go to this community or that community and it is very surprising to learn that communities which have not been so far recognised for the purpose of separate franchise or electorate have cropped up.

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

STATEMENT OF BUSINESS.

The Honourable Sir Nripendra Sircar (Leader of the House) . (On

5 P.M. Monday next, Sir, the House will proceed with the business outstanding from this week's list. On Tuesday, I

shall move for consideration of the Company Bill as amended by the Select Committee, and the debate on that Bill will continue from day to day until it is completed.

The Assembly then adjourned till Eleven of the Clock on Monday, the 7th September, 1936

LEGISLATIVE ASSEMBLY.

Monday, 7th September, 1936.

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

QUESTIONS AND ANSWERS.

REPORT OF THE ZANZIBAR RIOT ENQUIRY COMMITTEE.

146. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether the Committee appointed by the Government of Zanzibar to enquire into the riots there has submitted its report ;
- (b) if so, what the report is ; and
- (c) whether a copy of the report will be placed on the table of the House ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). A copy of the report has been placed in the Library of the Legislature.

Mr. S. Satyamurti : Will the Honourable Member consider placing it on the table, unless it is a very big volume ?

Sir Girja Shankar Bajpai : It is about seven or eight foolscap pages in print. That is why I did not lay it on the table of the House.

Mr. S. Satyamurti : May I suggest that, in view of the importance of the matter, Government may be good enough to place a copy on the table of the House ?

Sir Girja Shankar Bajpai : I have no objection ; I will place a copy on the table of the House.

APPOINTMENT OF A COMMITTEE TO ENQUIRE INTO THE FINANCES OF RAILWAYS.

147. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether they have come to any conclusion on the question of appointing a Committee to enquire into the finances of the Indian Railways ;
- (b) what the conclusion is ;
- (c) when that Committee is to be appointed ;
- (d) if so, what the composition and terms of reference to the Committee will be ; and
- (e) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to the reply I gave to Mr. Ananthasayanam Ayyangar's question No. 84 on the 2nd September, 1936.

Mr. S. Satyamurti : May I know if, to-day, Government have in mind any idea of appointing a committee or arranging for any other mode of inquiry into the finances of the Indian railways?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I have nothing to add to the reply I gave on the 2nd September.

Mr. S. Satyamurti : What is the latest figure about the finances of the Indian railways available to the Railway Member?

The Honourable Sir Muhammad Zafrullah Khan : I should like to have notice of that question. I have not got the figures here.

Mr. T. S. Avinashilingam Chettiar : Have they under consideration any proposal to bring any foreign expert to examine this question?

The Honourable Sir Muhammad Zafrullah Khan : As I have said, I have nothing to add to what I said on the 2nd September.

Mr. S. Satyamurti : Have Government made up their mind, either tentatively or finally, on the question of increasing freights and fares, with a view to increasing the revenues of the railways?

The Honourable Sir Muhammad Zafrullah Khan : That question is constantly under review and action is taken wherever possible.

Mr. S. Satyamurti : In regard to the last communiqué issued by the Railway Board suggesting certain changes in freights and fares for 200 articles and in respect of which opinions were received, have Government disposed of this matter, or do they propose to dispose of it soon?

The Honourable Sir Muhammad Zafrullah Khan : I believe action has been taken over different railways to different extents; I could not say to what extent on each railway.

Mr. S. Satyamurti : Have Government any proposal with regard to economies in expenditure, which they are now considering?

The Honourable Sir Muhammad Zafrullah Khan : To that question I have already replied more than once during this Session alone.

Mr. S. Satyamurti : Apart from sending away the lower paid staff, have they any proposals for introducing any other economies in expenditure?

The Honourable Sir Muhammad Zafrullah Khan : My last answer covers that question also.

Prof. N. G. Ranga : Is it not a fact that the Agent of the Bengal Nagpur Railway is now negotiating with the workers in order to make them agree either to retrenchment or to short-time?

The Honourable Sir Muhammad Zafrullah Khan : There is a short notice question on the subject today which I shall reply to in due course.

LETTER ENTITLED "RAILWAY FINANCE AND RAIL-ROAD COMPETITION" PUBLISHED IN THE *Hindu*.

148. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to an anonymous letter entitled "Railway Finance and Road-Rail Competition", published in the *Hindu* of the 7th March, 1936;

(b) whether the facts and allegations made therein have been examined; and

(c) whether they propose to take any steps to remedy the wrongs complained of?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes.

(c) The points to which attention has been drawn are continually borne in mind by Railway Administrations.

Mr. S. Satyamurti : May I know whether, apart from being continually borne in mind, any action has been taken or is proposed to be taken in order to meet this problem?

The Honourable Sir Muhammad Zafrullah Khan : There are several matters referred to in the article to which the Honourable Member has made reference, and two of the proposals he has had an opportunity of considering even in this Session.

Mr. S. Satyamurti : In view of the fact that my Honourable friend was unlucky in not getting the House to agree with him, may I know whether Government are thinking of any other proposals, with a view to meeting this road-rail competition, besides those that have been put forward?

The Honourable Sir Muhammad Zafrullah Khan : Action is being taken on different railways. For instance, one Honourable Member referred to steam coaches, light and faster trains being run to induce traffic of a certain class to return to the railways, or to retain it or develop it.

Mr. S. Satyamurti : May I know if Government have any proposals, apart from penalising road transport, for increasing facilities and amenities for passengers of the railways so that they can survive by competition and not by destruction of the other competitor?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir, continuously.

Mr. S. Satyamurti : What are they?

The Honourable Sir Muhammad Zafrullah Khan : Increasing facilities and amenities.

Mr. S. Satyamurti : May I know if Government are aware of the fact that the Postal Department of the Government of India send their mails from Kalka to Simla by car and do not use the Kalka-Simla Railway?

The Honourable Sir Muhammad Zafrullah Khan : That is for the Postal Department to answer.

Mr. S. Satyamurti : Is it not for the Government of India to find out if they are losing revenue by a Department of Government not using the railway which is admittedly losing, and taking advantage of motor transport ?

The Honourable Sir Muhammad Zafrullah Khan : I suggest that that should be addressed to my Honourable friend in the Industries and Labour Department. I could not accept the implications contained in the last question.

Mr. S. Satyamurti : May I know if Government have no consistent policy of increasing the railway revenues, at least by seeing that their departments use the railways wherever necessary and possible ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, that policy is being pursued.

Mr. S. Satyamurti : May I know if Government will examine why the Postal Department is using the motorcar and not the railway, and take steps to see that the revenue thereby lost is brought back to the railways ?

The Honourable Sir Muhammad Zafrullah Khan : As I have said, I am not aware of the details of that arrangement and so I cannot accept that implication.

Mr. S. Satyamurti : Will Government kindly inquire into that matter ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

The Honourable Sir Frank Noyce : I will have the question examined, Sir.

PART PLAYED BY INDIA IN THE MEETINGS OF THE COUNCIL OR THE ASSEMBLY OF THE LEAGUE OF NATIONS AFTER THE CONQUEST OF ETHIOPIA BY ITALY.

149. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) what part India played in the various meetings of the Council or the Assembly of the League of Nations, which met after the conquest of Ethiopia by Italy ;

(b) whether they were consulted at any time ;

(c) whether they conveyed the opinion of the people of this country that the sanctions ought to be continued and intensified till Italy gives up her military hold on Ethiopia ; and

(d) if not, why not ?

Sir Aubrey Metcalfe : (a) India is not a member of the Council. She was represented at the Special Session of the Assembly convened on the 30th June.

(b) The Government of India were consulted on the question of the instructions to be given to the Indian delegation at the Special Session in question.

(c) Without prejudice to the correctness of the Honourable Member's impression of the opinion of the people of this country, the answer is in the negative.

(d) The Government of India as the executive authority are responsible for forming their own opinion on a matter of this kind and cannot delegate this responsibility to any section of the Indian public.

Mr. S. Satyamurti : With reference to the answer to clause (c), may I ask for some elucidation ? May I know what was the opinion or instruction conveyed to the Indian delegates at the special Assembly of the League of Nations, with regard to the question whether the sanctions ought to be continued or lifted ?

Sir Aubrey Metcalfe : So far as I remember, the terms of the instructions were that they should follow the opinion expressed by His Majesty's Government.

Mr. S. Satyamurti : Whatever it was ?

Sir Aubrey Metcalfe : No ; the opinion of His Majesty's Government was, as the Honourable Member must be aware, that there was no advantage in continuing the sanctions.

Mr. S. Satyamurti : May I know if the Government of India were at one time of opinion, when His Majesty's Government was of that opinion, that the sanctions ought to be continued, when Sir Samuel Hoare was dismissed for negotiating the Hoare-Laval conversations, and whether they changed their opinion later on, when His Majesty's Government changed their opinion, in favour of lifting the sanctions ?

Sir Aubrey Metcalfe : I imagine that His Majesty's Government's opinion followed events.

Mr. S. Satyamurti : And may I know if the Government of India's opinion followed His Majesty's Government's opinion, irrespective of events ?

Sir Aubrey Metcalfe : It is perfectly obvious. Surely there is no point in India taking a different view from all other nations on a practical question of this kind. Sanctions can only be effective if all nations impose them.

Mr. President (The Honourable Sir Abdur Rahim) : That is rather a dead question.

SIGNING OF THE LONDON NAVAL TREATY BY INDIA.

150. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether India signed the London Naval Treaty ;

(b) who signed it on behalf of India ; and

(c) whether they were consulted in this matter ?

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

(b) The Under Secretary of State for India.

(c) Yes.

Mr. S. Satyamurti : And was the opinion of the Government of India conveyed to the Indian delegate who signed the London naval treaty ?

Mr. G. R. F. Tottenham : It would be difficult for me in answer to a supplementary question to make a coherent statement about that. If

my Honourable friend wishes to know, I will be quite prepared to give him an answer if he will put down a question.

Mr. S. Satyamurti : May I know if, as a matter of fact, Government gave any instructions or simply asked him to sign what His Majesty's Government signed ?

Mr. G. R. F. Tottenham : Yes, Sir, they gave certain instructions.

VALUE OF INDIA AS A TRAINING GROUND FOR BRITISH TROOPS.

151. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons published in the *Amrita Bazar Patrika*, dated the 26th March, 1936 ;
- (b) whether their attention has been particularly drawn to the statement of Sir Edward Grigg that the grant recommended by the Garraan Tribunal of 1933, was made with a view to the availability of the army in India for use in emergency in the East, and also in view of the value of India as a training ground ;
- (c) whether their attention is drawn to the statement of the Under-Secretary of State for India that the understanding had been that India would give assistance in emergency if the external and internal situation permitted ;
- (d) if so, what the understanding was ;
- (e) whether their attention has been drawn to another statement by the Under-Secretary of State for India that all military experts were agreed as to the value of India as a training ground for British troops ; and
- (f) if so, whether the British Government will be asked to make a further contribution to the cost of defence in India ?

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

(d) As stated by the Honourable Member in part (c).

(f) The grounds on which the present contribution is given are precisely those mentioned in parts (b) and (e) of the question. The mere re-statement of those grounds affords no reason in itself for asking for more.

Mr. S. Satyamurti : May I know, with reference to the answer to clause (f) of the question, how much of this contribution which is now made by His Majesty's Government to Indian defence is debitable to the considerations mentioned in clauses (b) and (e) of the question,—that is to say, that India is bound to help in times of emergency, as also providing a training ground for British troops ?

Mr. G. R. F. Tottenham : No attempt has ever been made, nor would it be possible, to divide the sum proportionately between those two grounds : the contribution was made on consideration of the two grounds taken together.

Mr. S. Satyamurti : May I know if those were the only two considerations on which the contribution was based ?

Mr. G. R. F. Tottenham : Yes : if the Honourable Member will read the report of the Garraan Tribunal, he will find that those were the only two grounds on which that tribunal recommended that the contribution should be made.

Mr. S. Satyamurti : May I know whether the Government of India will re-examine the question, and satisfy themselves that the contribution now being paid by His Majesty's Government is adequate or not adequate ?

Mr. G. R. F. Tottenham : No : I do not think we can undertake to re-examine that question unless we have further grounds for doing so.

Mr. S. Satyamurti : May I know if the Government of India are aware that, in their claim before that Capitation Tribunal, they put forward a much higher amount as due to India, on those considerations ?

Mr. G. R. F. Tottenham : Yes : it is perfectly true that a larger claim was put forward. That claim was not accepted.

Mr. S. Satyamurti : May I know, when their claim was not accepted in full, whether the Government of India will re-examine this question, in view of the facts mentioned in this question ?

Mr. G. R. F. Tottenham : On what grounds could they do so ? They have accepted the award and there are no new grounds on which they can ask for a re-examination.

Mr. S. Satyamurti : Did they accept the award, without any reservation whatever ?

Mr. G. R. F. Tottenham : We accepted the award as being what we were actually likely to get.

Mr. S. Satyamurti : Therefore, will Government re-examine this question, apart from their having accepted it because they could not get more, in the light of these facts, and press for a little more grant from His Majesty's Government ?

Mr. G. R. F. Tottenham : I do not think we can undertake to re-examine the question at present : but undoubtedly the Honourable Member's suggestion will be borne in mind ; and if any good ground arises for re-examination, we certainly shall do so.

BRITISH TROOPS IN INDIA AND THEIR COST OF MAINTENANCE.

152. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article, published in the *Hindu*, dated the 25th March, 1936 about the British troops in India and their cost of maintenance in India ;

(b) whether their attention has been drawn to the statement " The fact is that the Indian Army is organized and equipped as much to subserve Imperial purposes as Indian ; and India is entitled to a grant from the British Exchequer, if the value of the Army in India is properly assessed, not of the paltry sum of a million and a half pounds, but many times that sum " ; and

(c) whether they propose to address His Majesty's Government about this matter ?

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

(c) Government do not agree that the Indian Army is organized and equipped as much to serve Imperial purposes as Indian, or that £1½ million is a paltry sum, or that India is entitled to many times that sum. They certainly could not put such a proposition before His Majesty's Government nor do they intend to do so.

Mr. S. Satyamurti : May I know whether the Indian Army is or is not organised as part of the Imperial Defence Forces ?

Mr. G. R. F. Tottenham : The Indian Army, and the Army in India as a whole, are organised for the defence of India. There is a resolution of this Assembly which recommends that the organisation of the Army in India should be more or less on the same lines as that of the Army in England, so that in the event of an Imperial emergency, if India were fighting along with the Imperial forces, they would not be at a disadvantage.

Mr. M. S. Aney : Does the Honourable Member mean that the Indian Army does not form part of the Imperial Defence ?

Mr. G. R. F. Tottenham : India is part of the Empire and therefore the Army in India is part of the Imperial forces.

Mr. M. S. Aney : Does the Honourable Member think that the contribution made by the Imperial Government to Indian defence expenditure is adequate ?

Mr. G. R. F. Tottenham : I do not think that question arises.

Mr. S. Satyamurti : May I know if the Government are aware—or whether they will ascertain—whether the British Imperial Defence Forces are or are not kept on the present basis taking into full account the organisation and strength of the Indian Defence Forces ?

Mr. G. R. F. Tottenham : India being part of the Empire, naturally the forces in India are part of the Imperial forces ; in that sense and to that extent naturally the strength of the Army in India is taken into consideration.

Mr. S. Satyamurti : May I know if any calculation has been made or will be made of the reduced cost of the British Defence Force, on account of the Indian Defence Force, and whether the Government will examine the question whether His Majesty's Government should not pay us the full contribution representing the saving they make because of the Indian Defence Force ?

Mr. G. R. F. Tottenham : As I said just now the whole matter was exhaustively discussed by the Garra Tribunal. They heard the arguments put forward on both sides ; a decision was given and that decision was accepted. As I explained in answer to the last question, no new grounds have arisen on which we can attempt to modify that decision.

Mr. S. Satyamurti : May I just know whether any calculation has been made or will be made, showing the saving to the British tax-payer, on account of the maintenance of the Indian defence forces at their present level ?

Mr. G. R. F. Tottenham : That was one of the arguments put forward before that Tribunal. It was not accepted by them.

Mr. S. Satyamurti : What was the result of that calculation ? Is the Government of India aware of the results of any such calculations, as mentioned in my last question ?

Mr. G. R. F. Tottenham : I should want notice of that.

ARTICLE ENTITLED " INTER-RELATED PROBLEMS " PUBLISHED IN THE *Hindustan Times* REGARDING UNEMPLOYMENT PROBLEM.

153. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Hindustan Times*, dated the 27th March, 1936, entitled " Inter-related problems " regarding Mr. Clow's statement in the Council of State regarding the Sapru Report on Unemployment ;

(b) whether they propose to accept wholly or partially the suggestions contained in the article ; and

(c) if not, why not ?

The Honourable Sir Frank Noyce : (a) I saw the article.

(b) and (c). I was unable to find any concrete practical suggestions in the article, which dealt in very general terms with the interdependence of central and provincial policies.

Mr. S. Satyamurti : May I know if Government have any proposal to examine this unemployment problem, from an All-India point of view, with a view at least to making suggestions to Local Governments to act upon, as and when they choose ?

The Honourable Sir Frank Noyce : I think I have given the House a good deal of information on that subject in the course of this Session. I have explained on several occasions that the Government are considering the report of the Sapru Committee as a whole, that is, taking into account all the relevant factors. I would add that the very complexity of the problem which is recognised by the writer in the *Hindustan Times* makes it impossible to take any decision quickly : Government are examining the report from an All-India point of view.

Seth Govind Das : How long will they take in arriving at a conclusion ?

The Honourable Sir Frank Noyce : I have answered that question several times already this Session. I explained that the report concerns a large number of departments, which makes it difficult to come to an early decision, but that the Government of India will do all in their power to expedite its consideration. I would add that it is engaging our anxious attention.

Mr. S. Satyamurti : May I take it, therefore, that, apart from any action which either the Central or the Provincial Governments may have to take under the Government of India Act, 1935, the Central Government will examine the problem, with a view to evolving suggestions which the respective Governments may consider from their points of view ?

The Honourable Sir Frank Noyce : I should prefer not to anticipate the results of Government's examination.

Prof. N. G. Ranga : Are Government aware of the existence of unemployment on a much greater scale, among the rural masses, among the educated middle classes, and, if so, have they considered the advisability of taking any measures to relieve it ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise out of this question.

REPORT OF THE SPECIAL TARIFF BOARD.

154. ***Mr. S. Satyamurti :** Sir, I do not put clauses (a) and (e), but only clauses (b), (c) and (d) of the question.†

The Honourable Sir Muhammad Zafrullah Khan : (b), (c) and (d). The attention of the Honourable Member is invited to the Report of the Special Tariff Board, a copy of which was supplied to him ; and also to the Government of India, Department of Commerce, Notification and Resolution No. 341-T. (10)/36, dated the 25th June, 1936, which were published in a Gazette of India Extraordinary on that date.

Mr. S. Satyamurti : When passing their orders, did the Government take into account the facts mentioned in clause (b) of the question, namely, that the present level of duty against the United Kingdom goods gives Indian textile goods the barest protection in certain lines, and that reduction in those lines by even one per cent. will place the Indian industry at a disadvantage ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India took into account every consideration set out in the Report.

Mr. S. Satyamurti : Will the Government of India keep a careful watch on the results of the orders on the Special Tariff Board Report, and take very early steps to revise their orders, if conditions show that what is anticipated in clause (b) is justified ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India will naturally keep the position under review and will take such action as the position might necessitate.

Mr. S. Satyamurti : With regard to clause (c) of the question, did the Lancashire delegation lead any evidence before the Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : I believe so.

†154. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they propose to pass orders on the report of the Special Tariff Board ;
- (b) whether the Special Tariff Board has found that the present level of duty against the United Kingdom goods gives Indian textile goods the barest protection in certain lines and that reduction in those lines by even one per cent. will place the Indian industry at a disadvantage ;
- (c) whether it is a fact that the Lancashire Delegation did not lead any evidence before the Tariff Board to prove their cost price ;
- (d) whether the Tariff Board have been able to ascertain the fair selling price of Indian as well as the United Kingdom goods ; and
- (e) whether they will place on the table of the House the Special Tariff Board's Report ?

Mr. S. Satyamurti : And did the Special Tariff Board come to any conclusion on the cost prices of their goods ?

The Honourable Sir Muhammad Zafrullah Khan : The report is available to the Honourable Member.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that a very serious situation has arisen in Ahmedabad, and the millowners there are closing down their mills for a month owing to the lower rate of protection and the lowering of rates against British textiles ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that there is a strike going on in the Ahmedabad mills ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of that. There was some dispute over the lowering of wages ; but I do not know how the situation has developed.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that the lowering of wages is due to the lowering of rates as against British textiles ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Mr. S. Satyamurti : Have there been greater imports of British textiles of the kinds on which duties were reduced, since the Government order reducing the duties ?

The Honourable Sir James Grigg : No.

The Honourable Sir Muhammad Zafrullah Khan : I have no information with regard to that.

Mr. S. Satyamurti : But the Finance Member says " No ".

The Honourable Sir Muhammad Zafrullah Khan : He may have information, because the information goes first to the Central Board of Revenue, not to me.

Mr. M. Ananthasayanam Ayyangar : Have Government considered the adverse effects on the local production of mill-made cloth in India on account of the lowering of the rates ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of any adverse effects.

Mr. M. Ananthasayanam Ayyangar : Is it not due to that that the mills in Ahmedabad are contemplating to close down ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that question.

GOVERNMENT DEPOSITS WITH THE RESERVE BANK OF INDIA.

155. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article, entitled " Spring Finance " in the *Indian Finance*, dated the 21st March, 1936 ;
- (b) whether they propose to abandon their present policy of abstemious cash balance and agree with the Reserve Bank as

to the formulation of a definite convention that the minimum balance of Government deposits with the Reserve Bank must be round about Rs. 15 crores ; and

- (c) whether they propose to take steps to see that while the Reserve Bank claims statutory deposits as a matter of right, the member banks derive a number of valuable facilities ?

The Honourable Sir James Grigg : (a)†.

(b) There is a convention under which the Government of India maintains a balance of between six and seven crores with the Reserve Bank. The Government of India see no reason why they should increase it at the cost of the tax-payer.

(c) I would invite the attention of the Honourable Member to Regulation 9 of the " Regulations regarding the relations of the Scheduled Banks with the Reserve Bank " and to the proceedings of this House on the 19th December, 1933.

Mr. S. Satyamurti : As a matter of fact, how much balance do they keep in the Reserve Bank ? Is it only six or seven crores, or slightly more or less ?

The Honourable Sir James Grigg : Almost invariably between six and seven crores, but very occasionally it has fallen below six and rather more often it rises above seven crores.

Mr. S. Satyamurti : May I know if the Government are satisfied that this cash balance in the Reserve Bank amply meets all their needs, and they cannot usefully increase it ?

The Honourable Sir James Grigg : The Honourable Member will be aware that the fixing of the balance at this level is designed to provide the Bank with a free balance which is sufficient to remunerate them for the work they do on behalf of the Government.

Prof. N. G. Ranga : Is it not a fact that when the Reserve Bank Bill was passed here, the Reserve Bank was expected, after it came into existence, to cater to the needs of the rural masses in respect of credit, and that it has till now failed to do anything in that direction ?

The Honourable Sir James Grigg : I don't think the Bank or anybody else can be held to blame for not having fulfilled unfounded expectations.

Prof. N. G. Ranga : Is it not a fact that it was not merely an expectation, but it was a duty charged on them that they should open rural credit facilities for the masses, and that they should help them in regard to their means of credit ?

The Honourable Sir James Grigg : I am afraid if by what the Honourable Member regards as the needs of the masses he means that they should be able to borrow at one or two per cent. without security, then I know of no banking institution in the world which can do it ; that is not banking ; it is charity.

Prof. N. G. Ranga : Is it not a fact that the Reserve Bank has failed to discharge any of their duties in regard to rural credit ?

The Honourable Sir James Grigg : If by discharging their duties the Honourable Member means that the Reserve Bank should provide

† No reply was given to part (a) of this question.

very cheap credit for borrowers who are not in a position to offer any security, then the Reserve Bank will never be able to discharge its duties, nor will any other institution in this world or the next.

Prof. N. G. Ranga : Is it not a fact that none of the Land Mortgage Banks established in the country has so far advanced any credit even on very sound security ?

The Honourable Sir James Grigg : I should have notice of that question ; it relates to a particular type of transaction.

Prof. N. G. Ranga : Is it not a fact, Sir, that all these facilities were granted to the Reserve Bank for the services it was expected to render to the public including the supply of rural credit ?

The Honourable Sir James Grigg : No, Sir, the Government balance was intended, as I said, to remunerate the Bank for the services it does for Government.

Mr. S. Satyamurti : With reference to clause (c) of the question, may I know whether the Government have made or will make an inquiry and satisfy themselves that the member banks derive a number of valuable facilities ?

The Honourable Sir James Grigg : Would the Honourable Member mind looking first at the Regulation to which I referred and then asking a further question if he wants to ?

ARTICLE ENTITLED " INDIANS NOT WANTED " PUBLISHED IN THE *National Call* REGARDING INDIANS IN CEYLON.

156. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article entitled " Indians not wanted ", in the *National Call*, dated 3rd April, 1936, regarding Indians in Ceylon ;

(b) whether they propose to enquire into the matter ; and

(c) what steps they propose to take ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). Government have made enquiries from their Agent in Ceylon. As regards the allegation that Indians are being sent away from plantations without notice, his report is that there have been no cases of this kind recently. Neither he nor Government have any information that Indian immigration into Ceylon is to be peremptorily stopped.

Mr. S. Satyamurti : Are Government aware that a strong anti-Indian agitation, especially anti-Malayalee agitation, is going on in Colombo and parts of Ceylon ?

Sir Girja Shankar Bajpai : Yes, Sir ; Government are aware of that, and they have instructed their Agent to watch developments and if any action is called for on his part immediately without reference to us in order to protect the interests of any section of the Indian community, to take that action.

Mr. S. Satyamurti : Will Government keep in mind this problem, in settling the trade relations between India and Ceylon ?

Sir Girja Shankar Bajpai : Sir, my Honourable friend, I think, has given notice of a question on that subject which will come up later, and I request him to wait till then for the answer.

GOVERNMENT COTTAGE INDUSTRIES INSTITUTE, DELHI.

157. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the agency which finances the Government Cottage Industries Institute in Delhi ;
- (b) the reasons why admission to it is restricted to applicants from the Delhi province ; and
- (c) whether the Institute will be expanded to admit students from all parts of India ?

The Honourable Sir Frank Noyce : (a) The Institute is financed mainly out of the Government of India grant-in-aid for the development of the handloom industry.

(b) As the grant is made to the Delhi Administration for the benefit of the people of that province, there is no reason why local applicants should not get preference.

(c) No.

Mr. S. Satyamurti : Is it a case of non-local students having to wait, till the claims of the Delhi students have been satisfied, or is it a case of exclusion of non-resident students of Delhi altogether ?

The Honourable Sir Frank Noyce : The Institute is a very small one, and I understand that it could only accommodate about 20 out of 277 applicants last year. My Honourable friends on the other side are continually complaining that Government do not do anything in the Centrally administered areas. Surely it is only fair that they should be allowed to have this small Institute of their own. It is open to other Local Governments, who get grants for the development of the handloom industry, to open their own institutes for provincial applicants.

Prof. N. G. Ranga : Is there any emporium attached to this Industrial Institute at Delhi in which hand woven goods are exhibited ?

The Honourable Sir Frank Noyce : I should require notice of that question.

Sirdar Sant Singh : Is it a fact that this Institute is doing very good work in rural areas for the promotion and development of cottage industries ?

The Honourable Sir Frank Noyce : Undoubtedly.

Sirdar Sant Singh : Is it a fact that it organized certain exhibitions which were of great value to rural people ?

The Honourable Sir Frank Noyce : I am not sure if this particular Institute has organized exhibitions of great value, but the Superintendent of Industries at Delhi has organized some exhibitions. I myself saw one at Mahrauli last year.

Mr. Lalchand Navalrai : May I know if such Institutes are going to be started in other Centrally administered areas ?

The Honourable Sir Frank Noyce : I should like to have notice of that question.

Mr. Lalchand Navalrai : Do Government propose to start any such Institutes, for instance, in Baluchistan or Ajmer ?

The Honourable Sir Frank Noyce : That is a matter for the local administrations. If they put forward proposals to that effect, they would be considered. The initiative rests with the Local administrations.

Mr. Lalchand Navalrai : What about Baluchistan ?

The Honourable Sir Frank Noyce : I have already answered that question. It is a matter for the local administration to take the initiative.

Mr. Lalchand Navalrai : May I know if students from the Centrally administered areas will be admitted in the Delhi Institute ?

The Honourable Sir Frank Noyce : As I said, this Institute is essentially meant for the Delhi Province. I am not aware that any applicants from other Centrally administered areas have been forthcoming.

Seth Govind Das : In view of the fact that the Government think that this Institution is doing good work, will they advise the Baluchistan administration also to open such an institute ?

The Honourable Sir Frank Noyce : I could not answer that question off hand. I am not at all sure that an Institute of this kind would be of any great value in Baluchistan which, as far as I know,—I am speaking without the book,—has not got a very extensive handloom industry.

Mr. Lalchand Navalrai : What about Ajmer ?

The Honourable Sir Frank Noyce : I am not sure either, as regards Ajmer, that an institute of this kind would be of any great value. As I said, it is for the local administration to put forward proposals for its establishment.

REDUCTION OF SCALES OF PAY IN THE RAILWAY AND THE POSTS AND TELEGRAPHS DEPARTMENTS AND ITS EFFECT ON ANGLO-INDIANS.

158. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Parliament" in the *Hindustan Times*, dated 16th April, 1936, regarding reduction of scales of pay in the Railway and the Posts and Telegraphs Department and its effect on Anglo-Indians ;
- (b) whether any such attempts have been made to approach the Parliament by the Anglo-Indians ; and
- (c) whether they propose to take any steps in the matter ?

The Honourable Sir Henry Craik : (a) I have seen the article.

(b) Government have no information.

(c) Government have at present under consideration representations made in respect of this matter by the President of the Anglo-Indian and Domiciled European Association.

Mr. S. Satyamurti : May I know if, when representations are made to Parliament, the Government of India are invariably consulted, before any final orders are passed by the Secretary of State ?

The Honourable Sir Henry Craik : Well, I cannot say definitely in all cases, but I think that is the general rule. But I said that I have no information that any representation has been made to Parliament.

Mr. S. Satyamurti : With reference to the answer to clause (c) of the question, may I know whether the Government are at present satisfied with the class of recruits who are applying for jobs in these two departments, that they are getting the right type of men on the present scales of pay ?

The Honourable Sir Henry Craik : That should be addressed to the Members responsible for the two departments.

Mr. S. Satyamurti : My question is, will Government be pleased to state if they are satisfied with regard to the Railway and Posts and Telegraphs Departments that they are getting the right type of Anglo-Indians for jobs in these departments on the present scales of pay ?

The Honourable Sir Muhammad Zafrullah Khan : I dealt with that matter in the course of the railway budget debates. There has been no recent falling off in the standard, though there had been some falling off during a period antecedent to the reduction of pay.

Mr. S. Satyamurti : And there has been none since the reduction of pay ?

The Honourable Sir Muhammad Zafrullah Khan : No further falling off.

Mr. S. Satyamurti : May I know from the Honourable Member in charge of the Posts and Telegraphs Department, whether there has been any falling off in the standards of recruitment from the Anglo-Indian community for jobs in that department since the introduction of the new scales of pay ?

The Honourable Sir Frank Noyce : I must ask for notice.

Mr. S. Satyamurti : Then it is obvious that there has been no falling off.

The Honourable Sir Frank Noyce : No. I am not at all sure how much recruitment there has been of Anglo-Indians since the new scales of pay were introduced, and that is why I wish for notice.

POLICY IN RESPECT OF THE ISSUE OF TREASURY BILLS.

159. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article entitled "Treasury Bills Policy" in the *Hindu*, dated the 2nd April, 1936 ;

(b) whether their attention has been particularly drawn to the sentences in the article "There is no reason why in India, as

in England, the issue of Treasury Bills should not be regulated according to the needs of the money market. Our floating debt is by no means unmanageable and the need of banks and the investing public for safe short term investment is great. Why should not Treasury Bills borrowing be more freely resorted to in these circumstances as suits the market"; and

(c) whether they propose to consider the suggestions made in the article ?

The Honourable Sir James Grigg : The condition of the money market is always taken into account in regulating our borrowing operations and Government are assisted in this direction by the advice of the Reserve Bank, one of whose main functions is the control of credit. I must, however, make it clear that the needs of Government constitute the paramount consideration.

Mr. S. Satyamurti : Do Government consider the need of banks and the investing public for safe short term investments, when they decide the issue of treasury bills ?

The Honourable Sir James Grigg : Well, Sir, that is covered by my original answer. No doubt banks need short term investments, but there is no reason why Government should provide them with short term investments at the expense of the tax-payer.

Mr. S. Satyamurti : What is the loss in the issue of treasury bills, which the Government avoid, by not obliging these banks and investing public with safe short term investments ?

The Honourable Sir James Grigg : That is a hypothetical question.

Mr. S. Satyamurti : May I know, therefore, whether, in the issuing of treasury bills, the Government consider the needs of Government and neither the needs of banks nor those of the investing public ?

The Honourable Sir James Grigg : If the Honourable Member means, are Government going to issue treasury bills solely to provide the banks with investments which they would not otherwise have, the answer is that Government certainly do not consider that.

Mr. S. Satyamurti : I am not asking that ; but will Government, in deciding their policy in respect of the issue of treasury bills, bear all these things in mind, namely, the needs of Government as well as the needs of the banks and the investing public ?

The Honourable Sir James Grigg : If it is a choice between treasury bills and longer dated securities, I think I can answer that question in the affirmative. But if it is a question of Government borrowing from the market more than they require, then the answer is "No".

RECRUITMENT TO THE INDIAN MEDICAL SERVICE.

160. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 27th April, 1936, on the question of future recruitment to the Indian Medical Service ;

(b) whether they propose to take steps to stop recruitment of Europeans to the Indian Medical Service ; and

(c) whether they are aware that European civilians and their families do not disdain to avail themselves of the services of Indian doctors of established reputation in preference to those of doctors of their own race ?

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

(b) No.

(c) Government are aware that Englishmen often employ Indian doctors and *vice versa*. But the principle on which the present policy is based is that British Officers and their families, like Indians, should have reasonable opportunities of securing medical attendance from doctors of their own race, if they so wish.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there is any ratio fixed of the number of Indians and Europeans in this service ?

Mr. G. R. F. Tottenham : I have answered that often before, but it does not arise out of this question.

Mr. S. Satyamurti : When was this principle laid down that patients should be treated by doctors of their own race ?

Mr. G. R. F. Tottenham : I did not say a principle was laid down ; I said what the principle was.

Mr. S. Satyamurti : I want to know when it was laid down ?

Mr. G. R. F. Tottenham : It was not laid down on any particular day of any particular month, it simply is the principle.

Mr. S. Satyamurti : May I know why Government may not re-examine this question, in view of the admission in answer to my question, that European civilians and their families do not disdain to avail themselves of the services of Indian doctors of established reputation ?

Mr. G. R. F. Tottenham : The actual fact is that the number of British doctors in this country has decreased enormously during the last twenty years.

Mr. S. Satyamurti : Why should it not come to zero ?

Mr. G. R. F. Tottenham : For the reason that I have explained in answer to part (c) of the question.

Mr. S. Satyamurti : May I know whether Government will now consult their own European servants and find out how many of them want to be treated by doctors of their own race, good, bad or indifferent ?

Mr. G. R. F. Tottenham : No. We shall not do that.

Mr. S. Satyamurti : May I know whether Government realise that there is a tinge of racialism in this, and do Government propose to take steps to meet that ?

Mr. G. R. F. Tottenham : I really do not think that this is a matter in which there is any question of racialism. After all, British people in this country are allowed to have British food, they are

allowed to wear British clothes, they are allowed to attend British schools, they are allowed to attend British churches, and I do not see why they should not be allowed to be killed or cured by British doctors when they are ill.

Mr. S. Satyamurti : Does the Honourable Member assert that Britishers prefer to be killed by British doctors, and not to be cured by Indian doctors ? (Laughter.)

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

DETAILS OF CERTAIN ALLOWANCES OF HIS EXCELLENCY THE VICEROY'S HOUSEHOLD.

161. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the details of contract allowance for His Excellency the Viceroy's Household ;

(b) the details of sumptuary allowance ; and

(c) the total expenditure on His Excellency the Viceroy's Household besides his monthly salary ?

The Honourable Sir James Grigg : (a) The contract grant for His Excellency the Viceroy is intended to cover expenditure on special stationery, wages and liveries of permanent and temporary household servants and conservancy establishment, allowances and pension of permanent household servants, lighting and fans, advertisement charges, library, heating and hot-water installation and washing charges on account of household linen. It is Rs. 1,41,800 per annum.

(b) The sumptuary grant is a contribution to the cost of State entertainments, and is Rs. 40,000 per annum.

(c) The Honourable Member is referred to pages 145 to 149 of the Demands for Grants for the year 1936-37.

Mr. S. Satyamurti : With reference to the answer to clause (a) of the question, may I know when this contract allowance was settled ?

The Honourable Sir James Grigg : I cannot say that off-hand. I will look into it and let the Honourable Member know.

Mr. S. Satyamurti : May I know the reasons why the best paid servant of the British Empire, perhaps the best paid in the whole world, is being paid all this for domestic expenditure, which he ought to defray from his own pocket ?

The Honourable Sir James Grigg : That seems to be a question of argument.

Mr. S. Satyamurti : May I know the reasons why this contract allowance is given ?

The Honourable Sir James Grigg : I have already explained that.

Mr. S. Satyamurti : My Honourable friend has given details of the expenditure, and I am asking the reasons why this expenditure should be defrayed by the tax-payer and not by the gentleman himself.

The Honourable Sir James Grigg : If my Honourable friend wants information I have given it ; if he wants argument, I am afraid I cannot oblige him.

Mr. S. Satyamurti : Sir, I am asking for reasons why a contract allowance should be given to the best paid servant in this world.

The Honourable Sir James Grigg : I say that is an argument.

Prof. N. G. Ranga : How often is the furniture in the Viceregal Lodge at Delhi and Simla changed ? Once in two or three years ?

The Honourable Sir James Grigg : I cannot answer that.

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

ARTICLE ENTITLED "INDIA AS A NAVAL POWER" PUBLISHED IN THE *Statesman*.

162. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to the leading article, entitled "India as a naval power." in the *Statesman*, dated the 30th March, 1936 ;

(b) whether their attention has been drawn to the last sentence in the article, "Can the blind lead the blind" ; and

(c) whether they will explain the position ?

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

(c) I am not clear what position the Honourable Member wishes to be explained. All I can say is that India does depend on assistance from Great Britain in the event of attack by any Great Power, whether by sea or land or air. On the other hand, the question of improving India's Local Naval Defence organization has for some time been engaging the special attention of the Government of India.

Mr. S. Satyamurti : May I know, with regard to the last sentence of my Honourable friend's answer, whether any steps have been taken since the passing of the Navy Bill by this Honourable House,—some two or three years ago—whether any further steps have been taken in this direction ?

Mr. G. R. F. Tottenham : Yes, we have been in correspondence with the Secretary of State for the past two years.

Mr. S. Satyamurti : And has any result come out of that ?

Mr. G. R. F. Tottenham : No final decision has yet been reached, but I hope it will be reached pretty soon.

Mr. S. Satyamurti : May I know what is the defence of India against air attacks ?

Mr. G. R. F. Tottenham : We maintain the Royal Air Force in this country and an army too.

Mr. M. Ananthasayanam Ayyangar : How many submarines and men-of-war are there in the Royal Indian Marine ?

Mr. G. R. F. Tottenham : I think we maintain about seven men-of-war but no submarines.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that Japan is increasing the number of her submarines and we have to contend against her ? (Laughter.)

(No answer.)

INDIA'S DEFENCE PROBLEMS.

163. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to an article, entitled "India's Defence problems considered", published in the *Statesman*, dated 9th April, 1936 ;

(b) whether they have examined the statements and allegations contained therein ;

(c) whether their attention has been particularly drawn to the last sentence, "Nevertheless there must be a striking of the balance between expenditure on defence and on other requirements ; and it must be remembered that India shares by virtue of her membership of the British Empire in the common provision for defence of that Empire ; and further that no country can have an adequate defence to meet every eventuality" ; and

(d) whether they propose to examine the whole question ?

Mr. G. R. F. Tottenham : (a) to (c). Yes.

(d) The problems of Indian defence are continually reviewed in the light of changing conditions.

Mr. S. Satyamurti : Is there any change in the attitude of the Government of India as regards their defence arrangement, in view of the present very perilous situation in Europe ?

Mr. G. R. F. Tottenham : As I tried to explain the other day, the army in India is maintained for the defence of India against local aggression and for the maintenance of internal security. These international complications in Europe do not affect India directly.

Mr. S. Satyamurti : May I know if the calling up of these reserves has anything to do with any increased military commitments on the part of this Government in view of the European situation ?

Mr. G. R. F. Tottenham : No reserves have been called up in India.

Mr. S. Satyamurti : I saw a notification in the papers. My friend will correct me if I am wrong.

Mr. G. R. F. Tottenham : I think the Honourable Member is thinking of the new scheme that we are going to start, of forming a reserve of officers for the Indian Army on different lines from the existing Reserve. There is already an Army in India Reserve of Officers but that reserve is being reorganised on certain lines. There is no intention of calling up the Reserve.

Mr. S. Satyamurti : May I know if it has anything to do with the international situation ?

Mr. G. R. F. Tottenham : None whatever.

Prof. N. G. Ranga : Is it not a fact that the Indian Defence Forces including the navy and aircraft are intended to maintain law and order in this country ?

Mr. G. R. F. Tottenham : I have told the House over and over again what the duties of the Indian Defence Forces are.

Prof. N. G. Ranga : It is just as likely that these forces will be pitched against Indians as against non-Indians from outside.

Mr. President (The Honourable Sir Abdur Rahim) : These are arguments.

ZANZIBAR INDIAN NATIONAL ASSOCIATION'S MEMORANDUM SUBMITTED TO THE RIOT INQUIRY COMMISSION.

164. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to the memorandum of the Zanzibar Indian National Association submitted to the Riot Inquiry Commission of Zanzibar, published in the *Hindu*, dated the 11th April, 1936 ;

(b) whether they have examined the memorandum ; and

(c) what their conclusions are ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The attention of the Honourable Member is invited to my reply to parts (b) and (c) of his starred question No. 134 answered on the 4th of this month.

Mr. K. Ahmed : On a point of order

Mr. President (The Honourable Sir Abdur Rahim) : There is no point of order.

Mr. K. Ahmed : My point of order relates to this question. The identical question has been put on the agenda so many times by different Members. I understand this question was put also on the 4th September last. Some tactful person must have circulated these similar questions to Members opposite

Mr. President (The Honourable Sir Abdur Rahim) : There is nothing to prevent the same question being put again.

SPEECH OF SIR PHILIP CHETWODE PUBLISHED IN THE *Madras Mail*.

165. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to the speech of Sir Philip Chetwode, lately Commander-in-Chief in India, published in the *Madras Mail*, dated the 11th April, 1936 ;

(b) whether their attention has been particularly drawn to his statement, " India must have a larger voice also in army matters ; otherwise the Reforms would be a farce " ;

(c) whether their attention was also drawn to his statement, " Indianisation would be slow ; by 1939-40 there would be a slight increase. Defence was to be an entirely reserved subject for the Viceroy and the Commander-in-Chief.

Indianisation would be stopped if the Viceroy and the Commander-in-Chief felt it impracticable to go further with it " ; and

(d) whether this is the position which the Government of India take ?

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

(d) Government have not seen a full copy of Sir Philip Chetwode's speech. The reference to the progress of Indianisation in part (c) is probably a repetition of what he himself frequently said as Commander-in-Chief in India, namely, that the time to consider any possible increase of Indianisation would be when a sufficient number of Indian officers had reached the seniority required to command squadrons and companies—i.e., in about 1939-40.

It would also of course be more correct to say that the constitutional responsibility for defence under the New Constitution will be that of the Governor General alone and not that of the Viceroy and the Commander-in-Chief.

With these provisos, the Government of India agree with what Sir Philip is reported to have said.

Mr. S. Satyamurti : With reference to the answer to clause (c) of the question, I am asking with reference to the last sentence in my paragraph " Indianisation would be stopped if the Governor General felt it impracticable to go further with it " (I accept the Army Secretary's correction). May I know what is meant or attempted to be conveyed by the word " impracticable " ?

Mr. G. R. F. Tottenham : It means that if the experiment on which we have now embarked breaks down and it is no use going on with it, the decision constitutionally to stop it would rest with the Governor General.

Mr. S. Satyamurti : What will be the tests which will be applied at the time in 1939-40, to find out whether the experiment has succeeded or failed ?

Mr. G. R. F. Tottenham : That is a hypothetical question.

Mr. S. Satyamurti : May I know, when the period arrives, this House or its successors will be consulted, or the decision will lie solely with the Governor General ?

Mr. G. R. F. Tottenham : That also is a hypothetical question. I cannot say what is going to happen in 1939-40.

Mr. S. Satyamurti : My Honourable friend said that it will be the Governor General's sole discretion. I am asking whether the position as contemplated by the Government of India today is that when this question ripens for solution, the Governor General would have to decide this on his own responsibility ?

Mr. G. R. F. Tottenham : I was merely stating the constitutional position, which is that in 1939-40, if by that time the Federation has come into existence, the constitutional responsibility in this matter will rest with the Governor General alone, but what action the Governor General will or will not take before exercising his discretion in 1939-40 or at any other time, I am unable to say at the present moment.

Mr. S. Satyamurti : May I know, if till 1939-40, no further steps will be taken towards the Indianisation of the army ?

Mr. G. R. F. Tottenham : That question has been answered very frequently on the floor of the House. No major alteration can be expected until about that date.

ARREST OF MR. SUBHASH CHANDRA BOSE.

166. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to the questions and answers in the House of Commons, on the 6th April, 1936, about the arrest of Mr. Subhash Chandra Bose, published in the *Amrita Bazar Patrika*, dated the 8th April, 1936 ;

(b) whether their attention has been drawn to the Under-Secretary of State for India's statement that Lord Zetland must be guided by the views of the authorities in India as regards any action to be taken ;

(c) what the views of the Government of India were ;

(d) whether they will place them on the table of the House ; and

(e) what is the 'reason' alluded to by the Under-Secretary when he said that "the same reason which led to Mr. Bose's detention still held good" ?

The Honourable Sir Henry Craik : (a) and (b). I have seen the questions and answers.

(c) The Honourable Member, I presume, desires to know whether it is proposed to put Mr. Bose on trial or to refer his case to judges. If so, I would invite his attention to the replies given by me on the 31st August, 1936, to parts (f) and (g) of his question No. 9. As he is aware, Mr. Bose's case was referred to judges in 1932 and their finding was that there was ample justification for his detention under Regulation III of 1818. Such a procedure does not involve trial upon definite charges.

(d) I am not prepared in the public interest to lay a copy of the correspondence on the table.

(e) The reference by the Under Secretary of State was to the reasons for Mr. Bose's detention in 1932 which were explained in the course of the debate on the adjournment motion relating to his return to India.

Mr. S. Satyamurti : Since 1932, has Mr. Bose's case been examined by any committee, tribunal or judges ?

The Honourable Sir Henry Craik : It was referred to judges in 1932 when he was first detained under this Regulation. He was only released on medical grounds to proceed to Europe.

Mr. S. Satyamurti : Since 1932, has his case been examined by any other tribunal ?

The Honourable Sir Henry Craik : There has been no occasion to examine it. It has been reviewed from time to time by the Government of India but not examined by any judicial tribunal.

Mr. S. Satyamurti : Do the Government propose to refer his case to any tribunal in the immediate future ?

The Honourable Sir Henry Craik : I have already answered that.

Pandit Lakshmi Kanta Maitra : When was the case last reviewed ?

The Honourable Sir Henry Craik : I have answered that too.

ARTICLE ENTITLED "RAILWAY COAL RAMP" PUBLISHED IN THE *Bombay Sentinel*.

167. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to an article, entitled "Railway Coal Ramp", published in the *Bombay Sentinel*, dated the 6th April, 1936 ;

(b) whether the facts stated therein are correct ; and

(c) whether they propose to go closely into the matter and see that the interests of the Railways are not allowed to suffer ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) The allegations in the article are entirely baseless.

(c) The matter has been re-examined by Government who are satisfied that the charges made of favouritism and defiance of the demands of economy are unfounded. The purchases were based strictly on considerations of price and quality. The tenderers whose offers were accepted quoted relatively lower prices.

Mr. S. Satyamurti : Were the lowest tenders accepted in all cases ?

The Honourable Sir Muhammad Zafrullah Khan : I must ask for notice of that question.

Mr. S. Satyamurti : May I know whether the Honourable Member has satisfied himself that the lowest tenders were accepted ?

The Honourable Sir Muhammad Zafrullah Khan : I would draw the Honourable Member's attention to the answer to part (c) of the question.

Mr. S. Satyamurti : They quoted lower tenders. May I know if the Government are satisfied as a result of the inquiry, whether the lowest tenders were accepted in all cases ?

The Honourable Sir Muhammad Zafrullah Khan : I replied that the matter has been re-examined by Government who are satisfied that the charges made of favouritism and defiance of the demands of economy are unfounded.

Mr. S. Satyamurti : May I know on what grounds they were so satisfied ? I am asking for one capital reason.

The Honourable Sir Muhammad Zafrullah Khan : The scrutiny of the tenders depends not only upon price but also on the quality and grade of the coal.

Mr. S. Satyamurti : May I take it, therefore, that they are taking all relevant considerations into account and that they have satisfied themselves that the tax-payer's interests were amply protected ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

MANUFACTURE OF CHEAP RADIO SETS.

168. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to an article on "the recommendations of the Government Broadcasting Committee of Great Britain", in the *Amrita Bazar Patrika* of the 20th March, 1936 ;
- (b) whether they propose to accept the recommendations relating to the manufacture of cheaper receiving sets than are available at present ;
- (c) if not, why not ;
- (d) whether any industrialists have been approached in this matter ; and
- (e) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) Although the recommendations were not made to the Government of India, they recognise the necessity for cheaper sets and the newly established Research section of All-India Radio has already begun to investigate problems relating to reception in India with a view to facilitating the manufacture of such sets.

(c) Does not arise.

(d) and (e). The Controller of Broadcasting has had informal talks on the subject with a few manufacturers, but he will not be in a position to give practical advice to manufacturers until the Research Department has had more time to carry out the investigations referred to in the reply to part (b) of the question. The information which it gathers will be at the disposal of any industrialists who wish to undertake the manufacture of receiving sets.

Mr. S. Satyamurti : Which is the Research Department doing this work ?

The Honourable Sir Frank Noyce : The Research Department of the Broadcasting Department, now known as All-India Radio.

Mr. S. Satyamurti : Have they got facilities by way of suitable personnel and other suitable facilities for carrying on this research ?

The Honourable Sir Frank Noyce : We are endeavouring to give them all the facilities they want for this purpose.

Mr. S. Satyamurti : Will Government expedite this work, in view of the imperious need for having cheaper receiving sets, if we are to have fruitful results of broadcasting in this country ?

The Honourable Sir Frank Noyce : The Standing Finance Committee will shortly be in a position to examine the proposals we are putting forward under this head.

Mr. M. Ananthasayanam Ayyangar : Are they supplying materials or information for the production of materials and receiving sets in this country, or in England ?

The Honourable Sir Frank Noyce : In this country, obviously.

Mr. Muhammad Azhar Ali : Are Government aware that Japan and America are importing into India very cheap broadcasting apparatus and other broadcasting implements ?

The Honourable Sir Frank Noyce : There are American sets in use in this country, but I would remind my Honourable friend that there is a fifty per cent. duty on them.

Mr. M. Ananthasayanam Ayyangar : Are there no companies in India producing receiving sets ?

The Honourable Sir Frank Noyce : Not as yet, Sir.

Mr. M. Ananthasayanam Ayyangar : Do Government propose, then, as part of the scheme of broadcasting on which a large amount is being spent, to help in starting industries for the production of receiving sets in this country ?

The Honourable Sir Frank Noyce : We are prepared to help local manufacturers by placing at their disposal all the information we have on the subject. They already have the very substantial help afforded by a fifty per cent. duty.

Mr. M. Ananthasayanam Ayyangar : May we take it that the information will be useful to English manufacturers only ?

The Honourable Sir Frank Noyce : No, Sir. It will be available to all manufacturers. If manufacturers in this country cannot take this up with the incentive of the fifty per cent. duty, one can only express one's regret.

Mr. M. Ananthasayanam Ayyangar : Will Government consider the desirability of starting the industry in the first instance and then make it over to the public ?

The Honourable Sir Frank Noyce : If they did so, they would immediately be accused of stifling private enterprise.

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

AMENDMENT OF THE LAW GOVERNING THE TRANSACTIONS IN GOVERNMENT SECURITIES.

169. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article on the need for amending the law governing the transactions in Government securities, as a result of a recent case, the Secretary of State *versus* The Bank of India, Ltd., decided by the Bombay High Court, published in the *Hindu* of the 16th March, 1936 ;
- (b) whether they propose to take steps as suggested in this article in this behalf ;
- (c) if so, what ; and
- (d) if not, why not ?

The Honourable Sir James Grigg : Government have preferred an appeal in the case and propose to await the result before considering the further action, if any, to be taken in the matter.

POSSIBILITIES OF INDUSTRIALIZATION IN INDIA.

170. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to an article entitled "Evil of Griggism", in the *Amrita Bazar Patrika*, of the 25th March, 1936 ;
- (b) whether they have examined the possibilities of industrialization in this country, especially village industries and small scale industries ; and
- (c) if so, what their conclusions are ?

The Honourable Sir Frank Noyce : Sir, I must apologise for answering this question as my Honourable friend's name appears in it.

(a) Yes.

(b) A survey of the nature which the Honourable Member appears to contemplate would, under the present constitution, be a matter for the Provincial Governments to undertake.

(c) Does not arise.

Mr. S. Satyamurti : Did Government consider the question of reviving village and small scale industries, from the point of view of relieving all-India unemployment and the improvement of the finances of the country as a whole, and if so, will they therefore make friendly suggestions to Local Governments, apart from taking responsibilities themselves ?

The Honourable Sir Frank Noyce : My Honourable friend is raising a very wide question which it is really impossible to answer in the course of supplementaries.

Mr. S. Satyamurti : Will my Honourable friend take up this question of examining the possibilities of the development of small and village cottage industries, with a view to placing at the disposal of the Local Governments such information as may be useful to them in pursuing this line of action ?

The Honourable Sir Frank Noyce : Government are considering the possibility of developing small-scale industries. This is a matter which is always engaging their attention. The Government of India have given grants for the development of cottage industries, in regard to hand-loom weaving, silk and wool. The question of small-scale industries is always under their consideration and is brought continuously before the Industries Conference.

Mr. S. Satyamurti : May I take it that there is no change of policy, thanks to the Honourable the Finance Member, in this matter.

The Honourable Sir Frank Noyce : I have always found my Honourable friend very helpful in this matter.

Prof. N. G. Ranga : Do not the Central Government share the responsibility for the development of these industries with the Local Governments and that being so, is it not still permissible for the Central Government to take the initiative ?

The Honourable Sir Frank Noyce : We take such action as we can by co-ordination. The Industries Conference has been revived specially

with that object in view. My Honourable friend knows as well as I do the limitations of the present constitution. We do all we can, within those limitations, to help the development of small-scale and cottage industries.

Prof. N. G. Ranga : Even under the present Act it is still possible for the Government to undertake an inquiry into the possibilities of the extension, development and protection of the cottage industries and village industries ?

The Honourable Sir Nripendra Sircar : Sir, I object to the Honourable Member's raising such points ; it is really entering into a debate on every question,—“ whether it is possible or not possible ”, and so on and so forth.

Mr. President (The Honourable Sir Abdur Rahim) : That question need not be answered.

Prof. N. G. Ranga : Sir, in view of the answer given by the Honourable the Industries Member that it is purely provincial and therefore the Government of India cannot undertake an all-India survey, I merely want to raise the question how is it impossible for the Government of India to order that survey even under the present Act.

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of argument. The Chair cannot allow questions to be put which would turn the question hour into a debate on a resolution.

Mr. Muhammad Azhar Ali : Have the Government of India recently got any reports from Local Governments regarding the progress in industrialization which they have made in villages ?

The Honourable Sir Frank Noyce : The Industries Department of the Local Governments publish reports every year.

Mr. Muhammad Azhar Ali : My question is whether the Government of India have got any information or report which they can place in the Library of the House to show if any progress has been made at all ?

The Honourable Sir Frank Noyce : I am not sure whether it is the practice to place provincial reports in the Library of the House, but if my Honourable friend is specially interested in any of them, I will endeavour to procure them for him.

Mr. Muhammad Azhar Ali : Thanks.

EARMARKING OF A PORTION OF THE RURAL DEVELOPMENT GRANT FOR THE DEPRESSED CLASSES.

171. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "A great need", in the *Statesman* of the 29th March, 1936 ;
- (b) whether they propose to ask the Local Governments to earmark a portion of their share of the rural development grant for the depressed classes ; and
- (c) if not, why not ?

The Honourable Sir James Grigg : (a) Yes.

(b) No.

(c) The reasons were explained during the course of the debate on the 13th March, 1936, in the other House on a Resolution on this subject. A copy of that debate has, however, been forwarded to Local Governments.

Mr. S. Satyamurti : When do the Government of India propose to place on the table of this House a report of the manner in which this grant has been allocated ?

The Honourable Sir James Grigg : I think very shortly ; I have not got all the information, but I have got most of it ; there is already a question on the subject down on the paper.

Mr. S. Satyamurti : Have the Government considered this point that, in several parts of India, the depressed classes do not get even drinking water facilities ? Will the Government of India recommend to the Local Governments that they should take into special consideration the special needs of the depressed classes, while they are spending the rural development grants ?

The Honourable Sir James Grigg : We have forwarded to them copies of the debate in the other House and that should give them a lead.

Mr. S. Satyamurti : I take it the Government of India have no prohibition against earmarking any portion of these grants specially for the depressed classes ?

The Honourable Sir James Grigg : None whatsoever.

ARTICLE ENTITLED "INDIANS OVERSEAS" PUBLISHED IN THE *Hindustan Times*.

172. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to an article entitled "Indians Overseas", published in the *Hindustan Times*, dated the 30th March, 1936 ;

(b) whether they have examined the points raised in the letter of Mr. Henry S. L. Polak ; and

(c) if so, what their conclusions are ?

Sir Girja Shankar Bajpai : (a) and (b). Yes.

(c) The points raised in Mr. Polak's letter have formed the subject of separate questions and I would invite the Honourable Member's attention to my replies to them.

SHORT NOTICE QUESTION AND ANSWER.

STRIKE IN THE BENGAL NAGPUR RAILWAY WORKSHOPS AT KHARAGPUR.

Mr. V. V. Giri : (a) Are Government aware of the serious situation that has arisen at Kharagpur where eight thousand workers engaged in the Bengal Nagpur Railway Workshops went on peaceful "satyagraha" on the 31st August, between 11 A.M. and 12-30 P.M. as a protest against the action of the Agent and the Chief

Mechanical Engineer in not giving the representatives of the workers an interview regarding the cancellation of "short-time working" ?

(b) Are Government aware of the fact that in 1933 there was retrenchment in the shops, and further there was reduction in the number of workers in the shops due to normal wastage, such as, deaths, retirements and stoppage of recruitment, discharge, etc. ?

(c) Do Government propose to consider the advisability of instructing the Railway administration under the circumstances mentioned to meet the workers' representatives and come to a settlement on this outstanding question and thus allay their discontent ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government understand that on the 30th August the Bengal Nagpur Railway Union asked the Chief Mechanical Engineer to meet a body of workmen to discuss short time working. The Chief Mechanical Engineer advised the Railway Union to address the Agent. The Labour Union informed the Agent that unless he saw the workmen before 11 hours next day the men would observe starvation during the midday interval. It is understood that this demonstration took place. The Labour Union then proposed that 8,000 workmen should proceed to Calcutta to interview the Agent. The Agent informed the Labour Union that he was prepared to meet a deputation of four workmen, or, if the request for a deputation was sponsored by the Labour Union that he was prepared to meet a deputation comprising the President, the Vice-President and General Secretary of the Railway Union together with four workmen. He was unable to agree to meet a deputation of 8,000 workmen. So far as Government are aware, no reply has been received from the Labour Union to the Agent's offer to meet a deputation.

(b) Government are aware that certain retrenchments have taken place in the Kharagpur shops from time to time. As regards further reduction in numbers of workers due to normal wastage, deaths, etc., Government have no information, but they have no reason to believe that this is not so as it is a normal process, if no fresh recruitment takes place.

(c) In view of my reply to (a) above, does not arise.

MOTION FOR ADJOURNMENT.

ORDER SERVED ON KHAN ABDUL GHAFAR KHAN NOT TO ENTER THE NORTH-WEST FRONTIER PROVINCE AND THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Avinashilingam Chettiar has given notice of a motion for adjournment. He wishes to move the adjournment of the Assembly in order to discuss a matter of urgent public importance, namely, the order served on Khan Abdul Ghaffar Khan preventing him from entering, remaining and residing in the North-West Frontier Province and the Punjab. Does the Honourable Member wish to move it ?

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : As no objection has been taken, the motion will be taken up at 4 o'clock.

THE GENEVA CONVENTION IMPLEMENTING BILL.

Mr. G. R. F. Tottenham (Defence Secretary) : Sir, I move for leave to introduce a Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929.

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

“ That leave be granted to introduce a Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929.”

The motion was adopted.

Mr. G. R. F. Tottenham : Sir, I introduce the Bill.

THE CANTONMENTS (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion on the Bill further to amend the Cantonments Act, 1924, for certain purposes.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : Sir, I was the other day referring to the division of each cantonment into communities by the Government of Bombay and the Government of the Central Provinces. I find from sub-section (a) of section 31 of the original Act, that it really does not contemplate such a division. What it says is this :

“ The division of a cantonment into wards or of the inhabitants of a cantonment into classes, or both.”

I submit that the word “ classes ” has been wrongly interpreted by the Government of Bombay as well as by the Government of the Central Provinces. If we take the dictionary meaning of the word, we find that ‘ class ’ means order, rank or persons in society supposed to have some resemblance or equality in rank, education, talent and the like. Therefore, by no stretch of imagination the word ‘ class ’ can be literally taken to mean as “ caste ”. Beyond this, I do not want to say further on this point. I do hope that this wrong interpretation by the Government of Bombay as well as by the Government of the Central Provinces on the word “ class ” will be taken note of by the Honourable Mr. Tottenham and matters will be put right. As regards the franchise about the Cantonment Board, I have given two amendments, and I will say whatever I want to say when I come to actually move them. At this stage, I only wish to say a few words. I want that the franchise should be as wide as possible, and, in fact, my amendments seek to make it as wide as is available for the election of the Provincial Assembly in that province.

There is another point which I wish to refer. It is about the demarcation of what is called the Bazaar area. The Bill provides that the Bazaar area will be declared by the Governor General in Council by notification in the Gazette. When the question comes for demarcating the Bazaar area, I do hope the needs of every cantonment, particularly of the civil population for the purpose of expansion, will be taken into consideration. It is very likely that the present Bazaar area may not be enough from the point of view of the density of population or from the point

of view of other amenities. These factors, I do hope, will be taken into consideration when the question comes for demarcating the Bazaar areas. I read the other day in one of the Anglo-Indian papers that the Bazaar area should be confined to the present state of affairs so as not to allow any expansion and the reason given was that the cantonment administration so far as municipal matters are concerned represents a sort of oasis in the whole of India. I do not accept that position nor do I accept the statement of my Honourable friend which he made the other day that if a referendum was taken, the civil population in every cantonment would go in for military control. I do not accept that. But so far as the demarcation of Bazaar area is concerned, I do hope the factors that I have just referred to will be taken into consideration.

Now, coming to the point of finances, the position before 1924 was that everything rested with the Government. At present considerable revenue coming out from lands is being taken by the military authorities and the military authorities have a predominant voice as the Bill stands today. What are the grants made by the Government for the purpose of education ? If the municipal administration was entirely under the Local Governments, there are certain enactments such as the Primary Education Act and others which make the Government contribute some share for compulsory free and primary education if introduced in the specified areas after certain preliminary surveys are undertaken. But so far as these 90 cantonments are concerned, subject to what my Honourable friend has to say, about Rs. 87,000 are contributed and this contribution is distributed among the 12 cantonments out of the total number of 90. I think when they are taking a considerable amount of income from the land, it is up to the military to contribute a substantial share for the purpose of educating the school going children in the cantonments. Hitherto the taxation entirely rested with the Local Government. Now the power is sought to be given to the various Cantonment Boards. I do hope that in levying additional and new taxes, the majority that is given to the officials in the proposed Cantonment Boards will not be so used as to thwart the declared wishes of the non-official elected Members.

There is another point with respect to the appointment of Executive officers in the various cantonments. The service, I understand, is to be Indianised. But I hope that no retired military officers, such as Jamedars, or Subedars or Subedar-Majors will be appointed. I may very frankly state here that the experience of certain Cantonments about these retired military officers, such as Jamedars or Subedars is not a very happy one. In some cases, it has so happened that some of them have been transferred to Cantonments in the Deccan from the North and they have so managed things that they have brought to the respective Cantonments under one pretext or another their friends and relatives, sometimes as contractors, sometimes as clerks—a thing which happened beyond all proportion in the case of the Back Bay Reclamation scheme. I think this is a small edition of that practice and therefore I would urge that the Honourable Member in charge of this Bill would take this fact into consideration and will not keep this service open to retired military Havildars or Subedars or Jamedars. Let the standard be as declared by two Honourable Members on the Treasury Benches the other day that the best men available will be appointed. I hope the best men will be the best irrespective of any class or racial consideration.

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[Mr. N. V. Gadgil.]

Then, Sir, there is another point which is the most important, that is the land problem. I am glad that before this motion for taking the Bill into further consideration was made, a Press Note was issued by the Government of India. Last year when this Bill was under discussion, I ventured to make certain suggestions. I then said that it was not the ownership that really mattered so much as the undisturbed possession of the land. I actually threw out a suggestion that perpetual leases should be granted on nominal rents. I am glad that the position has been accepted so far as this Press Note is concerned. But I further find in the Press Note that there are other matters which are not entirely to my satisfaction at any rate. If they are going to give satisfaction to those persons whose interests are primarily concerned, I have nothing to say. But in so far as I can say about what is contained in the Press Note I submit that I am not entirely satisfied with the position. There are certain matters which the Press Note says will be discussed hereafter and that is the only ray of hope in the sense that matters have not been finally decided and decided once for all. I submit that taking a practical case, if a person has got three acres of land in a Cantonment and the building is situated actually on one-fourth acre and the remaining land lying vacant, if he wants to develop it, the military authorities may not grant permission and thereby they clog the development of the property. Not only this. They will deprive the Cantonment Boards of additional revenue, and similarly they will deprive the Government of India also of addition in the shape of income-tax. I submit that the best way is to sub-divide them into several leases and allow a particular person or persons to develop his or their properties subject to such conditions as regards sanitation and general amenity. The difficulty that has been pointed out is that Government will have to meet increased liabilities in case Government are obliged to buy this property whenever military necessities arise. I think if there are more bungalows and if properties are developed on the lines I have suggested the annual renting value will go down and not increase because there would be more supply than the demand justifies. The Government have taken up the position that under no circumstances they are going to pay for the land. If that is so, then, there should not be any objection on the part of the Government to be more liberal in granting permission to sub-divide the holdings on the same conditions, namely perpetual lease with a nominal rent.

Then, as regards the compensation to be paid, though no definite principle has been laid down in the Press Note, I may point out that in 1928 there was an Official Committee presided over by Mr. E. Sheepshanks, I.C.S., with two other Members, Lieut.-Colonel J. Bois and Lieut.-Colonel G. J. Mollison and the principle then adopted was :

" A purchase price is usually based upon 20 times the annual value of the property less the cost of immediate repairs to put into habitable condition. This is the well established and recognised method of arriving at the purchase price of property in this country."

Personally I would enunciate another principle which has been accepted in all the Land Acquisition Cases, that is what is known as the hypothetical scheme. Although the ground may be vacant at the time when it is notified for the purpose of acquisition the sale price is arrived at by calculating the net profit that a man may get every year if he were

to build a building on the vacant land after investing necessary capital, interest charges and depreciations as usual to be deducted. In this way, the price of land is calculated. That is doing some justice to the person who has got more land, say, four acres, though actually the building is on one-fourth acre. Well, Sir, in paying him compensation, the Military authorities ought to take into consideration in all fairness and justice the fact that he could have developed his property even by borrowing money from others. On the basis of hypothetical schemes, I think the price ought to be paid. But if the persons concerned, as I was able to ascertain from some of those who have got their buildings in the Cantonments and as I understand that to be the view of all-India Cantonments Association, are satisfied with the principle which I have just referred to and which was adopted by the Official Committee in 1928, viz., that 20 times the annual letting value should be the price to be paid by way of compensation, I have nothing more to say. I hope, Sir, that these points which I have referred to in my speech will be taken due notice of. There are other matters with respect to the administration in the cantonments, i.e., how some of the provisions are grossly abused. As I said the other day, I do not want to give instances and to strike a discordant note. I propose to write all these things to the Honourable Member in charge and I hope he will remove some of those grievances. It is not, as I have stated in the beginning of my speech, that we are satisfied with the Bill as it is. It falls short of our expectations, but I am not a man who believes that good is necessarily the enemy of the better. In that spirit and with that limitation I have accepted the Bill, and I am bound to say that when it actually comes into operation it is bound to give rise to certain immediate demands and we shall use them as spring-boards for further action. I do hope that the spirit in which the assurances were given by the Honourable Member will be the spirit that will guide the administration of this Act and the military authorities will not have merely a new Act to act upon but a new spirit and a new administration to work up.

Mr. G. R. F. Tottenham (Defence Secretary) : Sir, there are just a few points in the Honourable Member's speech which I think he would like me to refer to before the motion is put to the House. In the first place, he referred to the practice in Bombay and certain other parts of South India of dividing cantonments for the purpose of elections into communities instead of into geographical wards, and he asked whether anything could be done to stop this practice. Well, Sir, I may say at once that I entirely agree with him that it would be very much better if we did not have communal electorates in cantonments. I understand that it is not the practice in any cantonment in the north of India ; I do not understand why it is the practice in Bombay or other parts. But the actual provision of the Cantonments Act on the subject is contained in a section which unfortunately we cannot amend today. It lays down that the Local Government may make rules to divide a cantonment into wards or the inhabitants of cantonments into classes. As I say, we cannot amend that section now because it is not one of the sections which is under amendment in this Bill. But I will take up the matter with the Local Governments concerned and see whether anything can be done in the matter.

The Honourable Member then referred to the question of bazaar areas and the possibility of their expansion to meet the needs of the civil

[Mr G. R. F. Tottenham.]

population. Sir, as he may be aware, bazaar areas are already demarcated in most cantonments at the present moment. We have also issued advance instructions to the military authorities to be prepared to take up this question of demarcating bazaar areas under the new law, if it is passed, and we have specially asked them to deal with it in a not illiberal spirit. There is to be no intention of defining a bazaar area, by drawing a line exactly round the present built-up area, and I hope that due space will be allotted for the necessary expansion where it is possible to do so.

The Honourable Member then referred to the question of finance and the amount of money that cantonment authorities spend on education. I have not got the figures here at my fingers' ends, but I would draw attention to the fact that the Bill itself is making a slight improvement in this respect, because it is including in the compulsory duties of cantonment boards the duty of establishing, maintaining and assisting primary schools. At present the Act says, "establishing and maintaining"; we are adding the word "assisting" as well.

The Honourable Member then asked whether, when the question of the imposition of taxes in the cantonment arose, I could give an assurance that the views of the non-official members of the board would prevail over those of the official members. I am afraid I cannot go so far as to give so broad an undertaking as that, but I have no doubt that the views of the elected members and the non-official members in the board will be taken into consideration.

The next point that the Honourable Member raised was about the class of people who were to be recruited as executive officers. He appears to have certain objections to Jamadars and Subadars. Whether those objections are or are not justified I cannot discuss at the moment; but the important point is that all candidates for these civilian executive officers' posts in future are to be selected through the instrumentality of the Public Service Commission. And that I think gives us far and away the best means of getting the best candidates available, irrespective of where they come from. I should rather doubt myself whether many of that class of officer in the Indian Army will be able successfully to compete in the examination which the Public Service Commission will prescribe, but I certainly do not think they should be debarred from being executive officers if they have got the education and other qualifications which enable them to pass this examination along with everybody else.

The Honourable Member finally referred to various matters regarding the land dispute and the press communiqué that we have issued on the subject. Well, Sir, he kept on repeating that he thought that the owners of the land ought to be allowed to develop their property, and so on. That of course all proceeds on the assumption that the land belongs to them, whereas, if he will read the press communiqué carefully, he will find that the whole of this agreement with the house-owners is based on the admission on their part that the land does not belong to them. That makes a considerable difference. The land is not their property. They were given the land originally for nothing; they have made a very good thing out of it during the last 60 or 70 years, and I do not think it is fair or that it will be in the interest of cantonments that every bit of

spare land on which a bungalow may be situated at the present moment should now be immediately applied to development, by building shops, for example, or commercial institutions, and so on. That, however, is a matter that must be dealt with on its merits in individual cases. We shall also take into account the suggestions that the Honourable Member made regarding this question of settling the formula for the payment of compensation if at any time the property is to be acquired for military purposes from the house owners. We have already considered the formula laid down by the Sheepshanks Committee. There are one or two objections to it from our point of view, but I have some hope that we shall be able to arrive at a formula which will be acceptable to the representatives of the all-India Cantonments Association with whom I discussed the matter.

I do not think, Sir, there are any other points raised by the Honourable Member in his speech, and if there are any other points arising on particular amendments I shall be prepared to deal with them as the amendments come up.

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

"That the Bill further to amend the Cantonments Act, 1924, for certain purposes, as reported by the Select Committee for the second time, be taken into consideration."

The motion was adopted.

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

"That clause 2 stand part of the Bill."

Mr. G. H. Spence (Secretary, Legislative Department) : Sir, I move :
"That after sub-clause (c) of clause 2 of the Bill, the following sub-clause be inserted :

'(cc) in clause (xii) after the words 'in a cantonment' the following shall be inserted, namely :

'or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the Station may designate in this behalf.'"

This amendment is directed to a very small point which has recently come to notice, namely, that the existing definition of "executive engineer" in the clause to which this addition is proposed proceeds on the assumption that there will always be one officer only in charge of military works throughout the cantonment. Actually that is not always the case. Sometimes different officers are in charge of military works in different parts of the cantonment, and the object of this amendment is to cover that class of case. Sir, I move.

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

"That after sub-clause (c) of clause 2 of the Bill, the following sub-clause be inserted :

'(cc) in clause (xii) after the words 'in a cantonment' the following shall be inserted, namely :

'or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the Station may designate in this behalf.'"

The motion was adopted.

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

" That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. G. H. Spence : Sir, I move :

" That after clause 2 of the Bill, the following clause be inserted :

' 2A. To section 3 of the said Act, the following sub-section shall be added, namely :

' (3) When any place is declared a cantonment for the first time, the Governor General in Council may, until a board is constituted in accordance with the provisions of this Act, by order make any provision which appears necessary to him either for the administration of the Cantonment or for the constitution of the board '."

When this Bill becomes law, the constitution of a board will become obligatory in all cantonments and the administration of all cantonments will be vested in the board. For obvious reasons it will be impossible for the board in a newly created cantonment to come into being simultaneously with the creation of the cantonment, and some form of temporary administration will be required to tide over the period intervening between the creation of the cantonment and the constitution of the board. Sir, I move.

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

" That after clause 2 of the Bill, the following clause be inserted :

' 2A. To section 3 of the said Act, the following sub-section shall be added, namely :

' (3) When any place is declared a cantonment for the first time, the Governor General in Council may, until a board is constituted in accordance with the provisions of this Act, by order make any provision which appears necessary to him either for the administration of the Cantonment or for the constitution of the board '."

The motion was adopted.

New clause 2A was added to the Bill.

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

" That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

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

" That clause 4 stand part of the Bill."

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Sir, I move :

" That in clause 4 of the Bill, in clause (b) of sub-section (3) of the proposed section 13, for the words ' Magistrate of the first class ' the word ' person ' be substituted."

The object of my amendment as well as the subsequent amendment is not to restrict the choice of the nominating authority to any particular class of persons. My Honourable friend, Mr. Tottenham, laid a certain amount of emphasis on the fact that the report of the Select Committee was agreed, but I think I am not divulging any secret of the Select Committee when I say that the agreement was brought about at the point of the bayonet. The threat that the Bill would be dropped unless certain conditions were fulfilled was always kept dangling before the eyes of the members, and I am therefore not surprised that the members of the Select Committee thought it advisable not to append any note of dissent. But, I think, while conceding the point made out by Mr. Tottenham that the cantonments were primarily places meant for the residence of soldiers, we cannot forget that, without a civil population or bazaar areas in the cantonment, the cantonments will not be what they are today : they will be reduced merely to camping grounds ; and therefore it is up to us, while bearing in mind health, welfare and discipline of the soldiers, we cannot ignore the interests of the civil population who have invested such large sums in cantonments, and therefore it would be only in the fitness of things that the choice of the District Magistrate should not be restricted to the first class magistrate : he might have the choice to nominate any person who may be able to serve on the cantonment board. There is no reason why his choice should be restricted to a first class magistrate. We know that there may be other persons who may be able to serve on the cantonment board better than a first class magistrate who may not be able to give as much time because of his other pre-occupations. With these words, I move this amendment.

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

" That in clause 4 of the Bill, in clause (b) of sub-section (3) of the proposed section 13, for the words ' Magistrate of the first class ' the word ' person ' be substituted."

Mr. G. E. F. Tottenham : Sir, there are altogether, I think, 18 amendments on the paper dealing with this one subject, that is the composition of cantonment boards. They all hang together and it is very difficult for me to deal with each one of them piecemeal ; and so I should like, if I may, to make clear to the House the general attitude of the Government regarding the scheme of these amendments.

The general object of the amendments is to increase the size of the boards, to make them more non-official in character and actually to introduce a majority of elected members on the boards. Under the scheme of this Bill at present, the boards contemplated range in size from 15 members in the largest cantonment to three members in the very smallest ; and in accordance with the principle which I described as of primary importance the other day, on each of these boards there is an official majority of one. Under the scheme of the amendments put forward by my Honourable friend opposite, the size of the boards would range from 19 in the largest cantonments to five in the smallest cantonments, though some of them are very tiny places which may contain only two or three hundred civilians, mostly of the followers class, or petty shopkeepers or menial servants ; in every one of these cantonments, according to his plan, there would be an elected majority on the board. If all these amendments were passed, that would be the effect.

[Mr. G. R. F. Tottenham.]

Now, the mere increase in the size of the boards proposed under this scheme would, in our opinion, render them unwieldy and difficult to work. But quite apart from that, the principle of introducing a non-official majority on cantonment boards cuts at the root of the whole agreement on which the structure of this Bill has been laboriously built up. It was on the understanding that Cantonments were primarily military organizations, and that, therefore, Cantonment Boards should have an official majority of one, composed mainly of military officers, that we on our side agreed to extend the principle of election to all cantonments in India. It was again on that same understanding that there would be an official majority on the Boards that we went as far as we could to meet Honourable Members opposite by bringing into existence these Bazar Committees, so as to give the non-official element in cantonments as much voice as possible in the control of their own affairs in that particular area of the cantonment in which alone it might be said that non-official interests predominate over those of soldiers. Naturally, Sir, if we were to have a non-official majority on every Board and in every Cantonment, there would be no justification whatever for these Bazar Committees. Now, Sir, if I were to go back on this agreement, and if I were to accept these amendments, I should, to my own mind, be betraying the interests of my own constituents, for, in this matter, I think I must regard the Army as my constituency, and the result would be chaos instead of co-operation, which is what I want. Personally, Sir, I could wish that it was unnecessary to make any distinction between officials and non-officials in Cantonments; I wish we could regard the inhabitants of a cantonment as one happy family with the same objects and interests in view, but, Sir, unfortunately, neither I nor my friends opposite can so regard them at the present moment. I do not deny that in many cases the elected members on Cantonment Boards even now do support the officials, but that does not alter the fact that once you introduce a non-official majority on the Board, you really surrender the principle that military interests in Cantonments must predominate, because you are putting it in the power of a non-official majority to over-rule the soldiers on every point which may arise.....

Mr. M. S. Aney (Berar Representative) : On a point of information, Sir. The Honourable Member referred to some agreement. May I know, Sir, when did this agreement take place, and between whom?

Mr. G. R. F. Tottenham : The agreement I was referring to was the agreement reached in Select Committee on which the Bill was built up.

As I was going to say, this position is not altered by the fact that under the scheme of the Honourable Members' amendments, a certain number of members on the Board would be non-officials appointed by the officials, and, therefore, it might be argued that they would always vote with the officials. Well, Sir, if they always did vote automatically with the officials, there would be no value in the amendment from the Honourable Member's point of view. Nor again is the position altered by the fact that the Officer Commanding the Station and the superior military authorities have under the Cantonments Act certain powers of control over Cantonment Boards. The last thing we want to do is to carry on the administration of Cantonments by means of continuous and frequent exercise of those powers, and I cannot imagine any process that would

be more likely to bring about the very result that I wish to avoid, that is, to keep the two elements as much apart as possible instead of bringing them together.

Sir, I have considered these amendments very carefully, and I regret that, although it might be possible to accept some of the small verbal changes that they contain, I must be quite firm on the point that we cannot possibly accept the principle of having a non-official majority on Cantonment Boards; and if that main principle cannot be accepted, I really do not think that the small verbal amendments are of any great value to Honourable Members opposite. I must, therefore, make it clear that I must oppose the whole set of amendments on this particular section 13. Further, in spite of what the Honourable Member said, I think I must make it clear that, if these amendments were passed, Government would have to reconsider their attitude towards the whole Bill, and would probably be unable to bring it into operation. That, Sir, is a step which I personally should profoundly regret, and I think it is a step that a great many of the inhabitants in Cantonments themselves would greatly regret, because, after all, this Bill does confer considerable advantages. It is an advance on the present position in many important respects, and I do think it would be a pity to sacrifice those advantages. I very much hope, therefore, that the Honourable Member will agree that half a loaf is better than no bread, and that he will be satisfied for the time being with what he has got and will not press these amendments.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I regret I feel a certain amount of handicap in the present matter, as I am informed that there was some sort of understanding between the Honourable the Mover of this Bill....

Mr. M. S. Aney : Agreement.

Pandit Govind Ballabh Pant :and the Members of the Select Committee, otherwise my estimate of the Bill is entirely different from his. I would have really very gladly thrown it out completely. The threat held out by the Honourable the Mover which, as far as he is concerned, may be no more than a statement of a plain fact, would not deter me from handling the Bill in the manner I consider necessary. Mr. Tottenham told us that half a loaf is better than no bread, but I see in the Bill not even quarter of a loaf. It seems to me that it contains all stone and no bread at all. I do not think I am exaggerating facts. I am sorry I have to strike a discordant note, but, Sir, I have very carefully considered the Bill, and I am definitely of the opinion that the people in the Cantonments would not be any the worse if this Bill were not enacted at all. Sir, I would not have spoken at this stage but for the fact that the Army Member has chosen to cover the entire ground and has taken....

Mr. President (The Honourable Sir Abdur Rahim) : So far as that one particular section is concerned.

Pandit Govind Ballabh Pant : So far as that particular section is concerned, which is after all the most vital part embodying the fundamental principle on which the Bill hangs. Now, Sir, I should like to understand the position clearly, and I should like to state how I look at it, and what I feel about it. Sir, the Cantonments consist of two parts. There are lands earmarked as A to which alone the military and the army people are confined; so the troops have nothing to do with

[Pandit Govind Ballabh Pant.]

the areas that are under the direct control of the Cantonment Boards. The Cantonment Boards as such deal exclusively with the civil population, but it cannot be denied that the civil population there to a large extent depends on and is connected with the army; they are very close to the army quarters. So, we are not here legislating for the troops themselves nor for the areas that are in the occupation of the troops but only for providing amenities for the people who, though associated with the military, do not themselves form a part whether of the ranks or of the officials of the army. Sir, the present Bill does not make any advance on the most important point with which it deals, that is, the constitution of the cantonment boards. The cantonment boards as they were formed in 1924 were to include an equal number of elected and nominated members with a military officer presiding over them, so according to the scheme of the Act which is in force today and which was passed in 1924 the cantonment boards had only a majority of one official member. That was the step taken in 1924. Much water has flown under the bridge since 1924. In fact, many empires have gone to pieces and many new republics and new governments have been formed in various parts of the world. In our own country we are supposed to be approaching a fresh instalment of Swaraj as it is called, if not Swaraj itself, and the spectre of provincial autonomy is hanging over us. With all this we do not understand why the constitution of the cantonment boards alone should remain unchanged and why, when there are so many oases emerging in so many places, they should continue to be a desert as before without any relieving feature whatsoever. In fact, there has been a certain amount of reactionary move in this matter, and like a certain animal the Army Secretary seems to be walking backwards. Formerly every cantonment which had a board had at least seven elected members, but now under this scheme many of those boards which have at present seven will have a smaller number. Not only will there be a majority of officials but even the number of non-officials will go down. I think the Army Secretary will realise and accept that the military people are guided above all by considerations of discipline and that is their principal characteristic. There are four military officers to be nominated to these boards, they cannot possibly be expected to think differently from the Commanding Officer, what of voting differently from him, so there will be a solid phalanx always against the elected members. These elected members will, in some of the cantonment boards, not be even in a plural number; there will be only one. I do not know how he will fare between the commanding officer and the military member of the Board, I will not say between the frying pan and the fire or between the pole and the pillar, but his position will really be embarrassing and he will have to think nine times before venturing to tread on delicate ground. So I do not see any advantage in this Bill at all. Then, there was one other safeguard so far and that safeguard was I submit a real one. The cantonment areas were practically under the supervision, direction and control of the Local Governments. The contacts between the Local Governments and the people at large are much closer and their affinities much greater than those between the inhabitants of any local area and the Government of India basking in the eminence of the Olympian heights of Simla. There is a great deal of difference between the state of affairs as it was when these people in the cantonments were more or less under the guardianship of the Local Governments and now when the

cantonments will be directly under the control of the Government of India. The Government of India is the stronghold of the Army. From these heights they want to overcome and overpower the whole of the country. Here the popular voice will be hushed and nobody will be able to hear any echoes anywhere. In the provinces it cannot be so and the main purpose of this Bill, in fact, is to transfer whatever powers the Local Governments possessed to the Government of India, from a more or less responsible Government to an altogether obsolete and absolute Government. That, Sir, is the main purpose of this Bill and I submit that I see great danger in that.

Mr. G. R. F. Tottentam : May I know from the Honourable Member what powers the Local Governments now exercise which are not under the control of the Government of India?

Pandit Govind Ballabh Pant : What I am saying is this. Up to this time the cantonment boards were directly under the control of the Local Governments and the Government of India came in only so far as its supervisory powers over the Local Government were concerned, but now the cantonment areas are made the primary concern of the Government of India itself. The sting is in the tail. The last clause emphasises the control of the Government of India. (Interruption by Mr. G. R. F. Tottenham.) In fact, that is what the Army Secretary himself said in his note attached to the Bill itself—that the main purpose of this Bill is to transfer the powers which had been held by Local Governments so far, to the Government of India. If what he said was misleading I am not to blame for it. But I give him credit for being sincere in what he said and I suppose the Bill has fulfilled the purpose which he had in view. There need be no doubt about it. We are told that there will be bazar areas and in those areas the elected members will be in a majority. These bazar committees will be no better than any other sub-committee formed by the board itself. It has no statutory powers, it has no statutory rights or privileges, it cannot impose any taxes. In the very section under which the bazar committees are to be formed it is laid down that the bazar committee cannot frame any bye-laws or any regulations; it will be no more than a small sub-committee formed for the purpose of administering such affairs as may be delegated by the board to it. It will be somewhat like the area formed for the segregation of persons suffering from epidemic diseases in cantonments. It will be something like the area reserved for natives in South Africa, so I cannot enthuse over this concession to which the Army Secretary seems to attach great importance. I personally feel that it is a wrong move. He does not want to make any distinction between officials and non-officials. I agree with him and I am prepared to put forward a suggestion. Let these boards have a majority of officials. Let there be eight officials and let there be seven non-officials, but let all of them be elected and let the inhabitants of the cantonments have the power of electing eight members from among the officials and seven from among the non-officials. Let there be a joint electorate. Let them have the privilege of electing high officers belonging to the high command of the Army, and I think they will consider it a privilege if they have an opportunity of returning my Honourable friend, Mr. Tottenham, to the Board as one of their representatives. There will be then no difference between officials and non-officials. But when you do not accept the principle of election and when you say that even in the matter of

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nomination you cannot trust your own officers to nominate the right type of men and you restrict their discretion so rigidly that they will have to nominate officials and none else, it does not come with any good grace from your mouth that you do not want any distinction between officials and non-officials. There is distinction galore and there is too much of it. What would be the consequences if the proposals embodied in the amendments of which notice has been given by the mover of this particular motion were accepted? There is nothing particularly revolutionary about them. At the utmost if all of them were accepted, there would be a majority of one among the elected and non-official nominated members as against a nominated official group. Has not the Army Member even so much of confidence in the persuasiveness, the reasoning power combined with the might and the authority the cantonment authorities and the military officers will inevitably possess inside the cantonment areas that he does not expect them to succeed in persuading even one of the non-official and elected members to agree with their phalanx? I think he is putting too low a value on their intelligence, their capacity and their might. All these three go together there and one should, I think, reasonably hope that it will be possible for them to wean away at least one from among the evil pack, if all of them are so wicked as to take a suicidal step, for ultimately it must recoil on them. Whatever they do is sure to undo them if it is against their interests. Why should not the Army Secretary take courage in both hands? The military are, above all, famous for the superabundance of courage, fortitude intrepidity, dash and fearlessness. These are their characteristics. Why should they be so timid as to fear the majority of even one single non-official in a Board. Then, Sir, assuming occasionally these people do join hands and carry out a motion against the officials, are not there safeguards enough in this Act. Firstly the President himself can veto the Resolution. Then the Commanding Officer can do it. Then, the Local Government can do it, then the Government of India can do it, then the Board itself can be superseded and perhaps a recalcitrant member can be turned out of the cantonment on so many grounds which are readily available to the cantonment authorities. Why this nervousness? If occasionally these people take a perverse and stupid view, you can override them. So what reasonable objection can you have to a larger non-official element being introduced? I have before me a report of the discussions of 1924. Then, the Viceroy assured the people interested in this matter of cantonment boards that the Government would only provide minimum safeguards necessary for the protection of the military interests and the health and safety of the troops and in other respects they would see that the cantonment boards conformed in as large a measure as possible to municipal boards. With that assurance from the Viceroy given in the year 1924, is it too much to expect that after 12 years have passed away it should be possible for the military authorities to add one more elected member to the number of elected members fixed in 1924? The amendments proposed by the Mover of this motion do not ask for anything more. I would again ask the Army Member to reconsider the position and to be just and fair. I have always regarded him as one of the gentlemen in this House whom we would not like to displease as he himself does not go out of his way to provoke us. I have some tenderness for him and I have already told him that I for one, knowing what has passed inside the Committee, would not go to the length of

wrecking this Bill; and I repeat that I am prepared to acquiesce in it, however much I may dislike it and however much I might have been pleased and delighted to see it broken to pieces and thrown into the sea otherwise. Therefore, may I again earnestly appeal to him to reconsider his position and to accept at least some of these amendments so that the Bill may be improved at least in some minor respects.

Mr. M. S. Aney : When the Honourable Member, Mr. Tottenham, stated that the Bill before the House now is the result

1 P.M.

of an agreement between him and the members of the Select Committee, it has become necessarily difficult for us to offer any criticism that will be of any real use. At the same time, I believe a measure like this deserves to be considered and discussed from certain fundamental points of view. My Honourable friend, Pandit Govind Ballabh Pant, has rightly pointed out that he is somewhat disappointed at the measure before the House and the fact that there has been an agreement or an understanding between the members of the Select Committee and the Government is a handicap to him in considering this measure now. I also feel a good deal of embarrassment for the very same reason, I am offering my criticism on the clause as a whole and not merely on the particular amendment that has been moved by my friend, Mr. Mohan Lal Saksena. The object of offering that criticism is to see whether the Honourable Member who has been so very accommodating, I am told, in the Select Committee will not find it worth while to consider the suggestions and in the light of the criticism that will be made to improve the Bill at least on one or two important points. The most important provision in this Bill is in my opinion the clause which is under discussion now, that is, the clauses which relate to the constitution of the cantonment board itself. As has been rightly pointed out, great care has been taken here to keep an unchallengeable official majority in the cantonment boards. That is the main feature of this provision I believe, if this House is more interested in any provision of this Bill it is in this clause. I admit that in the constitution of the Board two things should be carefully looked into, first that the cantonments are primarily intended for the benefit of the army and the army interests ought not to suffer in any way in any constitution that is proposed for the Board. That is one of the propositions which we will have to subscribe to. At the same time, for the benefit of safeguarding the interests of the army, there should be no unnecessary anxiety to restrict the popular element from having its proper share in the Cantonment Board. This was the very principle which was enunciated by a Viceroy of India as long ago as 1924. If I am not mistaken, a reference to that was made by my Honourable friend, Pandit Govind Ballabh Pant, and I would like to quote it in the very language which was used by him then?

"It was also stated that 'in the larger cantonments the existing cantonment committee will be replaced by a cantonment Board which will be municipal in character and an essentially Local Self-Government Body' and that 'the military authorities will retain certain special powers in matters affecting the health, welfare and discipline of troops'."

Now, if it is to be essentially municipal in character, then the civil population of the cantonment ought to have the dominating voice in the affairs entrusted to the care of the Cantonment Board. As regards the second point, viz. that with regard to "matters affecting the health, welfare and discipline of troops". I believe the very presence of a

[Mr. M. S. Aney.]

considerable number of military officers and of the military officer commanding the station on the Board is more than adequate for the protection of the interests which have been specifically referred to here. Besides, the other provisions in the Bill that the decisions of the body are generally subject to the control and approval of superior authorities and the Governor General in Council are also in my opinion a sufficient safeguard. Therefore if, as the Honourable Member has stated at the beginning of his speech that in his experience of the working of this Cantonment Act during the last few years, he has not got much reason to make any distinction between the official and non-official members, and that even elected members have been found to support officials, then I venture to say that it is a further ground in my opinion to claim that if the Government take a bold step in encouraging a non-official majority of one in the cantonment Board, it would not be taking a leap in the dark, as my Honourable friend fears, but on the other hand it would have the advantage of taking the non-official civil population of the cantonment area into greater confidence and thereby bringing the relations between the civil and military elements of the Cantonment area into closer contact and thereby establish better harmony between them. Therefore, if as I feel that there is not going to be any real danger to the safety of those interests which it is necessary to protect, viz. the military interests, by the addition of one non-official member, I do not think there is any good reason for my Honourable friend not to consider the suggestion with the sympathy and consideration which it deserves. Sir, it is only to appeal to him rather than to press this question to the vote of the House that I have stood up. There is agreement, and I wish that the House should stand by it. As regards the terms of that agreement, if it is possible to persuade my Honourable friend to take a more rational and equitable view of the interests of the civil population, I shall be so glad and it is in that spirit that I have got up to make these few observations. I hope the Honourable Member will give his time and consideration to the matter and let us know how far he is prepared to go with us in this matter.

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

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

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order : I have to read out a Message from His Excellency the Viceroy and Governor General. It runs thus :

"In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. T. S. Avinashilingam to move the adjournment of the House for the purpose of considering 'the

orders served on Khan Abdul Gafoor Khan preventing him from entering, remaining and residing in North West Frontier and Punjab' on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Sd.) LINLITHGOW,
Viceroy and Governor General."

SIMLA :

The 7th September, 1936.

The adjournment motion, therefore, will not be taken up.

THE CANTONMENTS (AMENDMENT) BILL—contd.

Captain Sardar Sher Muhammad Khan (Nominated Non-Official) : Sir, I rise for a few minutes to intervene in the debate in spite of my recent illness to explain a few points on the Bill under discussion. Being a member of the Select Committee of the Bill, I know and my Honourable friends who have been in the Select Committee know it very well how an agreement has been reached on the Bill and how every clause of the Bill was worked smoothly and every word of it discussed. It looks that the most important point is the majority of one, of either officials or non-officials and my friend's fear is that if there is a majority of one of the officials, then probably they will carry out everything and the interests of the public will not be safeguarded. I do not think, that is, what is meant by the majority. The idea of having the majority of military members by one is, not to clash with the authority of the Board and of the Commanding Officer of the station. As my Honourable friends know, the Bazaar Committee will be appointed and every interest of the non-official public in the cantonment will be absolutely safeguarded by them. I will offer one example. Suppose there is a station order that all lights should be out by, say, 10 o'clock. This sort of order is published every day in the cantonment by the authority of the Station Commander who is either a Brigade Commander or a District Commander. Now, if there is a majority of non-officials on the Board and they pass a resolution that lights should be out after, say, 15 minutes of the time given in the order, then there may be a clash and it is with a view to prevent this clash that the majority of one military member or an official is kept on the Board. If that is done, military discipline and the orders will be carried out in the station. As regards other interests, such as water-supply, taxes, etc. they will be in the hands of a Bazaar Committee and there should be no fear whatsoever that these interests will be protected all right by the military official majority. Therefore, I appeal to my Honourable friends who have been in the Select Committee and who have thoroughly discussed this Bill there and who have already arrived at an honourable agreement that they should allow the Bill to pass as soon as possible.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : Sir, the amendment moved by my Honourable friend, Mr. Saksena, is a very simple one. It is innocuous and harmless even from the Government point of view. After all, what does the amendment propose to do ? It simply removes the restriction imposed upon the District Magistrate and it simply substitutes the word "person" for the words "First Class Magistrate", so that the District Magistrate may, if he so wants,

[Dr. N. B. Khare.]

nominate a person other than a First Class Magistrate. It does not debar him from nominating a First Class Magistrate at all. After all, we know what the District Magistrates are and ten to one a District Magistrate will certainly nominate a First Class Magistrate. Therefore, there is no reason why the Defence Secretary should fight shy of accepting this amendment and it is really beyond my comprehension. Do the Government disbelieve or distrust their own District Magistrates? Have they come to this pass? Sir, I pause and wonder!

Mr. N. V. Gadgil : Sir, as one of the members of the Select Committee, I propose to abide by the convention, but at the same time I would urge the Honourable Member in charge of the Bill to accept this amendment. It is not really as radical as he thinks. As has been pointed out by Dr. Khare, there is ample discretion left to the District Magistrate to nominate a Magistrate of the First Class or any other person. I will go a step further and advance another argument. If after some time the Government comes to the conclusion that the non-official majority should be secured in the Cantonment Board, there would be no necessity for the Government to come to this House for fresh legislation at all if this amendment is accepted. They have simply to direct the District Magistrate that instead of nominating an official, a first class magistrate, they may nominate a non-official. If my Honourable friend sees the amendment in this light, I think he will agree with me that there is no radical change proposed. If the amendment is accepted, then for many long years the District Magistrate will continue to nominate an official. Sir, if this amendment is accepted both the ends will be secured. The present object of the Honourable Member is that there should be an official majority. That is secured. Our object is that in future it should be open, without having resort to fresh legislation, that there should be a non-official majority. Even that object is secured. I, therefore, support the amendment.

Mr. G. R. F. Tottenham : Sir, I understand that I have no right of reply on this particular amendment as I have already spoken. At the same time, some Honourable Members have made an appeal to me and I do not like to appear ungracious by not replying to them. I would suggest that possibly the difficulty might be overcome if I were to reply on the next amendment, or if you agree, you might allow the Honourable Member to move the next amendment before the one under discussion is put. I could speak on that amendment, if the House would agree, by way of reply.

Several Honourable Members : He should be allowed to speak.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Yes.

Mr. G. R. F. Tottenham : I understand the House would like me to reply now on this amendment. Several Honourable Members have spoken very persuasively and very temperately on this subject and they have put me in an embarrassing position. I really do not think they can quite understand what my status in this matter is. It is perfectly true that I am the Government member in charge of this Bill, but I was also a member of the Select Committee and I regard myself as the mouthpiece of the military authorities in this matter. As such, I do consider myself abso-

lutely bound by the agreement reached in the first Select Committee which I now propose to read to the House, to remind them exactly what it was :

“ While agreeing that military interests in cantonments must predominate, if the area of each cantonment is taken as a whole, and that therefore the local bodies responsible for the administration of cantonments must continue to contain an official majority, we consider—

- (a) that statutory provision should be made for some representation of non-official interests in all cantonments, instead of only in a limited number as at present—in other words, that there should be a Board containing an elected element in every Cantonment; and
- (b) that statutory provision should also be made whereby the detailed administration of bazaar areas (other than small regimental bazaars) should be left as far as possible to the elected representatives of the civil population, thereby relieving the official members of the Board of much work in which they are not directly interested.”

Now, Sir, that agreement was reached as a result of prolonged discussion in the Select Committee in the course of which nearly all the arguments that have been put forward so ably by Pandit Govind Ballabh Pant were advanced and discussed. But my part in that agreement was also the result of prolonged discussion with the military authorities and also with the Local Governments. All the military authorities and the Local Governments agreed that this settlement which we reached represented the limit to which they were prepared to recommend that we should go. Everybody in the House who has spoken on these amendments realises that they raise an important point of principle, and so it comes to this, that they are now asking me to go back on the agreement that was reached in this laborious way on an important point of principle. I am afraid I cannot do it. I am sorry, but it is quite impossible. I am also sorry that my Honourable friend, Pandit Govind Ballabh Pant, regards this Bill as a retrograde measure. Personally I do not agree with him, but I am prepared to leave that to the verdict of the House. All that I wish to make clear now is that Government themselves do not attach any very great importance from their own point of view to this Bill. If I may say so, I think I personally attach more importance to it than Government do. But still, it is not a question of Government's giving away here in order to gain a great advantage there. So far as Government themselves are concerned, it would be quite possible for them to continue as at present and it would be by no means a difficult matter for them to say that they will not go on with this Bill at all and retain the *status quo*.

That is my attempt to make my position clear on the main point of principle in this series of amendments. But I must say a few words about this particular amendment, which suggests that the District Magistrate should be allowed to appoint a “ person ” instead of a “ Magistrate of the first class ” as his representative on the Board. My reasons for objecting to it are not that it is extremely important, but I do consider that it is very desirable for a First Class Magistrate to be on the Board, and I do think that the presence on the Board of a civil official along with the military officers has a distinctly salutary effect. I would also point out that even now under this wording, it is not absolutely necessary for a District Magistrate to appoint an official First Class Magistrate; he can, if he wishes appoint an Honorary First Class Magistrate. I believe that has been done in one or two cases. Therefore the point which Honourable Members are trying to make, namely that it should be possible to appoint a non-official, is already a feasibility. If that is so, my position as regards

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this particular amendment is that it is not going to give the Opposition anything very important. On the other hand, if I agree to the amendment it will represent a departure from what we had agreed to, and, therefore, I must oppose it.

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

"That in clause 4 of the Bill, in clause (b) of sub-section (3) of the proposed section 13, for the words 'Magistrate of the first class' the word 'person' be substituted."

The motion was negatived.

Mr. Mohan Lal Saksena : Sir, I beg to move :

"That in clause 4 of the Bill, in clause (e) of sub-section (3) of the proposed section 13, for the words 'military officers' the word 'persons' be substituted, and the words 'by order in writing' be omitted."

Sir, this amendment is also similar to the one that has been negatived by the House just now. But I think my Honourable friend Mr. Tottenham will concede that in this case his objection will not hold good, that is that the presence of a First Class Magistrate on the Board was desirable in the interests of administration of the board. By this amendment, it is sought to substitute the word "persons" for the words "military officers". Before I proceed with this amendment, I want to say a few words in reply to what Mr. Tottenham has said just now while speaking on the other amendment. First of all he asked me whether half a loaf was not better than no bread. I may tell him frankly that I am one of those who believe that minor concessions are inimical to larger changes and therefore the threat which he has again held out before us that if all my amendments are carried out he will consider the position whether he should proceed with the Bill, is one which will not cow me down. I know that even if the Bill as it has emerged from the Select Committee is dropped now the Government will very soon bring another Bill because they are very anxious for changes in the present Act those changes may be in directions other than that in which we want. But I am sure that very soon they will bring in an amending Bill. Then, Sir, he said that he could not betray the interests of his constituency, that is, the army. I do not understand how he would be betraying the interests of the army if he accepted this amendment. After all the Officer Commanding will be there and he will have the right to nominate and instead of saying 'nominating officers' we say 'only such persons as he may deem fit'. And then even, if the impossible were to happen and, the Commanding Officer nominated all non-officials and there were a non-official majority in the Cantonment Board, as has already been pointed out by Pandit Govind Ballabh Pant, there are other provisions under which the President can over-rule the decision of the Cantonment Board. Then again he asked me, if these non-official members nominated by these authorities were to vote with the Government or with the nominating authority, where was the good of having non-officials or making this provision? I may tell him that after all even in this House we know that the Government Whip has not to care for the officials nominated in this Assembly. They know that their vote is already secured. As for the non-official nominated members they have to cajole them and they have to worry a little to persuade them to vote with them. Therefore it is absolutely necessary that when in this Act we are giving the Cantonment Board the power of taxation there must be at least some

scope for non-officials being nominated. As I have pointed out, after all cantonments are not only primarily places for the residence of soldiers but there is a large civil population which has invested large sums of money; and it is absolutely necessary that when the Board has this power of taxation there must be some opportunity or some scope by which non-officials, if they are the best available persons, should not be debarred from being nominated by the nominating authority. And, then, Sir, in this very Bill, we have got in the proposed section 13, clause (6) where it is said :

"The Officer Commanding the station may, if he thinks fit, with the sanction of the Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under clause (e) of sub-section (3), clause (e) of sub-section (4) or clause (b) of sub-section (5), any person, whether in the service of the Government or not," etc.

So, in this very Bill, you have got a clause by which you empower the Officer Commanding-in-Chief to permit the nomination of any other person. Then why should not this House confer the nominating authority the same powers which you are reserving to the Officer Commanding-in-Chief? I hope Mr. Tottenham will not resist this amendment as he did the former one. After all, if he so chooses he can issue a circular and he can insist on the nominating authority to nominate only military officers. But by this amendment we leave a margin by which if there are persons who are competent to work on the Cantonment Boards, in the interest of the administration of the Cantonment Boards there should be no reason why they should not be nominated and only military officers should be nominated. Nomination of military officers only means that the nominating authority will have additional two to four votes instead of one, because I am sure there will not be a single occasion when these officers will dare vote against the nominating authority, while there is some chance, at least in the matter of taxation, that other nominated persons may vote against the Officer Commanding. In some cases at least it may be necessary for him to convince them of the correctness of the position to secure their votes. Sir, with these words I move the amendment.

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

"That in clause 4 of the Bill, in clause (e) of sub-section (3) of the proposed section 13, for the words 'military officers' the word 'persons' be substituted, and the words 'by order in writing' be omitted."

Mr. G. R. F. Tottenham : Sir, my objection to this amendment is not that it is going to prejudice to any great extent the interests of the soldiers or troops, but that it is unnecessary, for the reasons which the Honourable Member himself explained. Under the present Act, according to the proviso to section 14 (1) (e), the Officer Commanding the station may, if he thinks fit, with the sanction of the Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under this clause any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment, etc. That proviso is, as the Honourable Member himself explained, reproduced in clause (6) of section 13 of this Bill in exactly the same language, and therefore I can see no great value in deleting that sub-clause (6) of section 13 and putting its contents,—that is practically what it amounts to,—into the earlier clauses. The effect I admit would be very much the same in practice because, as the Honourable Member himself

[Mr. G. R. F. Tottenham.]

pointed out, it would always be open to the Officer Commanding-in-Chief to give directions to Commanding Officers that they were to appoint military officers. I cannot myself see that there is any great difference between that and the present provision of the law which says that the Officer Commanding the station may do it with the sanction of the Officer Commanding-in-Chief, the Command. In both cases the sanction of the Officer Commanding-in-Chief is required, and all that will happen if this amendment is passed will be exactly what we are doing at present, but in a roundabout way. From that point of view, therefore, I should prefer to keep the Bill as at present drafted, on the ground that it does give Honourable Members opposite substantially what they are asking for, that is, a chance of replacing official military officers on the Board by non-officials when there are reasonable grounds for doing so.

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

“ That in clause 4 of the Bill, in clause (e) of sub-section (3) of the proposed section 13, for the words ‘ military officers ’ the word ‘ persons ’ be substituted, and the words ‘ by order in writing ’ be omitted.”

The motion was negatived.

Mr. Mohan Lal Saksena : Sir, I beg to move :

“ That in clause 4 of the Bill, in clause (f) of sub-section (3) of the proposed section 13, for the word ‘ seven ’ the word ‘ nine ’ be substituted.”

This will make nine elected members. By this amendment there will not be a majority of elected members in the board. 3 P.M. There may be, if all the amendments are accepted, a non-official majority, but certainly there will be no majority of elected members ; and at present, as has been pointed out by Pandit Govind Ballabh Pant, wherever there is a board, there are at least seven elected members and seven nominated members, and one President. But in the new scheme there may be boards where the number of the elected members may be reduced. One objection taken by the Army Secretary was that it is just possible that there may be boards where the population is not large enough to supply the requisite number of elected members. But if my information is correct, I think even now there are about 36 cantonments where there are elected cantonment boards : that means that in these 36 places there are seven elected members. But under the new scheme of things, I am not sure, but I am given to understand, that in a large number of cases the number of elected members will be reduced. By this amendment I wanted that the number of elected members should be made nine, instead of seven, which will work out in this way, that there will be in all a board of 19 members of whom nine will be elected and ten will be nominated. There will still be a majority of one nominated member. For the reason which I have already stated that because under the present Bill the power of taxation is given to the board, it is necessary that they should have an effective, if not a predominant, voice, in the determination of taxes to be imposed upon them. Under the present Act, till now, the power of imposing taxes vests in the Local Government. Under the new scheme it will be the board which will decide upon measures of taxation. Of course there are certain safeguards. But as we know wherever we give power of taxation, we

also give power of representation and therefore so that the civil population may have an effective voice in the administration of the cantonment board and also in the imposing of taxes, it is necessary that there should be nine elected members instead of seven. With these words, I move this amendment.

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

“ That in clause 4 of the Bill, in clause (f) of sub-section (3) of the proposed section 13, for the word ‘ seven ’ the word ‘ nine ’ be substituted.”

Mr. G. R. F. Tottenham : Sir, I am afraid I cannot agree with the Honourable Member who has moved this amendment that a mere addition to the number of elected members will make their voice any more effective than at present. Their voice can be made more effective only if they are given a majority on the board. This amendment would give the elected members a clear majority on the board. The constitution of a class I cantonment board under this Bill will be one Commanding Officer as President, 7 elected members and 7 nominated officials—that is, 15 altogether. If this amendment were passed, the board would consist of 17 members consisting of one Commanding Officer, 9 elected members and 7 nominated officials ; therefore the board would contain clear elected majority ; and as I have already explained, I am afraid that is a principle that I am quite unable to accept.

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

“ That in clause 4 of the Bill, in clause (f) of sub-section (3) of the proposed section 13, for the word ‘ seven ’ the word ‘ nine ’ be substituted.”

The motion was negatived.

Mr. Mohan Lal Saksena : Sir, I move :

“ That in clause 4 of the Bill, after clause (f) of sub-section (3) of the proposed section 13, the following clause be inserted :

‘ (g) two non-official members nominated by the District Magistrate ’.”

Now that my Honourable friend has resisted all other amendments, I hope he will accept this. After all this will not give an elected majority. The power of nomination will rest with the District Magistrate and I think as has been pointed out by Dr. Khare, that stage has not yet arrived when the Government should distrust their own district officers. Therefore the interests of the army will not be betrayed if he accepts this amendment. I know, because of the agreement to which he has referred and in the face of the fact that he has not been able to accept any of my amendments so far, what the fate of this amendment will be ; but still I know there is a large volume of public opinion outside which is against this Bill and which wants that there should be effective representation of civil population by insuring a non-official majority. Therefore I move this amendment.

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

“ That in clause 4 of the Bill, after clause (f) of sub-section (3) of the proposed section 13, the following clause be inserted :

‘ (g) two non-official members nominated by the District Magistrate ’.”

Mr. G. B. F. Tottenham : Sir, the acceptance of this amendment would, I am afraid, be very much opposed to the interests of Honourable Members opposite, because they must remember that we are now left with a first class cantonment board consisting of seven elected members. They tell me that if we nominate non-officials, these nominated members will always vote with the official bloc, and therefore this amendment means increasing the official bloc by two and putting the elected members in a minority of three instead of a minority of one. From their own point of view, I think therefore that this amendment is not desirable; and for the reasons I have already explained I regret that I am unable to accept it.

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

“ That in clause 4 of the Bill, after clause (f) of sub-section (3) of the proposed section 13, the following clause be inserted :

‘ (g) two non-official members nominated by the District Magistrate ’.”

The motion was negatived.

Mr. Mohan Lal Saksena : I do not want to move any more amendments to clause 4.

Mr. G. H. Spence : Sir, I move :

“ That in clause 4 of the Bill, in the proposed new section 13 (4) (e) (iii), after the words ‘ five thousand ’ the following be inserted :

‘ and in cantonments which the Governor General in Council, by notification under the proviso to sub-section (1), has placed in class II, whatever be the population ’.”

The effect of this amendment will be to reduce to one the number of military officers on the boards of cantonments in respect of which the power conferred by the proviso to sub-section (1) has been used. It is quite clear that if the insertion proposed in this amendment is not made, the object with which the proviso to sub-section (1) of section 13 was inserted will be defeated. That object was, as explained in the report of the Select Committee, to meet the difficulty apprehended in the North-West Frontier Province and Baluchistan that owing to the military duties and frequent movements of military personnel it might not always be possible or convenient to supply members for a more numerous board. Sir, I move.

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

“ That in clause 4 of the Bill, in the proposed new section 13 (4) (e) (iii), after the words ‘ five thousand ’ the following be inserted :

‘ and in cantonments which the Governor General in Council, by notification under the proviso to sub-section (1), has placed in class II, whatever be the population ’.”

The motion was adopted.

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

“ That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

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

“ That clause 6 stand part.....”

Mr. Mohan Lal Saksena : Sir, I have given notice of an amendment to clause 5.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair cannot allow this, because, in the first place, notice of the amendment was sent in only today; secondly, the Honourable Member did not rise in his seat to move his amendment in proper time. We have passed clause 5, and are now on clause 6. (After a pause.)

The Chair was under the impression that clause 6 had been put, but it understands it is not so, and, therefore, the Chair is quite prepared to allow Mr. Saksena to move his amendment, unless there is any objection on the ground of notice.

The Honourable Sir Nirpendra Sircar (Law Member) : Sir, there is objection on two grounds, firstly, clause 5 has been put and passed, and we are now on clause 6. My Honourable friend's amendment is on clause 5.

Mr. Mohan Lal Saksena : No, Sir, my amendment comes after clause 5. It is a new clause to be added after clause 5.

Mr. Deputy President (Mr. Akhil Chandra Datta) : There is objection on the ground of notice.

Mr. Mohan Lal Saksena : I would request the Chair to suspend the Standing Order and allow me to move this amendment.

Pandit Govind Ballabh Pant : The Chair can have an opportunity of suspending the Standing Order.

Mr. Mohan Lal Saksena : Sir, I could not move the amendment in time. There were a large number of amendments to the Bill, and it was only today I found certain important amendments had been left out, and so I gave notice only today in the hope that the Chair would suspend the Standing Order as a special case and enable me to move it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair suspends the Standing Orders and allows Mr. Mohan Lal Saksena to move his amendment.

Mr. Mohan Lal Saksena : Thank you, Sir. I move :

“ That after clause 5, add the following clause and number it as 5A :

‘ Delete section 18 of the said Act ’.”

Sir, section 18 of the Cantonments Act reads thus :

“ Every person who is by virtue of his office, or who is nominated or elected to be, a member of a Board shall, before taking his seat, make at a meeting of the Board an oath or affirmation of his allegiance to the Crown in the following form, namely :

I,.....having become, or been elected or been nominated a member of this Board, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

[Mr. Mohan Lal Saxena.]

(2) If any such person fails to make the oath or affirmation within such time as the Local Government considers reasonable, the Local Government shall, by notification in the local Official Gazette, declare his seat to be vacant.".....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order. Before the Honourable Member proceeds to speak further in support of his motion, the Chair would like to point out that this is an amending Bill, and section 18 of the Act is left untouched by the Bill before us. Therefore, it enlarges the scope of the Bill. How does he propose to get over that difficulty ?

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : It is narrowing the scope of the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : So far as amendments to an amending Bill are concerned, even narrowing amounts to enlarging.

Mr. Mohan Lal Saxena : I thought we were really overhauling the whole Act, because from the very first section there are amendments right up to section 178, and so on.

Mr. N. V. Gadgil : On a point of order, Sir. I submit that this amendment is perfectly in order. What is under consideration is the constitution of the Board, including the question of franchise, qualifications and disqualifications of the members. I consider the whole section 15 is under discussion in the House. If new members are to be permitted by virtue of this Bill being passed into law to sit on the Cantonment Boards, why should they be obliged to take an oath under the old Act. Therefore, I submit, Sir, that this amendment is perfectly in order, and it does not enlarge the scope of the Bill at all.

Mr. Deputy President (Mr. Akhil Chandra Datta) : It cannot be allowed. The question is :

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 and 8 were added to the Bill.

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

"That clause 9 stand part of the Bill."

Mr. G. H. Spence : Sir, I move :

"That in sub-clause (b) of clause 9 of the Bill, for the words 'has not been constituted for the first time' the words 'is not constituted' be substituted."

The existing wording, Sir, fails to cover the case where a Board has been constituted and at a subsequent period has ceased to exist. The only object of this amendment is to meet such a case. There are cases in point such as Ambala. Sir, I move.

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

"That in sub-clause (b) of clause 9 of the Bill, for the words 'has not been constituted for the first time' the words 'is not constituted' be substituted."

The motion was adopted.

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

is :

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

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

"That clause 10 stand part of the Bill."

Mr. N. V. Gadgil : Sir, I move :

"That for sub-clause (a) (i) of clause 10 of the Bill the following be substituted :

(i) for sub-clause (iii) of clause (b), the following be substituted :

"(iii) is entitled to be on the electoral roll of the Provincial Assembly, by virtue of educational qualifications prescribed for the particular province concerned."

My submission is that, in the old Act, the qualification laid down is that he must be a graduate of any university established by law in British India. The amending Bill has substituted Matriculation for the same. My point is that the literacy test must be wide and that the literacy franchise prescribed for the purpose of the various Provincial Assemblies must be adopted. In the 6th Schedule to the Government of India Act, 1935, so far as the Bombay Presidency is concerned, the educational qualification is laid down as follows :

"Subject as aforesaid, a person shall also be qualified to be included in the electoral roll for any territorial constituency if he is proved in the prescribed manner to have passed the matriculation or school leaving examination of the University of Bombay, or an examination prescribed as at least equivalent to either of those examinations, or, if it is so prescribed, any other prescribed examination, not lower than vernacular final examination."

In different provinces different qualifications have been laid down. Therefore, my amendment seeks to cover all these things by making the proposal general, namely, that he is entitled to be on the electoral roll of the Provincial Assembly, by virtue of educational qualifications prescribed for the particular province concerned. Sir, I move.

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

"That for sub-clause (a) (i) of clause 10 of the Bill the following be substituted :

(i) for sub-clause (iii) of clause (b), the following be substituted :

"(iii) is entitled to be on the electoral roll of the Provincial Assembly, by virtue of educational qualifications prescribed for the particular province concerned."

Mr. G. R. F. Tottenham : I may say at once that I am in sympathy with the amendment proposed by my Honourable friend, and I think it is merely a question of the way in which his intention should be given effect to. It is true that at present the educational qualification for an elector in a cantonment is that he must be a graduate. The Select Committee widened the franchise by making the qualification the matriculation standard or its equivalent. One difficulty about giving effect to the amendment in the wording proposed by the Honourable Member is that it would not cover every cantonment in India. For instance,

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Delhi has a cantonment, but presumably nobody there would have a vote for a provincial Assembly. Therefore, it is necessary for us to provide some standard anyhow for those cantonments which are not in constituencies for a provincial Assembly. Further, I think I must take a more material point. The correct thing for us to do in cantonments would be to regulate our franchise by the franchise in provincial municipalities. I think that is the correct and straight way of doing it, and I am quite prepared to accept an amendment which would make the educational qualification for an elector in a cantonment the same as that for an elector in a municipality. It would then be open to the provincial Government concerned to arrange for the franchise in the municipality as it thought best to fit in with the franchise for the provincial Assembly and provision to that effect would formally be followed in cantonments and would give effect to the principle which the Honourable Member has in view. The form of the words I would suggest would be that, in place of the present clause, we should say, "has passed the matriculation examination of a university established by law in British India or holds any other educational qualification which would be required to qualify him for enrolment as an elector in a municipality in the province in which the cantonment is situate."

Mr. N. V. Gadgil : May I point out to the Honourable Member that so far as the Bombay Presidency is concerned the Municipal Acts do not contemplate literacy qualification for the purpose of franchise? The literacy franchise for the provincial Assembly would be of great utility.

Mr. G. R. F. Tottenham : I understood that under the Bombay Municipal Act—I have not got it with me here—the qualification for an elector in a Bombay municipality was that of a graduate at the present moment. Is my Honourable friend sure about that?

Mr. N. V. Gadgil : That was before the year 1925. In the Act of 1925 that qualification is not provided.

Mr. G. R. F. Tottenham : The present position in municipalities in Bombay is that there is no educational qualification prescribed?

Mr. N. V. Gadgil : No, not even for the Corporation of Bombay.

Mr. G. R. F. Tottenham : In that case I agree that we shall have to reconsider the wording of this amendment.

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

Mr. N. V. Gadgil : The same qualification as is prescribed for the Provincial Assembly would be better.

Mr. G. R. F. Tottenham : That, again, as I indicated, would not get over the difficulty of certain cantonments in areas where there would not be a Provincial Assembly.

Mr. N. V. Gadgil : They would be few and far between.

Mr. G. R. F. Tottenham : As we are agreed as to the principle of the amendment, I suggest, that the best thing would be that I should consult the draftsman and put up an agreed amendment to be moved

formally when the other amendments have been passed. It is merely a matter of arranging the wording.

Mr. N. V. Gadgil : I accept that.

Mr. President (The Honourable Sir Abdur Rahim) : Then, clause 10 has to stand over.

Mr. Mohan Lal Saksena : I have also got an amendment. I move :

"That in sub-clause (a) (i) of clause 10 of the Bill, for the word 'Matriculation' the words 'Upper Primary' be substituted."

Mr. President (The Honourable Sir Abdur Rahim) : In view of the decision on the last amendment, this also will have to stand over.

Mr. N. V. Gadgil : Sir, I move :

"That after sub-clause (a) (ii) of clause 10 of the Bill, the following new sub-clause be inserted :

"(iii) after clause (c) the following shall be inserted :

"(d) Every person whose name is entered on the current electoral roll of the constituency of which the particular Cantonment forms a part for the purpose of the Provincial Legislative Assembly."

This deals with a different subject, Sir. The object of this amendment is to widen the franchise and a similar provision is contained in the Bombay Major Municipalities Act in which section 11 lays down that every person whose name is on the current electoral roll or is entered in the electoral roll or part thereof prepared for a municipal borough which constitutes or forms part of a general constituency and published under Regulation 63 of the Bombay Electoral Regulations, 1923, shall be qualified to vote at a municipal election in such municipal boroughs. In view of the Government of India Act of 1935, I have made the necessary changes and have stated in my amendment 'for the purpose of the Provincial Legislative Assembly'. A similar provision is to be found in the District Local Boards Act. In fact, I am told that a similar provision is found in all the municipal Acts. All those persons who are entered on the electoral roll of the Provincial Legislative Assembly should be automatically entitled to be on the electoral roll of the Cantonment Board. That is the object of the amendment. Sir, I move.

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

"That after sub-clause (a) (ii) of clause 10 of the Bill, the following new sub-clause be inserted :

"(iii) after clause (c) the following shall be inserted :

"(d) Every person whose name is entered on the current electoral roll of the constituency of which the particular Cantonment forms a part for the purpose of the Provincial Legislative Assembly."

Mr. G. R. F. Tottenham : I think, if I may say so, that this is a somewhat unreasonable proposal as applied to cantonments. As far as I can see, the actual effect of it would be to give everybody in a particular constituency for the purposes of election to a legislative Assembly the power to vote in a cantonment board election. As it stands, the amendment reads :

"Every person whose name is entered on the current electoral roll of the constituency of which the particular Cantonment forms a part for the purpose of the Provincial Legislative Assembly."

[Mr. G. R. F. Tottenham.]

To take a practical example. There is a tiny little cantonment called Jutogh a few miles away from Simla. Under the Honourable Member's proposal everybody who had a right to vote for the provincial legislative Assembly in Simla would also have a right to vote for the cantonment board election in Jutogh, although probably nine-tenths of this number never go there and take no interest whatever in the affairs of the cantonment of Jutogh. Take the similar case of Lahore. Lahore is an enormous city. It has an enormous number of voters for the provincial legislative Assembly and next to it is the comparatively small military cantonment. Under the Honourable Member's suggestion all the people in Lahore City who are entitled to vote for the provincial legislative Assembly would also be entitled to vote for the cantonment board election in the Lahore Cantonment. Again the difficulty would arise about Delhi itself where you have a fairly small military cantonment close to the city. Take also the opposite case of Rawalpindi which is a big cantonment. It would appear that persons in villages and so on in the district would be entitled to vote at the election for the Pindi Cantonment Board although they had no connection or interest whatever in the cantonment. I therefore regret that I am unable to accept this amendment.

Mr. N. V. Gadgil : This is subject to what is contained in (b) of section 27 :

"Every person who has for a period of not less than twelve months immediately preceding the aforesaid date resided in the cantonment and on the aforesaid date, etc."

My amendment is to be read subject to this.

Mr. G. R. F. Tottenham : The wording of sub-section (b) applies only to the persons mentioned in parts (i), (ii), (iii) and (iv) of that sub-section, namely,—“is the owner or mortgagee, etc.” or “is carrying on any business in the cantonment”, or “is a graduate of any University” or “is a retired or pensioned officer”, while sub-clause (c) refers to “every person who has during a period of not less than twelve months immediately preceding the aforesaid date resided in the cantonment” and so on. The Honourable Member wishes to insert a new sub-clause which is not subject to any of the previous stipulations. It is simply a bare statement that every person whose name is entered on the roll of the provincial Assembly should be entitled to vote in the cantonment. If he could make it clear that he wishes to include only persons in the cantonment, then I would be prepared to accept his amendment. As drafted, I submit, it does not produce that effect.

Mr. G. H. Spence : I would suggest to you, Sir, that we leave clause 10 for the present and proceed with the other clauses. By the time we finish them, we may clear up these complexities.

Mr. President (The Honourable Sir Abdur Rahim) : Clause 10 will stand over for the present. The question is :

“That clause 11 stand part of the Bill.”

Mr. Mohan Lal Saksena : I have an amendment to clause 11.

Mr. G. R. F. Tottenham : On a point of order. This amendment only reached me at 11 o'clock this morning. As far as I know, many Honourable Members of this House have not yet received it. I have had absolutely no time to look into it. I do not even know what it is about.

I submit it is rather unfair to send these amendments in so late. Members of the House have had six months to send their amendments in.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow this amendment to be moved.

Clauses 11, 12, 13, 14 and 15 were added to the Bill.

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

“That clause 16 stand part of the Bill.”

Mr. Mohan Lal Saksena : Sir, I move :

“That in clause 16 of the Bill, in the proposed section 43A (1), the words ‘purposes connected with’ be omitted.”

Honourable Members are aware that these words have been introduced by the Select Committee to make it clear that there will be certain other functions which will not be within the purview of the Bazaar Committee. On the one hand it has been urged on behalf of the Government that the constitution of Bazaar Committees is a large concession which should be welcomed by the non-official members of the civil population of cantonments. On the other hand it is said that the Bazaar Committee will be only for certain purposes connected with the administration. I want these words “purposes connected with” to be deleted to make the meaning clear.

The amended section will then read :

“The Health Officer and the Executive Engineer for the administration of such areas in the cantonment as the Governor General in Council may, by notification in the Gazette of India, declare to be bazaar areas, and may delegate its powers and duties to such committee in the manner provided in clause (e) of sub-section (1) of section 44.”

I think the other sections of this Bill make it quite clear that this Bazaar Committee will derive its authority from the Cantonment Board. Therefore, there is no room for any misunderstanding that the Cantonment Board will have nothing to do with the Bazaar Committee and that the administration of the Bazaar area will be entirely in the hands of the Bazaar Committee. Therefore, I think that these words which have been introduced by the Select Committee should be deleted.

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

“That in clause 16 of the Bill, in the proposed section 43A (1), the words ‘purposes connected with’ be omitted.”

Mr. G. R. F. Tottenham : Sir, it is quite true that the second Select Committee did purposely insert these words for the purpose described by the Honourable Member opposite, but he quite rightly recognizes that the powers of the Bazaar Committee must constitutionally be derived from the Board itself and that the extent of those powers must constitutionally be liable to variation from time to time, if necessary, by the Board as a whole. I am advised that these particular words that were inserted by the Select Committee are not strictly necessary and therefore I am prepared to accept the amendment.

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

"That in clause 16 of the Bill, in the proposed section 43A (1), the words 'purposes connected with' be omitted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : Pandit Malaviya. (The Honourable Member was not in his seat.) Honourable Members who have any amendments down on the List should rise in their places, when their turn comes.

The question is :

"That clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clauses 17 to 21 were added to the Bill.

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

"That clause 22 stand part of the Bill."

Mr. Saksena.

Mr. Mohan Lal Saksena : Sir, I move :

"That in clause 22 of the Bill, in the proposed section 60 (1), after the words 'any municipality' the words 'of the same class' be inserted."

Sir, the clause will thus read like this :

"22. For section 60 of the said Act the following section shall be substituted, namely :

'60. (1) The Board may, with the previous sanction of the Local Government, impose in any cantonment any tax which, under any enactment for the time being in force, may be imposed in any municipality of the same class in the province wherein such cantonment is situated : '

Up till now, Honourable Members are aware, the power of taxation vests with the Local Government. The Local Government alone can impose taxes, but now this power is being delegated to the Cantonment Board, and the latter is allowed to impose any taxation which can be imposed by any enactment in force in any municipality of the province. Now there are municipalities and municipalities, of different classes, in each province and there are certain taxes which are not enforceable in second and third class municipalities but are enforceable only in first class municipalities. Therefore, I have added these words : "of the same class". That will clear the position : and only such taxes will be imposed in cantonments as can be imposed in any municipality of the province of the same class. I hope my Honourable friend, Mr. Tottenham, will have no objection to the acceptance of this amendment.

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

"That in clause 22 of the Bill, in the proposed section 60 (1), after the words 'any municipality' the words 'of the same class' be inserted."

Prof. N. G. Ranga (Guntur cum Nellore : Non-Muhammadan Rural) : Sir, I rise to support this amendment, and, in doing so, I wish

to say that it is most essential to protect the general public and voters from the over-anxiety of the Cantonment Boards to tax the public and try to cater to their public needs. It is only too well-known that various municipalities in different parts of India have vainly tried to please the public only by imposing additional taxation upon them and not by really utilising the funds placed at their disposal in the best possible manner. They know that, except at the time of the elections, they need not be afraid of the public, and the few people who are behind them as henchmen only care for the opportunities that they get for making as much money as possible out of these Boards, and they can do that better if additional taxation is imposed. It is to prevent these extraordinary proclivities of these municipal boards and municipal councils that the Local Governments of the various provinces have seen fit to restrict their powers in this direction. Even in the Madras Presidency, we have village panchayats—the smallest in the category of local self-government institutions—which have exhibited, in an extraordinary manner, great enthusiasm for imposing additional taxation improperly and at an inopportune moment, with the result that the Madras Government found it necessary to restrict their powers and their rights of imposing such additional taxation. Therefore, Sir, there is all the more reason why these Cantonment Boards, on which there is no elected majority of members, but which are mostly under the control of the military authorities, should be prevented from imposing additional taxation whenever, and to whatever extent, they liked. It is for this reason that my Honourable friend's suggestion, that their powers should be curtailed in the same manner and to the same extent in which the rights of municipalities of the same category are curtailed and restricted in the various provinces in which these cantonments are to be found, is put forward. I, therefore, hope that the House will see it fit to support the amendment of my friend, and the Honourable Member in charge of the Bill will also be willing to accept this amendment, which is really a harmless one, and, at the same time, serves a very useful purpose. In these days of over-taxation, he should, of all people, be willing to agree at least to this and help the local public and prevent them from being over-taxed.

Mr. G. R. F. Tottenham : Sir, I would like to point out with reference to what Prof. Ranga said that this amendment has nothing whatever to do with the amount of tax that is imposed by any Cantonment Board. The section deals with the question of the kind of taxes that they may impose and it makes no difference from the present law on the subject except to the extent that at present the Local Government takes the initiative in imposing taxes in cantonments, whereas in future the initiative will lie with the Cantonment Board, but they will have to get the sanction of the Local Government. If I were satisfied that the words proposed in the amendment would mean anything and that they would apply universally to all provinces and all parts of India, I would be perfectly prepared to accept the amendment. But as far as I know, it is not a fact that in all provinces in India municipalities are divided into different classes, at any rate, not into different classes corresponding to the classes into which our cantonments are divided. Therefore, if we were to put in these words they would be senseless and meaningless in most parts of India. I am prepared to accept the principle at which Honourable Members are aiming but I do not think it can be given effect to by this alteration in the wording of this clause. After all,

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all that we are really trying to do, and all that we have done ever since this Act was passed in 1924, is to ensure, for instance, that a Cantonment Board in Madras should not impose some kind of taxation which is quite foreign to the municipalities in Madras, but which may happen to be well known in Northern India. At present, in a certain Madras Municipal Act, for instance, there is a power to put a tax on advertisements. That is not a kind of tax that is permissible and leviable in the Punjab. This section merely secures that no Cantonment Board can impose any kind of novel or foreign tax which is not known in the province in which the cantonment is situated and I think that is a very sensible provision. As far as I can see, I cannot give effect to the intention which the Honourable Members have in mind by simply inserting the words 'of the same class'. There are many parts of India where municipalities are not of the same class as cantonments and therefore these words would mean nothing. I, therefore, regret that as far as I can see such an amendment would be meaningless and I am afraid I am unable to accept it.

Prof. N. G. Ranga : In view of the fact that the Honourable Member is in agreement with the principle underlying this amendment and his only objection is to the drafting of it, will he be agreeable to postpone the consideration of this particular clause for the time being? He may give us an opportunity of redrafting it with his co-operation so that we may be able to incorporate the principle with which he is also in agreement.

Mr. G. R. F. Tottenham : I would be prepared to do that if the House wishes me to do so, but I venture to submit that it will be a very difficult task and the object in view would be much better achieved by my issuing instructions on the subject if the House thinks that would be sufficient. If that does not meet the Honourable Member's point of view, I would certainly consider whether any drafting amendment here would have the effect that he has in mind. I understand what he has in his mind is that if in a certain province municipalities are divided into certain classes and that if the municipal law of that province provides that only certain classes of taxes are to be imposed in certain classes of municipalities and if these classes of municipalities can be made to correspond to our classes of cantonments, then we should try and bring them together. How that can be drafted in the form of an amendment to this particular clause, I cannot say at present. I think it would be an impossible task.

Pandit Govind Ballabh Pant : Sir, I move that this clause do stand over till we have considered other clauses.

Mr. G. R. F. Tottenham : I am prepared to agree to that.

Mr. President (The Honourable Sir Abdur Rahim) : Clause 22 will stand over for the present.

Clauses 23 to 32 were added to the Bill.

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

"That clause 33 stand part of the Bill."

Mr. Mohan Lal Saxena : Sir, I move :

"That in clause 33 of the Bill, the proposed proviso be omitted."

The proviso runs thus :

"Provided that, where the sum written off in favour of any one person exceeds fifty rupees, the sanction of the Officer Commanding-in-Chief, the Command, shall be first obtained."

The object of moving this amendment is to remove the restriction that this proviso imposes on the powers of the Cantonment Board. The section authorises the Cantonment Board to write off sums up to Rs. 50 but in case it wants to write off any sum exceeding Rs. 50, it must obtain the sanction of the Officer Commanding-in-Chief. We know that in sections 51 and 52 of the existing Act and in other sections of the Act the Officer Commanding-in-Chief and the Officer Commanding and the Local Government have got powers to stop any action being taken by any resolution of the Cantonment Board. After all, you must place confidence in the Cantonment Board to the extent that they will be performing their duties in the best interests of the Board. By this proviso, you restrict the power of the Board, which betrays a certain amount of distrust in the ability of the Cantonment Board to perform its duties. I submit that even without the proviso there are sufficient provisions in the Act by which any resolution by which the Board unjustifiably writes off any sum can be stopped and cancelled. Therefore, this proviso is unnecessary and I move with these words that it may be omitted.

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

"That in clause 33 of the Bill, the proposed proviso be omitted."

Mr. G. R. F. Tottenham : Sir, we are by this clause giving Cantonment Boards increased powers in the matter of writing off, as compared with the present powers; we are giving them power not only to write off taxes, but also rates, and the Select Committee came to the conclusion when they were going through this Bill that there ought to be some limit to the power of the Board to write off sums in favour of one particular individual. The Select Committee agreed to this amendment which in itself I submit is a perfectly reasonable and fair provision of law. The Honourable Member seems to think that if Cantonment Boards want to write off debts and began writing off large sums of money in favour of one individual, the correct course would be for the Officer Commanding to use his special powers under section 52 and send the Resolution up to the Officer Commanding-in-Chief for veto and so forth. I do not think that is the correct way of carrying on the administration of Cantonments. I think those powers ought to be used only in exceptional circumstances. I submit there ought to be a general rule laid down that the Board has certain financial powers and not others. In this matter of writing off sums in favour of individuals, I suggest it is a salutary proviso that there should be some monetary limit. I cannot pretend that the matter is one of vast importance, but I do think that the Select Committee agreed to it because there were good reasons in favour of it and it is therefore advisable to let the clause remain as drafted. I therefore regret that I am unable to accept the amendment.

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

“ That in clause 33 of the Bill, the proposed proviso be omitted.”

The motion was negatived.

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

“ That clause 33 stand part of the Bill.”

The motion was adopted.

Clause 33 was added to the Bill.

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

“ That clause 34 stand part of the Bill.”

Mr. Mohan Lal Saksena : Sir, I beg to move :

“ That clause 34 of the Bill be omitted.”

Sir, clause 34 reads as follows :

“ In.....sub-section (3) of section 107 of the said Act, for the words ‘ Local Government ’, where they occur for the first time, the words ‘ Officer Commanding-in-Chief, the Command ’ shall be substituted.”

Sir, section 107, sub-section (3) reads like this :

“ A Cantonment authority may from time to time with the previous sanction of the Local Government invest any portion of its Cantonment funds in securities of the Government of India.”

Up till now, under the provisions of the existing Act this power is vested in the Local Government to sanction as to how the Cantonment funds were to be invested. That power is now sought by this clause to be transferred from the Local Government to the Officer Commanding-in-Chief, the Command. Sir, I think this provision betrays unmerited distrust of the Local Government. I do not know why my Honourable friend opposite is anxious to substitute the words ‘ Officer Commanding-in-Chief, the Command ’ for the words ‘ Local Government ’. It may be that the Local Governments in the future are going to be quite different from what they are today. So, if the Local Government had the power of sanction as to how the funds of Cantonment Boards should be invested, I think that power should be left intact and it is not proper to take that power away from the Local Government and vest it in one single individual however great he may be. Sir, I move the amendment.

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

“ That clause 34 of the Bill be omitted.”

Prof. N. G. Ranga : Sir, it is not at all in favour of the Indian public that this alteration sought to be made by Government on the advice of the Select Committee should be made in the Act. Sir, it is a well-known fact that ever since these municipalities and local boards have come into the hands of elected councillors and elected presidents, the funds of these bodies and boards have come to be invested more and more in Indian banks and co-operative societies instead of being deposited in the Imperial Bank of India as was the case earlier. The only object with

which this amendment is sought to be made in the original Act by Government might be to prevent the Local Governments which are to come into existence hereafter from directing or authorizing these Cantonments to deposit their funds in Indian banks or in co-operative societies and thus prevent them from helping Indian banking industry in future. It is quite possible that the Government of India are afraid of the Local Governments to come in the near future and they fear that they are going to be so much Indianised and so much Indian in their mentality that they are likely to place the funds at the disposal of the Indian investing public and Indian banking interests rather than at the disposal of British banking interests. I see my Honourable friend, Mr. Tottenham, shaking his head in dissent, perhaps it may be that his further objection is that since the Local Governments are going to be more Indianised than they are today, it would be more and more difficult for these Cantonments to get their particular sanction than it would be if they are to seek the permission of the Officer Commanding-in-Chief, the Command. I would like the Government to put a little more faith in the Local Governments that they are themselves instrumental in creating, in the kind of Ministers that they are themselves so very anxious to usher in in different provinces than they seem inclined to do at present. I do not see any other reason, legitimate or illegitimate, for which the Government of India can ask this House its permission for allowing them to make this amendment in this particular Act. Sir, I support the amendment.

Mr. G. R. F. Tottenham : Sir, there is absolutely no reason for any of the Honourable Members' fears. There is no question of distrust of Local Governments or distrust of the future Ministers or anything else. If the Honourable Member had taken the trouble to read the whole section, I think it would have been perfectly clear that all that we are proposing to do is to alter the words “ Local Government ” where they occur for the first time in this section into the “ Officer Commanding-in-Chief, the Command ”. It is the Officer Commanding-in-Chief, the Command, who has to decide whether the Board has any surplus funds to invest. The Officer Commanding-in-Chief, the Command, is the controlling authority of Cantonment Funds according to the Cantonment Account Code which is a series of rules prescribed under section 280 of the Act. That is to say, he is the statutory authority for the control of Cantonment expenditure, for sanctioning the Cantonment Budget and so on and so forth. Local Governments have no direct knowledge of the financial condition of Cantonments and therefore they cannot be expected to know, if a Cantonment Board wishes to invest any money, whether they have that money to invest, whether they have a sufficient balance or what the exact position of their funds is, whereas the Officer Commanding-in-Chief, the Command, has got all that knowledge. However, having decided that there is some surplus to invest, it does not rest now, and it will not rest in the future, with the Officer Commanding-in-Chief, the Command, to decide in what securities it should be invested. The section will read :

“ A Cantonment Authority may, from time to time, with the previous sanction of the Officer Commanding-in-Chief, the Command, invest any portion of its cantonment fund in securities of the Government of India or in such other securities, including fixed deposits in banks, as the Local Government may approve in this behalf

Therefore, even when the Officer Commanding-in-Chief, the Command, has decided that there are funds to invest it will not be he who will invest

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them. He will write to the Local Government and say, "what shall I invest the funds in". It will be open to the Local Government to approve the kind of security or bank in which the funds should be invested. Therefore, Sir, I see no reason to accept this amendment or to think that there is any ulterior motive behind.

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

"That clause 34 of the Bill be omitted."

The motion was negatived.

Clauses 34 to 37 were added to the Bill.

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

"That clause 38 stand part of the Bill."

Mr. G. H. Spence : Sir I beg to move :

"That for clause 38 of the Bill, the following be substituted :

'38. For clause (d) of sub-section (1) of section 138 of the said Act, the following clause shall be substituted, namely :

'(d) Where the cantonment is a Class I or Class II cantonment, two non-official members of the board, or where the cantonment is a Class III cantonment, one non-official member of the board.'"

Sir, sub-section (1) of section 138 of the principal Act specifies the composition of certain Committees appointed to inspect insanitary premises. The Committees consist of the Health Officer, the Civil Surgeon, the Executive Engineer, and "(d) where there is a Board, two non-official members thereof".

The existing clause of the Bill to which this amendment is moved contains a misprint. The words to be omitted are not "Where there is no Board" but "Where there is a Board". That would have left clause (d) of sub-section (1) of section 138 reading, "Two non-official members thereof" which would be quite meaningless. Moreover if we made it mean something by saying "Two non-official members of the Board", that would not meet the point that under the position created by this Bill there are certain boards on which there is only one non-official member. So the effect of the amendment just now proposed is that it maintains the existing position in the case of boards consisting of two or more members where you will have two non-official members on the sanitary committees; where there is only one non-official member of the board, then that one non-official member will be on the sanitary committee.

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

"That for clause 38 of the Bill, the following be substituted :

'38. For clause (d) of sub-section (1) of section 138 of the said Act, the following clause shall be substituted, namely :

'(d) Where the cantonment is a Class I or Class II cantonment, two non-official members of the board, or where the cantonment is a Class III cantonment, one non-official member of the board.'"

Mr. G. R. F. Tottenham : Sir, I have nothing further to say on this.

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

"That for clause 38 of the Bill, the following be substituted :

'38. For clause (d) of sub-section (1) of section 138 of the said Act, the following clause shall be substituted, namely :

'(d) Where the cantonment is a Class I or Class II cantonment, two non-official members of the board, or where the cantonment is a Class III cantonment, one non-official member of the board.'"

The motion was adopted.

Clause 38, as amended, was added to the Bill.

Clauses 39 to 43 were added to the Bill.

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

"That clause 44 stand part of the Bill."

Mr. Mohan Lal Saksena : Sir, I move :

"That in clause 44 of the Bill, in the proposed section 178A, the words 'No land shall be used as a site for the erection of a building in any cantonment and' be omitted."

Clause 44 reads thus :

"44. In Chapter XI of the said Act, before section 179, the following section shall be inserted, namely :

'178A. No land shall be used as a site for the erection of a building in any cantonment and no person shall erect or re-erect a building on any land in a cantonment, except with the previous sanction of the Board, nor otherwise than in accordance with the provisions of this Chapter and of the rules and bye-laws made under this Act relating to the erection and re-erection of buildings'."

Now, there are two points to be noted here. Firstly it is said that no land shall be used as a site for the erection of a building in any cantonment; and secondly that no person shall erect or re-erect a building on any land in a cantonment without sanction and so on. What I want is that the opening words should be deleted, because so far as the other provision is concerned, it is there and any person who wants to erect any building in the cantonment can do so only with the proper permission of the Cantonment Board. At the most this first clause shall be used as a means of placing an obstruction in the way of those who own land in the cantonment. After all, it is obvious that the person may have land for building in a cantonment. He cannot erect any building so long as he does not obtain permission as provided in the Act; and if he erects any building without permission, of course he will be subject to all the penalties that are provided in the Act. Therefore, this sentence should not be there unless the object is simply to place more than one obstruction in the way of owners of land in cantonment areas. Sir, I move :

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

"That in clause 44 of the Bill, in the proposed section 178A, the words 'No land shall be used as a site for the erection of a building in any cantonment and' be omitted."

Mr. G. R. F. Tottenham : Sir, this section is merely a declaratory section laying down generally that every building to be erected in a cantonment must have previous municipal sanction. The wording of the section

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was taken from section 313 of the Bengal Municipal Act. I agree, however, with the Honourable Member that these opening words are not strictly necessary and therefore I am quite prepared to accept the amendment.

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

“ That in clause 44 of the Bill, in the proposed section 178A, the words ‘ No land shall be used as a site for the erection of a building in any cantonment and ’ be omitted.”

The motion was adopted.

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

“ That clause 44, as amended, stand part of the Bill.”

The motion was adopted.

Clause 44, as amended, was added to the Bill.

Clause 45 was added to the Bill.

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

“ That clause 46 stand part of the Bill.”

Mr. G. H. Spence : Sir, I move :

“ That in clause 46 of the Bill, for the proposed sub-section (4) the following be substituted :

‘ (4) The Board may refuse to sanction the erection or re-erection of any building—

(a) when the land on which it is proposed to erect or re-erect the building is held on a lease from Government, if the erection or re-erection constitutes a breach of the terms of the lease, or

(b) when the land on which it is proposed to erect or re-erect the building is not held on a lease from Government, if the right to build on such land is in dispute between the person applying for sanction and the Government ’.”

The form given to this sub-section by the Select Committee followed the wording of a corresponding provision in the Punjab Municipal Act. Since the Select Committee reported, the All-India Cantonments Association have represented to Government that they prefer the alternative wording which this amendment proposes to substitute. The difference in substance is very small and Government are perfectly prepared to accept the wording desired by the All-India Cantonments Association. In fact they are definitely anxious to meet the Association in this matter and hence I move this amendment. Sir, I move.

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

“ That in clause 46 of the Bill, for the proposed sub-section (4) the following be substituted :

‘ (4) The Board may refuse to sanction the erection or re-erection of any building—

(a) when the land on which it is proposed to erect or re-erect the building is held on a lease from Government, if the erection or re-erection constitutes a breach of the terms of the lease, or

(b) when the land on which it is proposed to erect or re-erect the building is not held on a lease from Government, if the right to build on such land is in dispute between the person applying for sanction and the Government ’.”

Mr. M. S. Aney : Sir, may I point out that there is another amendment standing in the name of Mr. Mohan Lal Saksena : if this amendment is carried, that would be out of order : is it not, therefore, necessary that he should be allowed to move his amendment also ?

Mr. G. R. F. Tottenham : If Mr. Saksena wishes to move his amendment, it is an amendment to the existing clause—it cannot be an amendment to the amendment moved by my Honourable friend, Mr. Spence.

Mr. Mohan Lal Saksena : Sir, I move :

“ That in clause 46 of the Bill, in the proposed sub-section (4), the words ‘ or if the title to the land is in dispute between the person applying for sanction and the Government ’ be omitted.”

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

“ That in clause 46 of the Bill, in the proposed sub-section (4), the words ‘ or if the title to the land is in dispute between the person applying for sanction and the Government ’ be omitted.”

The discussion can now proceed on both the amendments.

Does the Honourable Member, Mr. Mohan Lal Saksena, wish to speak ?

Mr. Mohan Lal Saksena : Yes, Sir. Clause 46 runs thus :

“ 46. For sub-sections (2), (3) and (4) of section 181 of the said Act the following sub-sections shall be substituted, namely :

‘ (2) The Board may refuse to sanction the erection or re-erection of any building, either on grounds sufficient in the opinion of the Board affecting the particular building, or in pursuance of a general scheme sanctioned by the Officer Commanding-in-Chief, the Command, restricting the erection or re-erection of buildings within specified limits for the prevention of overcrowding or in the interests of persons residing within such limits or for any other public purpose.

(3) The Board, before sanctioning the erection or re-erection of a building on land which is under the management of the Military Estates Officer, shall refer the application to the Military Estates Officer for ascertaining whether there is any objection on the part of Government to such erection or re-erection ; and the Military Estates Officer shall return the application together with his report thereon to the Board within thirty days after it has been received by him.

(4) The Board may refuse to sanction the erection or re-erection of any building if the land on which it is proposed to erect or re-erect the building is Government property and the consent of Government has not been obtained, or if the title to the land is in dispute between the person applying for sanction and the Government.’ ”

The object of my amendment is that the last portion of proposed sub-clause (4) should be deleted. We know that if it is Government land and permission has not been obtained by the person applying for erecting a building, the permission will be refused. But to refuse permission on the ground that there is a dispute about title between the Government and the person applying, is, I think, simply using the municipal powers for driving the person to Court to establish his title. After all, if there is a dispute of title between the Government and the

[Mr. Mohan Lal Saksena.]

person applying for erection of a building, there is no reason why the Government should not have the same position as the ordinary person applying for permission; and therefore I want that the cantonment board should not be used as a machinery for compelling persons to go to Court: we know how much money they have to spend in litigation against the Government and therefore I want that this portion should be deleted. I hope the House will accept this amendment which is necessary and which will protect the interests of persons who own land and whose title is in dispute with the Government. Government has got greater facilities of getting its rights established in a Court of law.

Mr. G. R. F. Tottenham: May I speak on both the amendments. Sir: The Bill as originally introduced into this House made it compulsory for cantonment boards not only to refer building applications to the Military Estates Officer but also made it compulsory for the board to reject a building application if the Military Estates Officer raised an objection. After a very long discussion in select committee, it was agreed to modify that proposal and to adopt the wording of a model Municipal Act, that is the Municipal Act of the Punjab; and the wording of this clause now follows almost exactly the wording of section 193 (2) of the Punjab Municipal Act. The effect is that the board may, but is not compelled to, refuse an application if it is satisfied on the report of the Military Estates Officer that the man really has no right to build. At our recent discussion with the All-India Cantonments Association, they raised the point whether it would still be necessary for the cantonment authority to refer building applications to the Military Estates Officer or whether it would not be possible to cut short all this procedure if the dispute between the Government and the houseowner had been settled in the way we hope it will be settled, that is, by taking out leases. Well, we had to point out in that discussion that, although the dispute between the Government and the houseowner would be settled by taking out a lease, it would still be possible or might be possible for a person who held a lease from Government to put up an application to build on the land which he was occupying which would be in contravention of the terms of the lease; that is to say, a man may have a lease of a bit of land to put up a bungalow to live in, and there may be a definite condition in the lease that he is not allowed to convert that land to profit or commerce or trading. He may then put up an application to the cantonment authority to build a shop or a motor garage or something of that kind on that bit of land, and that would be definitely in contravention of the terms of the lease. Also, of course, it may still be that a certain number of house-owners will not agree to settle the dispute between Government and themselves; and, therefore, from our point of view, in accordance with the agreement reached in the Select Committee it is still necessary to have these applications referred to the Military Estates Officer for enquiry on these two points. It will, however, be quite clear that if the house-owners take the option of executing these leases which are to be on favourable terms, there will automatically be no dispute between them and the Government, because their title will be defined by the lease itself. Therefore, in practice, what we hope is that the last words in this clause will become inoperative, so far as anybody in a cantonment is concerned who owns a house and agrees to take out a lease for the land

on which that house is situated. Then the only question which can be referred to the Military Estates Officer will be whether a building application is in contravention of the terms of the lease. For these reasons, and also as my friend explained just now, because the whole matter was thoroughly gone into and the wording of the amendment was accepted by the All-India Cantonments Association, I hope the House will agree to accept our amendment and will understand me when I say that I regret I cannot accept the amendment of Mr. Mohan Lal Saksena.

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

"That in clause 46 of the Bill, for the proposed sub-section (4) the following be substituted:

"(4) The Board may refuse to sanction the erection or re-erection of any building—

- (a) when the land on which it is proposed to erect or re-erect the building is held on a lease from Government, if the erection or re-erection constitutes a breach of the terms of the lease, or
- (b) when the land on which it is proposed to erect or re-erect the building is not held on a lease from Government, if the right to build on such land is in dispute between the person applying for sanction and the Government."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The other amendments, therefore, fall to the ground.

The question is:

"That clause 46, as amended, stand part of the Bill."

The motion was adopted.

Clause 46, as amended, was added to the Bill.

Clause 47 was added to the Bill.

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

"That clause 48 stand part of the Bill."

Mr. Mohan Lal Saksena: Sir, I move:

"That in clause 48 of the Bill, the proviso to the proposed section 183A be omitted."

The proviso runs thus:

"183A. A Board, when sanctioning the erection or re-erection of a building as hereinbefore provided, shall specify a reasonable period after the work has commenced within which the erection or re-erection is to be completed, and, if the erection or re-erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Board on application made therefor has allowed an extension of that period:

Provided that not more than two such extensions shall be allowed by the Board in any case."

The Board, when sanctioning as hereinbefore provided, shall satisfy itself after the work has commenced that the work has been completed within a specified time, and if it is not completed, it shall not be continued thereafter without fresh sanction obtained in the manner

[Mr. Mohan Lal Saksena.]
hereinbefore provided, unless the Board has allowed an extension of the period.

Therefore, by the proviso the power of the Board is limited to grant only two such extensions. It is within the power of the Cantonment Board whether to grant or not to grant such extensions. There may be cases in which even more than two extensions may be necessary. So why limit the power of the Cantonment Board? Let us hope that this power granted to the Board by this clause will not be opposed.

Prof. N. G. Ranga : Sir, I support this amendment. If we go through this section 48, put in here as an amendment to section 183 of the Act, we find that it really proposes to use a very arbitrary power against the house owners and land owners and those who want to build houses in cantonments. It is rather an extraordinary thing that a Board should be expected to specify a reasonable period within which a particular building is to be erected and completed in all its sections. Now, Sir, supposing a person, who had started to build a house, suddenly dies leaving some children and his wife behind, and these children do not find sufficient funds in time to complete this building. They are obliged, first of all, to provide for the funeral and other attendant ceremonies, and then to find sufficient funds to shift for themselves, and then only they can think of continuing the building operations. What is to happen to these people? They are expected, according to this section, to go to the Board and ask for an extension. We know very well that there are always parties in these Boards, and it is quite possible that these orphans do not belong to the party which is in power, and the whole Board may refuse to grant an extension. Then, my friend, Mr. Tottenham, will say, here is a proviso that two extensions can be given, but I would like to know why, if any extension is to be granted at all, it should be limited to two extensions. I should like to know why the Cantonment Board should be in such a hurry as to get these buildings completed and finished and placed at the disposal of the lease holders or even the owners themselves.

Sir, we have had bitter experience of the economic depression in the country. If we go to the country, we find that many buildings which were just started have been left unfinished for want of funds. Some of the buildings, which have been completed with a single storey, have been left unfinished, because they could not complete the second storey for want of funds; only certain structures were put up, and the building could not be completed, mainly due to the paucity of funds. Such things are happening today on a large scale, and it is quite possible that residents of cantonments also must have been affected similarly by this economic depression. Are we to be told that for a fault, not of their own, they are to be penalised, and they should be made to walk up and down to the Cantonment Board seeking their permission for further and further extension of time? Even if we were to agree to allow these Cantonment Boards to exercise these arbitrary powers proposed to be conferred on them, to insist upon asking the house owners to ask for an extension of the period, I should like to know why more than two extensions should not be allowed by the Board in any case. Is it because, Sir, that the Government are so very anxious to beautify these cantonments with a number of grand, palatial buildings

similar to those we find at the Connaught Place in New Delhi, or is it because the Government want to keep this right to themselves in order to force the house owners to finish their building operations on pain of being prevented from continuing their building operations thereafter, and thus forced to sell their buildings or place them on the market to be sold for whatever price they can fetch and then get out of the cantonment altogether? Sir, if Government seek our co-operation and our approval for this kind of proposal in order to satisfy themselves with the beautification of their cantonments, they are sadly mistaken, and they cannot expect our co-operation in accepting this particular provision. If, on the other hand, they want to see that in certain parts of a cantonment certain buildings ought not to be erected in order to prevent any sort of mischief or any nuisance, and, in building these houses, the house holders should try to finish their building operations within a reasonable period of time, they will be giving so much discretionary power to the Cantonment Boards which we cannot really approve of. It is quite possible that ordinary house holders may find it almost impossible to go and please the demi-gods in charge of these Cantonment Boards in order to get these extensions, and it is an ordinary every day experience of our people when they go to get the approval of these Cantonment Boards—that they have to adopt so many means in order to propitiate these demi-gods. Therefore, it is not right that Government should come forward with this particular provision that the Cantonment Board should be provided with this right of refusing permission to house holders to continue their building operations even after they have sunk large amounts of their capital, may be the most important portion of their total capital, in purchasing land, in erecting a portion of the house or in carrying on building operations to some extent and then finding themselves unable to continue unless they are given sufficient time to complete their building operations. Therefore, I support the amendment moved by my Honourable friend, Mr. Saksena, and I hope that Government also will see their way to agree to the deletion of this very exceptionable and objectionable provision which provides that not more than two such extensions shall be allowed by the Board in any case.

Mr. M. S. Aney : I am unable to understand the rationale of this proviso. In fact, the object of this law seems to be to discourage the erection of buildings by persons who are residing in the cantonments. First of all, a number of difficulties are put in for getting permission for erecting the building. Then under section 183 even when permission is given, one year's period has been fixed within which the person to whom the permission is given must begin his work. If he does not commence his work within this period, then the sanction lapses. After he has commenced work within the period then comes in this clause 183-A. This is a new invention made by the Select Committee which has by agreement produced this admirable provision. (Laughter.) Instead of widening the powers of people to have their buildings erected within the area, new restrictions are imposed here in this Bill. As a matter of fact, if the permission has been granted and the building has been commenced within the time prescribed, there should be no difficulty whatsoever to allow that man to complete the building within such time as may be necessary for him to do that. This clause 183-A introduces one more restriction, viz., that not more than two extensions can be given. If the two periods given by

[Mr. M. S. Aney.]

way of extension for the purpose of finishing the work are over, and the building is not completed, then he has to leave that uncompleted permanently, his capital will yield no return and nothing will be done. He will be the sufferer and this law will not enable the Board to use its discretion in giving him any extension to finish the work. Suppose a man has commenced work, he has done considerable work, two periods of extension have been given and within those two periods he has completed three-fourths of the work and only one-fourth remains unfinished. This proviso does not leave any discretion to the cantonment board to give any more extended period to that man to complete the work. The capital invested will have no return and the work will remain uncompleted, and the man will be put to a great loss. I am sure that the Select Committee did not foresee the consequences of introducing a proviso like that. My Honourable friend, the Army Secretary, will see that there is more mischief in this proviso than he probably contemplated when it was for the first time put in there in the Select Committee. For this reason I hope he will be agreeable to accept the amendment which has been proposed by my Honourable friend, Mr. Saksena.

Mr. G. R. F. Tottenham : Sir, this was not an invention of the Select Committee ; in fact, if my memory serves me aright, it was a proposal that was originally made some eighteen months or two years ago by the All-India Cantonments' Association themselves.....

Prof. N. G. Ranga : God save us from our friends !

Mr. G. R. F. Tottenham : .. the object being, quite rightly, to prevent buildings from being started in a cantonment and then left in an unfinished and unsightly condition for a large number of years. I know from my own experience in one cantonment of a building which was started in 1921. The walls rose to about that height (about four feet) and it was left in that condition till 1932 and it was a very unsightly object during that time. This clause was introduced merely to give the cantonment authorities some power to set a time limit to that kind of thing. And it is not an arbitrary invention of our own ; it is actually based on the provisions of the Madras District Municipalities Act. That is the presidency from which my Honourable friend, Prof. Ranga, himself comes, and the only difference in the provision in the Madras District Municipalities Act is that it gives no opportunity for an extension of any kind. Under the Madras Act they are given a definite time within which to finish building, and if they do not finish, there is no question of any extension of time, but they have to apply for fresh sanction. Here we are slightly more generous than that ; we set a time limit, after the building has been started and not before, for completion, and then if it has not been completed within that time the board may give an extension and may give another extension. Well, I think that is a perfectly reasonable proposition. All it means is that after that the man has got to get a fresh sanction by making a new application under the substantive clause. I am, therefore, unable to accept the amendment.

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

" That in clause 48 of the Bill, the proviso to the proposed section 183A be omitted."

The motion was negatived.

Clause 48 was added to the Bill.

Clauses 49 to 66 (both inclusive) were added to the Bill.

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

" That clause 67 stand part of the Bill."

Mr. Mohan Lal Saksena : Sir, I rise to oppose this clause. This clause reads as follows :

" After section 285 of the said Act, the following section shall be inserted, namely :

' 285A. The Local Government shall be under the superintendence, direction and control of the Governor General in Council in all matters referred to in this Act '."

This is almost the last but two clauses of the Bill. As it is said, the sting lies in the tail. I think this is the most objectionable section from our point of view. By this clause the control and direction of the cantonment boards is sought to be placed directly under the Defence Department. Even now under the existing Act, the Local Governments exercise certain powers of superintendence and control over cantonment boards. I do not see any reason why there should be any specific addition of a new section in the amended Bill by which it should be made clear that henceforward these powers shall be exercised by the Local Government under the superintendence, direction and control of the Governor General in Council in all matters referred to in this Act. Why does the Government of India grow suspicious of the Local Governments ? Why should they think that the Local Governments in future will not exercise their powers properly and why should they make specific mention of this in the Act that they will exercise these powers under the superintendence, direction and control of the Governor General in Council, which means the Defence Department of the Government of India ? I hope, Sir, Honourable Members of this House will oppose this clause and will not allow it to become a part of the law.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : On a point of order. I invite your attention to the sections of the Government of India Act, 1935. So far as the existing Act is concerned, it will expire on the 1st April, 1937. You will notice that these sections propose to confer on the Governor General in Council the power of superintendence, direction and control. They are taken almost *verbatim* from the wording of section 45 of the Act of 1919. The section of the Government of India Act of 1935 to which I invite your attention is section 8. I want to draw your attention to the first proviso :

" The said authority does not, save as expressly provided in this Act, extend in any province to matters with respect to which the Provincial Legislature has power to make laws."

[Mr. S. Satyamurti.]

Then, Sir, it says :

"The executive authority of the Federation extends to the matters with respect to which the Federal Legislature has power to make laws, the raising of naval, military or air forces," and so on.

"(c) to the exercise of such rights, authority, and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance, or otherwise in and in relation to the tribal areas :

Provided that :

(i) the said authority does not, save as expressly provided in this Act, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws....."

Then, Sir, if you will now turn to section 49 of the Act....

Mr. President (The Honourable Sir Abdur Rahim) : Why are you going into this Act ? It has no application now. There is no point of order, really.

Mr. S. Satyamurti : But, Sir, we must legislate....

Mr. President (The Honourable Sir Abdur Rahim) : There is no point of order. It is a matter of argument on the merits.

Mr. S. Satyamurti : Sir, I oppose this clause. I should like to know what the Honourable the Defence Secretary has in his mind, in respect of this matter, in view of what I have just now said. The Local Government shall be under the superintendence, direction and control of the Governor General in Council, in all matters referred to in this Act. What does it exactly mean ? Does it mean that the new Federal Government, which according to the Viceregal pronouncements is bound to come on the All-fools' day 1938, is going to have all these powers of superintendence, direction and control over Local Governments which are contemplated by this Act....

The Honourable Sir Nripendra Sircar : There has been no such Viceregal pronouncement.

Mr. S. Satyamurti : I am considerably relieved to hear that.

The Honourable Sir Nripendra Sircar : The Honourable Member may or may not be relieved to hear that, but that is a fact.

Mr. S. Satyamurti : I am glad my Honourable friend the Law Member is less hopeful of Federation than certain other persons are, but my simple point is this. I should like to know from my Honourable friend what is the machinery by which they hope to control Local Governments in all matters referred to in this Act. After all, the whole structure of the new Government of India Act is going to be "Autonomous Governments in Provinces controlled by a Government at the Centre, composed partly of State members and partly of the representatives of the people of British India". What is the idea of saying that the Governor General in Council shall control all these matters ? Then, Sir, Defence under the Government of India Act is reserved to the Governor General. Where does the "Governor General in Council" come in ?

Mr. President (The Honourable Sir Abdur Rahim) : You are arguing upon the new Act.

Mr. S. Satyamurti : I am hoping that this new Act will come into force on the 1st April, 1937. I am *not* now raising any point of order. I am arguing. I am opposing this clause. I am saying that this clause is wholly infructuous....

Mr. A. H. Lloyd (Government of India : Nominated Official) : There will be "adaptation".

Mr. S. Satyamurti : By whom ?

Mr. President (The Honourable Sir Abdur Rahim) : Let the Honourable Member make his point.

Mr. S. Satyamurti : I do not know what is meant by "adaptation". This Honourable House is being asked to vote on this clause. I want to know why. One point is this. This, I take it, will come within the sphere of "defence", as defined in the Government of India Act, 1935. If this is so, I say that to vest the authority which Local Governments now have under this Act, under the control of one solitary person, the Governor General, not the Governor General in Council, is going back even on the existing Act. There is no point in asking us to have this superintendence, direction and control, by only one person exercising all his powers in his individual discretion, or individual judgment. I, therefore, feel that this House cannot make itself a party to enacting a clause like this, on the assurance that the whole thing will be adapted. I should like to know how it is going to be adapted. There will be no Governor General in Council, for defence purposes. Therefore, the House has now got to vote for a clause which will vest in one solitary person, the Governor General, the right of superintendence, direction and control. Sir, that seems to me to be quite inconsistent with the whole idea of Provincial Autonomy ; it betrays a distrust of Local Governments, there is no case made out for it ; at any rate it is badly worded, and requires amendment very soon, and I say the House should vote against this clause.

Prof. N. G. Ranga : Sir, I rise to oppose this motion....

Several Honourable Members : It is more than five o'clock.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can oppose the motion afterwards. The House now stands adjourned till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 8th September, 1936.

LEGISLATIVE ASSEMBLY.

Tuesday, the 8th September, 1936.

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

QUESTIONS AND ANSWERS.

DEVELOPMENT OF THE INDIAN INDUSTRIES.

173. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 21st April, 1936, on the attitude of the Honourable the Finance Member towards the development of the Indian industries ; and

(b) whether they propose to reconsider the whole position ?

The Honourable Sir James Grigg : I invite the Honourable Member's attention to the reply given to question No. 130.

Mr. S. Satyamurti : Are Government considering the question of giving protection to industries and the capitalists thereof only six per cent. dividend or about that, and taking the rest either for the benefit of the consumers or enhance the wages for the labourers or increase the taxes for the State, that is, for the people of the country as a whole ?

The Honourable Sir James Grigg : I am very glad to notice this beginning of a conversion towards my views by the Honourable Member. I will consider it, certainly.

Mr. S. Satyamurti : There is no conversion at all. On the other hand, I am glad to see the beginning of the conversion of my Honourable friend to this side. I am asking whether Government are considering of giving that protection at all, and seeing that, in addition to the capitalists the people who pay for it also get the benefit out of it.

The Honourable Sir James Grigg : That is a very large question. I think, among the beneficiaries of the excessive profits of the protected industries, the Honourable Member mentioned the State. I would like to know whether the State is to do that by excise duties, reducing the protection, or by some other way ?

Mr. S. Satyamurti : The State can increase the taxes on these capitalists, impose super-tax and do all kinds of things. Surely, the State has got enough resources to tax people.

The Honourable Sir James Grigg : The Honourable Member must know that the incidence of income-tax on the profits of protected industries is very much less than the incidence of an excise duty on the turnover.

Mr. S. Satyamurti : Will Government consider the possibility of an increase in surcharge ?

The Honourable Sir James Grigg : I have answered that question once or twice already this Session.

Mr. N. M. Joshi : May I raise a point of order, Sir ? It is this. Questions are asked in this House drawing attention to some articles in newspapers without giving any clue to the other Members as to what the point of the question is. In these circumstances, the reply and the supplementary questions and answers become a personal conversation between the Member who asked the question and the Member who replies.....

Mr. President (The Honourable Sir Abdur Rahim) : What is the suggestion of the Honourable Member ?

Mr. N. M. Joshi : I would like to know from you, Sir, whether it is not necessary under these circumstances when questions are asked drawing attention to the leading articles or other articles in newspapers that some clue should be given to the other Members as to what the point is about the question ? We understand nothing. The other Members simply watch. I should like to know whether you should not rule that, when a question of this kind is asked, some point on which the question is asked should be mentioned ?

Mr. President (The Honourable Sir Abdur Rahim) : Some indication of the subject should be given.

Mr. S. Satyamurti : The subject of the question is the development of the Indian industries. I always send the extracts, and if you rule, Sir, I shall in future reproduce the whole thing.

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be done.

Mr. S. Satyamurti : I always send the extracts to the office. Besides, the *Hindu* is a well-known paper, and if people do not read that paper, why should they be here ?

Dr. Ziauddin Ahmad : When these questions are being discussed, I think it is but fair to the other Members that they should know the subject-matter of the question. The question should be framed in a manner that at least the subject-matter should come out of it.

Mr. President (The Honourable Sir Abdur Rahim) : In this case, it is the development of the Indian industries.

CONTRACT FOR THE CONSTRUCTION OF THE HOWRAH BRIDGE.

174. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) what the latest position about the Howrah Bridge construction is ;

(b) whether they propose to use their influence to give the contract to Indian firms ; and

(c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The contract for the construction of a new bridge over the Hooghly connecting Howrah with Calcutta has been awarded to the Cleveland Bridge and Engineering Company of Darlington, England.

(b) and (c). I would invite the attention of the Honourable Member to the Howrah Bridge Act, 1926 (Bengal Act No. IV of 1926), and in particular the provisions of section 5 thereof from which he will see that the awarding of this contract was a matter that rested entirely with the body of Commissioners set up by the Act subject only to the approval of the Local Government.

Mr. S. Satyamurti : In view of the assurances given on the floor of the House more than once by my Honourable friend that, without arrogating to themselves the functions which rightly belong to the Howrah Bridge Commissioners, they will use their good offices, and get the contract to an Indian firm, may I know whether the Government of India did anything in that direction ?

The Honourable Sir Muhammad Zafrullah Khan : I do not think that on any occasion such an assurance was given.

Mr. S. Satyamurti : Does not my Honourable friend remember that, on more than one occasion, he undertook to forward the questions and answers to the authorities concerned of the Bengal Government ?

The Honourable Sir Muhammad Zafrullah Khan : Even that assurance was not given. When I was asked to do that, I said I had no reason to believe that the Bengal Government were not aware of the questions and answers in this House.

Mr. S. Satyamurti : Did Government correspond, formally or informally, with the Bengal Government over this contract ?

The Honourable Sir Muhammad Zafrullah Khan : The Bengal Government, before announcing their decision, I think even before communicating it to the Bridge Commissioners, informed the Government of India of the course of action that they intended to adopt.

Mr. S. Satyamurti : May I know whether the Government of India were asked for their approval, formal or informal, or for their views, on the proposal of the Bridge Commissioners to give it to an English firm ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : May I know what was the reply of the Government of India to the references of the Government of Bengal on the proposal of the Bridge Commissioners ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India noted the decision that the Bengal Government had come to. That was all.

Mr. S. Satyamurti : May I know whether the Government of India did not communicate any opinion to the Government of Bengal, after the receipt by them of the views of the Bridge Commissioners ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : May I ask why the Government of India did not use their good offices with the Bengal Government to see that this very huge contract goes to an Indian firm? Why was the lowest tender not accepted?

The Honourable Sir Muhammad Zafrullah Khan : In view of the provisions of section 5 of the Act, to which I have referred, the Government of India had no *locus standi* to contest the views of the Bengal Government.

Pandit Lakshmi Kanta Maitra : Is it not a fact that Honourable Members on this side coming from Bengal waited in a deputation on the Honourable Member and requested him to forward the views of the Honourable Members from Bengal in this matter to the Bengal Government that this huge contract should be placed with an Indian combine and not with a foreign company, and the Honourable Member expressed the hope that the whole matter would be forwarded to the Government of Bengal for due consideration?

The Honourable Sir Muhammad Zafrullah Khan : I have a recollection that some Honourable Members of this House waited in a deputation on my Honourable colleague, the Member for Industries and Labour, and myself. As to the details of the interview, I am afraid I cannot furnish an exact reply unless I have notice. If one of the assurances given was that their views would be forwarded to the Government of Bengal, I can assure the Honourable Member that that must have been done.

Pandit Lakshmi Kanta Maitra : Is it not a fact that, in connection with that deputation, all the facts bearing on this important question were placed before the Honourable Member with the request that he would be good enough to forward them to the Government of Bengal for due consideration? Also, is it not a fact that an Indian combine, which is composed of some European and Indian firms, tendered for this contract and they gave the lowest tender, and having regard to the fact that this House keenly felt on the question that the contract should go to the Indian combine was it not the duty of the Government of India to forward to the Government of Bengal the views of the Honourable Members of this House and to see that the Indian concern was engaged?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the forwarding of the views, I have already given a reply. I have said that, if an assurance to that effect was given, I am sure it must have been carried out. With regard to the seeing to it, I have repeatedly drawn the attention of the House to the fact that section 5 of the Howrah Bridge Act vests in the Bengal Government the power of approving the recommendation of the Bridge Commissioners. The matter is a purely provincial matter in the sense that the money is to be raised by the Bengal Government or the Bridge Commissioners, as the case might be, and the decision is to be the decision of the Bridge Commissioners and the Government of Bengal. I do not see how it was expected that the Government of India should see to it that, in spite of the provisions of the Howrah Bridge Act, the contract was

given in a manner which was neither recommended by the Bridge Commissioners nor approved of by the Bengal Government.

Mr. S. Satyamurti : Is this a Provincial Reserved subject or a Transferred subject?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

Mr. S. Satyamurti : Does my Honourable friend know that, under section 45 of the Government of India Act and the Devolution Rules, with regard to Provincial Reserved subjects, Local Governments have got to carry out the orders of the Government of India?

The Honourable Sir Muhammad Zafrullah Khan : This matter is regulated by a particular Statute and the Statute says that the contract shall be placed by the Bridge Commissioners with the approval of the Local Government.

Mr. S. Satyamurti : With regard to the approval of the Local Government, may I know if my Honourable friend is aware or was aware at all at any time that, under the Government of India Act, 1919, Local Governments have got to carry out the orders of the Government of India?

The Honourable Sir Muhammad Zafrullah Khan : I am not so aware.

Pandit Lakshmi Kanta Maitra : May I know from the Honourable Member if the Government of India received any reply to the representations made by the Government of India on this matter?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India made no representations to the Bengal Government. I have said that if an assurance was given that certain views would be forwarded, they must have been forwarded to the Bengal Government, but what weight the Bengal Government attached to those views, I cannot say.

INDO-CEYLON TRADE RELATIONS.

175. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 4th May, 1936 entitled "Indo-Ceylon Trade Relations";
- (b) whether they propose to tackle the problem at the earliest possible moment; and
- (c) if not, why not?

Seth Haji Abdoola Haroon : This is also like the previous question about which my Honourable friend, Mr. Joshi, raised a point of order. We do not know what points are referred to in the article on "Indo-Ceylon Trade Relations"?

Mr. S. Satyamurti : The article refers to Indo-Ceylon trade relations. I cannot help Honourable Members, if they do not care to read important newspapers.

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the reply given by me to his starred question No. 124 in the current Session.

Mr. S. Satyamurti : I was asking my Honourable friend, the Secretary to the Department of Education, Health and Lands, the other day about emigration laws in Ceylon, and I particularly asked him whether in their trade negotiations, the Government of India would keep in mind the question of the attitude of Ceylon towards Indians. There is also a question lower down in the agenda today about this point. I should like to know from the Education Secretary or the Honourable the Commerce Member whether Government propose to deal with this question of Indo-Ceylon trade relations, as related to the problem which has just now been created in Ceylon, by the recent anti-Indian agitation against Indian immigration.

The Honourable Sir Muhammad Zafrullah Khan : I am afraid so far as I am concerned, this is a hypothetical question for the reason that I cannot say at present whether the question of future trade relations between Ceylon and India is going to be regulated by any agreement that might be come to between India and the United Kingdom or whether it is going to be taken up as a separate question. When I am in a position to be able to decide that matter or to give definite information on that matter, I might be able to answer this question.

Mr. S. Satyamurti : In view of the geographical propinquity of Ceylon, and in view of the recent anti-Indian agitation there, will the Government consider very carefully the question of trade negotiations between these two countries, on a basis, separate from the one on which they deal with the trade relations between the United Kingdom and this country.

The Honourable Sir Muhammad Zafrullah Khan : I will keep in mind the point of view put forward by the Honourable Member. I cannot say at this moment to what extent it might actually govern the trade negotiations.

CONSTITUTION OF A CENTRAL BOARD OF RURAL DEVELOPMENT.

176. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article beginning with "One of the points in the Neimeyer Report, to which special significance will be attached, is the coupling of the road grants to the Provinces with the grants for rural development" published in the *Hindu*, dated 4th May, 1936 ;
- (b) whether they contemplate making these recurring grants year after year ;
- (c) whether they propose to constitute a Central Board of Rural Development ; and
- (d) if not, why not ?

The Honourable Sir James Grigg : (a)†.

(b) I am afraid not—in present financial circumstances.

† No reply was given to part (a) of this question.

(c) and (d). As the grants will not be recurring, there is no reason for a central organization.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

177. ***Mr. S. Satyamurti :** Will Government be pleased to state with reference to the new rules for recruitment to the Indian Civil Service :

- (a) whether it is a fact that the question was first studied in London from the British angle ;
- (b) whether there was at any time any idea of recruiting British element to the Indian Civil Service through selection on the Colonial model ;
- (c) whether there was any idea of having two different examinations and two separate lists for British and Indian candidates ;
- (d) whether Delhi objected to this ;
- (e) if so, why ;
- (f) the reasons why the authorities in India preferred that Indian candidates be also selected from those in England by the same system whereby British candidates would be selected ; and
- (g) the reasons underlying the decision ultimately reached ?

The Honourable Sir Henry Craik : (a) to (g). I would refer the Honourable Member to my reply to parts (a) to (d) of his question No. 125.

Mr. S. Satyamurti : With reference to parts (b) and (c) of the question, I have not had any answer, unless my memory fails me. I am asking specific questions in parts (b), (c) and (d) of my question. I should like to have specific answers to these three clauses :

- (b) whether there was at any time any idea of recruiting British element to the Indian Civil Service through selection on the Colonial model ;
- (c) whether there was any idea of having two different examinations and two separate lists for British and Indian candidates ;
- (d) whether Delhi objected to this ?

The Honourable Sir Henry Craik : As regards part (b), the Honourable Member knows that recruitment of the British element is to be supplemented by selection more or less on the Colonial model. As regards part (c), various expedients were examined and I explained when speaking on the adjournment motion the other day that they were all rejected for various reasons. As regards part (d), I have said that it is not in the public interest to disclose the views of the Government of India in a matter which is the subject of correspondence with the Secretary of State when the decision rests with the Secretary of State.

Mr. S. Satyamurti : What is the answer to part (f) ?

The Honourable Sir Henry Craik : I do not think I can give any reply to it. That is covered by the answer that it is not in the public interest to reveal the views of the Government of India.

Mr. Lalchand Navalrai : May I know whether when this selection takes place in England, it will be for the British element only or whether Indians also will be selected for recruitment to the Indian Civil Service ?

The Honourable Sir Henry Craik : As regards future shortages in recruitment only the British element will be selected by this method in England. As regards the existing shortages, I think some Indians are to be selected. But I cannot say off hand whether they will be selected in England or in India.

Prof. N. G. Ranga : Have Government considered the advisability of increasing the number of subjects concerning Indian history and culture and Indian Economics together with their relative importance as compared with the other subjects concerning European history and European culture.....

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise out of this question.

Prof. N. G. Ranga : The question refers to Colonial model and I am asking whether the subjects relating to India will be given more importance.....

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

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

178. ***Mr. S. Satyamurti :** With reference to the new rules for recruitment to the Indian Civil Service, will Government be pleased to state :

- (a) why the publication of the decisions regarding the future recruitment to the Indian Civil Service, was withheld while the Assembly was three months in Session at Delhi, and released immediately after the adjournment of the Assembly ;
- (b) whether they will lay on the table of the House the opinions of the various Local Governments about the proposals ;
- (c) whether they will communicate to the House how European recruits, who have come through the door of competition since the war compared with their pre-war predecessors ;
- (d) whether they propose to make suitable representation to the Secretary of State for India that these proposals have met with such violent opposition from all sections of opinion that it would be better not to disturb the existing arrangements until the time comes some years hence for a thorough reconsideration of the constitution of the permanent services in this country ; and
- (e) if not, why not ?

The Honourable Sir Henry Craik : (a) Because no final decisions were arrived at during the period the Assembly was in session.

(b) I would refer the Honourable Member to my reply to parts (a)) of his question No. 125.

(c) The candidates recruited after the war are on the whole as good as those recruited before.

(d) and (e). The changes were introduced in the interests of administration after prolonged and careful consideration of the issues involved and no good would result by re-opening the question.

Mr. S. Satyamurti : May I know the actual date when the Government of India got the information, as regards the decision of the Secretary of State on this matter ?

The Honourable Sir Henry Craik : I cannot say off hand.

Mr. S. Satyamurti : Is my Honourable friend absolutely certain that that date was after the close of the Assembly Session ?

The Honourable Sir Henry Craik : Yes, I said : " Because no final decision was arrived at during the period the Assembly was in session ".

Mr. S. Satyamurti : With reference to part (d), may I know whether the Government of India have communicated to the Secretary of State on any occasion, the reception of these proposals by Indian public opinion ?

The Honourable Sir Henry Craik : I already said that I would communicate to the Secretary of State a copy of the debate that took place the other day. As regards other opinion, that has hitherto only been reflected in the newspapers which I have no doubt the Secretary of State sees.

Sir Cowasji Jehangir : Am I to understand from the Honourable the Home Member that the principle of selection is to be extended to Indians recruited in India ?

The Honourable Sir Henry Craik : No, Sir.

Sir Cowasji Jehangir : I understood the Honourable Member to say that the principle of selection will be introduced.

The Honourable Sir Henry Craik : I did not say that, Sir.

Sir Cowasji Jehangir : That was what the Honourable Member said in reply to a supplementary question to the last question.

The Honourable Sir Henry Craik : What I said was as regards the future shortage in recruitment in the case of the British element that will be made by selection.

Sir Cowasji Jehangir : Not for Indians.

The Honourable Sir Henry Craik : Only as regards the shortage that has already occurred in Indian recruitment, that has to be made by selection. But that will not be a recurring process. It will apply only to the shortage that has already accrued.

POSITION OF INDIANS IN ADDIS ABABA.

179. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they will make a full statement on the position of Indians in Addis Ababa from the date of its attack by the Italians upto the present moment ;

EMPLOYMENT OF "DUFFERIN" CADETS.

186. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Amrita Bazar Patrika*, dated the 4th March, 1936, entitled "The Dufferin Problem" ; and

(b) whether they have taken steps to provide the cadets with stable employment ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to.

(b) The question of the employment of *ex*-"Dufferin" cadets has been constantly engaging the attention of the Government of India, and they have been taking all practicable steps to extend the opportunities of employment of these cadets.

Mr. S. Satyamurti : May I know whether Government will take advantage of every opportunity, when they have got to give contracts for carriage of mails or any other service to be rendered to the State, of insisting as a condition of that contract that these *ex*-"Dufferin" cadets should be given preference in employment ?

The Honourable Sir Muhammad Zafrullah Khan : That question is already engaging the attention of Government.

Mr. S. Satyamurti : May I know how many people are still unemployed who are trained, and who are capable of being employed ?

The Honourable Sir Muhammad Zafrullah Khan : I believe a reply with regard to the exact number was given during the last Session. I am now speaking without the book, but I think it was either 9 or 11,—probably 9.

Pandit Lakshmi Kanta Maitra : Have they been so far absorbed ?

The Honourable Sir Muhammad Zafrullah Khan : I shall require notice of that question.

Mr. T. S. Avinashilingam Chettiar : May I know whether Government have received any replies from the foreign shipping companies about the employment of these cadets ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir ; the foreign shipping companies are not concerned at all in this matter.

Mr. T. S. Avinashilingam Chettiar : The foreign shipping companies are trading with India and there was a question last year in which the Honourable Member replied that they have written to the foreign shipping companies.

The Honourable Sir Muhammad Zafrullah Khan : I do not think so. For instance, the Japanese companies are participating in the trade between India and Japan, but there would be no justification for asking them to employ a number of *ex*-"Dufferin" cadets.

Mr. T. S. Avinashilingam Chettiar : May I know whether they have asked any shipping companies to employ these cadets ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir

Mr. T. S. Avinashilingam Chettiar : What is the reply to that ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member will have to put down a question before I can give him a summary of the replies.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

187. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether they have official knowledge of the statement from the Foreign Office, Tokio, that the Japanese Embassy in London was ordered to express Japan's desire for an Indo-Japanese Conference to meet shortly to negotiate a fresh trade pact by September to replace the pact expiring in March, 1937 ;

(b) whether they are in communication with the Japanese Consul-General in Calcutta ;

(c) at what stage the negotiations stand ; and

(d) whether negotiations will take place in India ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (d). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

Mr. S. Satyamurti : May I know whether these negotiations will be completed in India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

VARYING EXCISE RULES AND REGULATIONS IN THE DIFFERENT PROVINCES.

188. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article entitled "A Genuine Grouse", published in the *Hindustan Times*, dated the 1st April, 1936, regarding varying excise rules and regulations in the different Provinces ;

(b) whether they have examined or propose to examine the suggestions contained in the article ; and

(c) whether they propose to accept the suggestions ?

Mr. A. H. Lloyd : (a) Yes.

(b) and (c). The Government of India have forwarded copies of the correspondence on the subject to the Local Governments for necessary action. Excise is a Provincial transferred subject and the Government of India are not prepared to convene such a conference as is suggested unless requested to do so by Local Governments themselves.

Mr. S. Satyamurti : May I know if there are any conferences between the Government of India and Local Governments on any transferred subjects at any time at all ?

Mr. A. H. Lloyd : Yes ; there is the Industrial Conference.

Mr. S. Satyamurti : May I know whether when the next conference meets, the Government will put up this subject on the agenda with a

- (b) whether the Indians there had full protection like all other British citizens ;
- (c) whether any discrimination was made against Indians ; and
- (d) if so, why ?

Sir Aubrey Metcalfe : (a) Attention is invited to the statements already made in this House in reply to questions Nos. 45 and 93 by Mr. T. S. Avinashilingam Chettiar.

- (b) Yes.
- (c) No.
- (d) Does not arise.

PLIGHT OF INDIANS IN IRAQ.

180. ***Mr. S. Satyamurti :** Will Government be pleased to state :
- (a) whether their attention has been drawn to an article entitled " Plight of Indians in Iraq " published in the *Indian Express*, dated the 4th May, 1936 ;
 - (b) whether they have examined the allegations contained therein ; and
 - (c) if so, what their conclusions thereon are ?

Sir Aubrey Metcalfe : (a) and (b). Yes.

(c) The allegations appear to be completely unfounded. Enquiries have established that His Majesty's Embassy in Iraq know of no case in which any Indian has been deported from Iraq without good reasons and further investigation is not possible, unless specific instances of unjust or discriminatory deportations are brought to the notice of the Government of India.

Mr. S. Satyamurti : May I know what inquiries were made by Government, after the receipt of this question ?

Sir Aubrey Metcalfe : A copy of the article was sent to His Majesty's Embassy in Iraq, and inquiries were made of them as to the truth of any of the allegations contained therein.

Mr. M. S. Aney : What were the allegations made which were found to be untrue ?

Sir Aubrey Metcalfe : I do not think it is my business to repeat in this House statements made in the newspapers which I have declared to be untrue.

Mr. M. S. Aney : But this answer conveys no impression to the House at all.

Mr. President (The Honourable Sir Abdur Rahim) : If the whole article is to be set out, it will be extremely inconvenient and also cost a great deal of money. The question was raised the other day, and the Chair ruled, that, in the case of well-known newspapers, it would be quite enough, so far as this Department and the Department of Government is concerned, to mention the newspaper and not to supply a copy of it.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

181. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the comments of the *Manchester Guardian* on the arrest of Mr. Subhash Chandra Bose ;
- (b) whether they propose to release Mr. Subhash Chandra Bose ; and
- (c) if not, why not ?

The Honourable Sir Henry Craik : (a) to (c). I would refer the Honourable Member to the reply which has been given to his question No. 128.

STATEMENT OF THE UNDER-SECRETARY OF STATE FOR INDIA ABOUT MR. SUBHASH CHANDRA BOSE'S ARREST.

182. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to the statement of Mr. Butler, Under-Secretary of State for India, to the Deputation of the Independent Labour Party, about Mr. Subhash Chandra Bose's arrest, that the Government had in their possession a pile of evidence against Mr. Subhash Chandra Bose, but they could not bring him into a court for trial because in that case all the sources of information about revolutionary organisations would soon be dried up ;
- (b) whether any other arrests have been made by Government ;
- (c) what exactly is the significance of the statement of the Under-Secretary that " all sources of information about revolutionary organizations would soon be dried up " ?

The Honourable Sir Henry Craik : (a) I have seen a press cutting in which it is stated that a correspondent of the United Press understands that the Under-Secretary of State made the statement alleged, but that does not satisfy me that he did make that statement.

(b) As the Honourable Member is aware, there are other persons now detained under Regulation III of 1818.

(c) If the Under-Secretary of State did make the statement alleged, the Honourable Member will find its significance explained in my speech in this House on the 12th March, 1936, and in Mr. Hand's speech in this House on the 7th April, 1936.

Mr. S. Satyamurti : Have Government ascertained from the Secretary of State or from a reference to " Hansard " whether that speech was actually made by the Under-Secretary of State for India ?

The Honourable Sir Henry Craik : No, Sir ; there is no question of Hansard. The speech is not alleged to have been made in Parliament. It was alleged that it was made to a deputation.

Mr. S. Satyamurti : May I know why Government did not write to the Under-Secretary of State for India, and find out whether really this

EMPLOYMENT OF "DUFFERIN" CADETS.

186. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article in the *Amrita Bazar Patrika*, dated the 4th March, 1936, entitled "The Dufferin Problem" ; and
- (b) whether they have taken steps to provide the cadets with stable employment ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to.

(b) The question of the employment of *ex*-"Dufferin" cadets has been constantly engaging the attention of the Government of India, and they have been taking all practicable steps to extend the opportunities of employment of these cadets.

Mr. S. Satyamurti : May I know whether Government will take advantage of every opportunity, when they have got to give contracts for carriage of mails or any other service to be rendered to the State, of insisting as a condition of that contract that these *ex*-"Dufferin" cadets should be given preference in employment ?

The Honourable Sir Muhammad Zafrullah Khan : That question is already engaging the attention of Government.

Mr. S. Satyamurti : May I know how many people are still unemployed who are trained, and who are capable of being employed ?

The Honourable Sir Muhammad Zafrullah Khan : I believe a reply with regard to the exact number was given during the last Session. I am now speaking without the book, but I think it was either 9 or 11,—probably 9.

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Mr. T. S. Avinashilingam Chettiar : The foreign shipping companies are trading with India and there was a question last year in which the Honourable Member replied that they have written to the foreign shipping companies.

The Honourable Sir Muhammad Zafrullah Khan : I do not think so. For instance, the Japanese companies are participating in the trade between India and Japan, but there would be no justification for asking them to employ a number of *ex*-"Dufferin" cadets.

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Mr. T. S. Avinashilingam Chettiar : What is the reply to that ?

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- (b) whether they are in communication with the Japanese Consul-General in Calcutta ;
- (c) at what stage the negotiations stand ; and
- (d) whether negotiations will take place in India ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (d). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

Mr. S. Satyamurti : May I know whether these negotiations will be completed in India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

VARYING EXCISE RULES AND REGULATIONS IN THE DIFFERENT PROVINCES.

188. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "A Genuine Grouse", published in the *Hindustan Times*, dated the 1st April, 1936, regarding varying excise rules and regulations in the different Provinces ;
- (b) whether they have examined or propose to examine the suggestions contained in the article ; and
- (c) whether they propose to accept the suggestions ?

Mr. A. H. Lloyd : (a) Yes.

(b) and (c). The Government of India have forwarded copies of the correspondence on the subject to the Local Governments for necessary action. Excise is a Provincial transferred subject and the Government of India are not prepared to convene such a conference as is suggested unless requested to do so by Local Governments themselves.

Mr. S. Satyamurti : May I know if there are any conferences between the Government of India and Local Governments on any transferred subjects at any time at all ?

Mr. A. H. Lloyd : Yes ; there is the Industrial Conference.

Mr. S. Satyamurti : May I know whether when the next conference meets, the Government will put up this subject on the agenda with a

view to eliciting the views of Local Governments without attempting to take immediate action?

Mr. A. H. Lloyd : That point has been considered and it has been decided not to put it on the agenda of the Industries Conference.

Mr. S. Satyamurti : May I know the reasons why?

Mr. A. H. Lloyd : For the reason that I have already given, that it is a provincial transferred subject and the first move must come from the provinces.

Mr. S. Satyamurti : Are these rules more important than the needs of the public of this country?

Mr. A. H. Lloyd : I am afraid the Government of India cannot share the Honourable Member's desire for the re-writing of the Government of India Act and the Devolution Rules.

Mr. S. Satyamurti : Except when it suits them.

EXPORT OF RAW COTTON AND RAW COTTON PURCHASED BY THE UNITED KINGDOM AND JAPAN.

189. ***Mr. S. Satyamurti :** Will Government be pleased to state the total export of (1) raw cotton from India last year, (2) the total amount of raw cotton purchased by the United Kingdom, and (3) the total amount of raw cotton purchased by Japan—up to the month figures are available?

The Honourable Sir Muhammad Zafrullah Khan : The attention of the Honourable Member is invited to the Accounts relating to the Seaborne Trade and Navigation of British India for March and June, 1936, which contain the required information and copies of which are available in the Library of the Legislature.

DEMANDS TO PUT OFF ALL NEGOTIATIONS BY FRESH AGREEMENTS BETWEEN THE UNITED KINGDOM AND INDIA.

190. ***Mr. S. Satyamurti :** Will Government be pleased to state whether there are any demands to put off all negotiations by fresh agreements between the United Kingdom and India, so as to synchronize them with other Empire countries?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : There are no such demands : is that the answer?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

ADULTERATION OF DRUGS.

191. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they have received representations from the Maharashtra Chamber of Commerce, Bombay, on the "Adulteration of Drugs";

(b) whether they propose to take steps to remedy the grievances contained therein; and

(c) if not, why not?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). I would refer the Honourable Member to the answer given by me to his question No. 34 on the 4th February, 1936. I regret to say that the replies are not yet complete but Government realise the importance of the matter and will do what they can to expedite consideration of it.

Mr. S. Satyamurti : Are Government considering introducing suitable legislation on this matter?

Sir Girja Shankar Bajpai : That was one of the points which were referred to Local Governments.

Mr. S. Satyamurti : Will Government expedite this matter so as to introduce it in the next Delhi Session?

Sir Girja Shankar Bajpai : That depends really on what the replies of Local Governments are as to whether it is necessary to have central legislation.

Mr. S. Satyamurti : Do Government realise the immediate urgency of this matter and will they gently push the Local Governments to act a little more vigorously in this matter?

Sir Girja Shankar Bajpai : I may assure my Honourable friend that the Government of India have been doing everything possible to bring pressure to bear upon Local Governments.

Pandit Lakshmi Kanta Maitra : Cannot the Central Government take any initiative in the matter?

Sir Girja Shankar Bajpai : The only initiative they can take in the matter they have already taken : they have made provision for the starting of a bio-chemical testing laboratory at the centre. For the rest it is impossible to take any action unless Local Governments are prepared to co-operate by provincial legislation and administrative measures—both.

NEGOTIATIONS FOR BILATERAL TRADE AGREEMENTS WITH GREAT BRITAIN AND OTHER COUNTRIES.

192. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the views of the Manchester Chambers' of Commerce published in the *Hindustan Times*, dated the 4th April, 1936;

(b) whether their attention has been drawn to the statement "It should not be the aim of the Government to secure revision of the Ottawa Agreements at some general Imperial Conference on the lines of that held at Ottawa in 1932, but rather action should be taken, as opportunity offers, to seek a revision with each Dominion separately"; and

(c) whether they propose to take stock of the opinions in India before negotiating suitable bilateral trade agreements with Great Britain and other countries?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (c). Yes, Sir.

Mr. S. Satyamurti: May I take it that the Government of India are now resolved to deal with this matter, whatever the difficulties may be, without waiting for the settlement next year?

The Honourable Sir Muhammad Zafrullah Khan: I have not been able to follow. If the question is the same as the previous one—190—that there is no demand from any quarter that we should wait till the whole question can be taken up, the answer is the same as to question No. 190.

SAFEGUARDING OF THE INTERESTS OF INDIANS *re* CLOVE TRADE IN ZANZIBAR.

193. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether their attention has been drawn to an article entitled "Clove monopoly and after", published in the *Hindustan Times*, dated the 3rd April, 1936;

(b) what steps they have taken to safeguard the interests of Indians; and

(c) what the latest position on the matter is?

Sir Girja Shankar Bajpai: (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the reply given by me on the 4th of this month to his starred questions Nos. 133, 139 and 140.

Mr. K. Ahmad: Isn't it a merchant putting this question tactfully and circulating among the Members opposite the same identical question to put in the Assembly?

Sir Girja Shankar Bajpai: I was not aware that my Honourable friend had become a merchant.

FILLING UP OF THE POST OF PRINCIPAL, INDIAN SCHOOL OF MINES, DHANBAD.

194. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether their attention has been drawn to a leading article with regard to the filling up of the post of the Principal, Indian School of Mines at Dhanbad, published in the *Amrita Bazar Patrika*, dated the 21st April, 1936;

(b) whether an Indian will be appointed to the post; and

(c) if not, why not?

The Honourable Sir Frank Noyce: (a) Yes.

(b) No.

(c) Government and the Governing Body of the School were in agreement that the Senior Professor, who has officiated on four occasions in the appointment and has been Vice-Principal for about four years, was the most suitable officer for the post.

Mr. S. Satyamurti: Was he the most senior?

The Honourable Sir Frank Noyce: Yes.

ARTICLE ENTITLED "ON THE FRONTIER" PUBLISHED IN THE *Statesman*.

195. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether their attention has been drawn to a leading article entitled "On the Frontier", published in the *Statesman*, dated the 22nd March, 1936;

(b) whether they examined the suggestions contained therein and

(c) whether they will make an offer to the Tribes on that basis?

Sir Aubrey Metcalfe: (a) Yes.

(b) The only suggestions contained in article are based on hypothetical questions to which Government are not in a position to provide the answer.

(c) No.

Mr. S. Satyamurti: Are they satisfied that their present policy of dealing with the tribes is the best under the circumstances?

Sir Aubrey Metcalfe: Yes.

Mr. S. Satyamurti: Judged by the results?

Sir Aubrey Metcalfe: The results are somewhat slow, I admit.

Mr. S. Satyamurti: In view of the fact that the results are very slow in coming, will Government reconsider the whole position and try some other policy which may yield quicker results?

Sir Aubrey Metcalfe: The whole policy is constantly under consideration as I explained during the last Session.

INTRODUCTION OF A DISTINGUISHING SIGNAL FOR TRUNK TELEPHONE LINES.

196. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether they have received a letter from the Committee of the Indian Chamber of Commerce, Calcutta, urging upon them the necessity for introducing a distinguishing signal for trunk telephone lines;

(b) whether they will accept the suggestion; and

(c) if not, why not?

The Honourable Sir Frank Noyce: (a) Yes.

(b) and (c). Government have examined the suggestion but are unable to adopt it owing to technical reasons in the case of automatic telephone systems and to the large additional expenditure which would be involved in the case of manual telephone systems. So far as Government are aware the facility of a distinguishing signal for trunk telephone calls does not exist even in such highly developed telephone systems as those of the United States of America.

COMMUNICATION SENT BY THE SECRETARY, INDIAN MERCHANTS' CHAMBER, TO THE SECRETARY, LANCASHIRE INDIAN COTTON COMMITTEE, BOMBAY.

197. ***Mr. S. Satyamurti:** Will Government be pleased to state:

(a) whether their attention has been drawn to the communication sent by the Secretary, Indian Merchants' Chamber, to the

Secretary, Lancashire Indian Cotton Committee, Bombay, published in the *Hindustan Times*, dated the 17th March, 1936 ;

(b) whether they propose to take the steps suggested in the letter ; and

(c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the press report referred to by the Honourable Member.

(b) and (c). The communication in question did not suggest any steps to be taken by the Government of India.

SERVING OF BRITISH TROOPS UNDER THE COMMAND OF AN INDIAN.

198. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the statement of the Leader of the Opposition in the Council of State that there was a rumour that a responsible official at Sandhurst had once told the students " Look here, boys, you may rest assured that you would never be put under the command of a blackie " ;

(b) whether their attention has been drawn to the Sandhurst Committee Report, page 19 " In the course of hearing evidence our attention was drawn to a lecture delivered some time ago at Sandhurst, which we were told, produced upon the minds of certain Indian cadets (who heard it) the impression that under the ' Eight-unit Scheme ' no British boy entering the Indian Army will ever be liable to serve under the command of an Indian and that this was put forward as an argument to induce British boys to enter the Indian Army " ; and

(c) what the exact position is ?

Mr. G. R. F. Tottenham : (a) Yes, but the rumour was not correct.

(b) Yes.

(c) Under the present system of Indianization the question of powers of command as between Indian and British officers within an Indianizing unit does not arise. But wherever Indianizing and non-Indianizing units of the Indian Army, or individual officers of such units, are serving together, whether in the field or on administrative duties, there is equally no question but that a senior Indian Officer exercises powers of command over a junior British Officer.

Mr. S. Satyamurti : May I know whether therefore in the 8-units scheme there is no question of any British boy ever being liable to serve under the command of an Indian ?

Mr. G. R. F. Tottenham : No, Sir : that is quite wrong.

Mr. S. Satyamurti : May I know what the exact meaning of the Honourable the Army Secretary's answer is, that in schemes where Indianised and non-Indianised units work together, Indian officers would be able to command British boys ? What is that scheme ?

Mr. G. R. F. Tottenham : That is the present policy. Inside an Indianised unit, the question does not arise because when once you begin to Indianise a unit, you do not post any further British officers to it and therefore the Indian officers in that unit are automatically junior to all the British officers in it. But these Indianised units may serve alongside non-Indianised units as they did in the Mohmand expedition last year, and in that case when they actually serve together, a senior Indian officer does or may exercise command over a junior British officer in a non-Indianizing unit.

Mr. S. Satyamurti : How many such senior Indian officers are today exercising command over British junior officers ?

Mr. G. R. F. Tottenham : I could not say.

Mr. S. Satyamurti : Are there any such cases ?

Mr. G. R. F. Tottenham : There are quite a number of Indian officers now who are senior to British officers in the Army.

Mr. S. Satyamurti : And who command British officers ?

Mr. G. R. F. Tottenham : They are not in command of British officers, as I said, because they are serving in units in which they are junior to the British officers.

Mr. S. Satyamurti : Are there any cases in which as a matter of fact, whatever the theory may be, Indian officers today are superior in command to British officers, anywhere in the Indian Army ?

Mr. G. R. F. Tottenham : There may be cases where for instance an Indian officer is holding a staff appointment ; and in that case would be exercising powers of command over junior British officers in the station.

Mr. S. Satyamurti : Is this not rather exceptional ?

Mr. G. R. F. Tottenham : The number of Indian officers at present is not extremely large, as the Honourable Member knows ; and most of them it is true are serving in their Indianised units at the present moment.

Mr. S. Satyamurti : May I take it, therefore, that the policy of the Government is that, so long as the present scheme continues they will see to it that British boys have never to serve under Indian officers ?

Mr. G. R. F. Tottenham : No, Sir.

GIVING BACK OF THE ADMINISTRATION OF BERAR TO HIS EXALTED HIGHNESS THE NIZAM.

199. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether there is any proposal to give back the administration of Berar to His Exalted Highness the Nizam ;

(b) if so, whether the opinion of the people in Berar will be taken ; and

(c) at what stage the matter stands ?

The Honourable Sir Nripendra Sircar : (a) The answer is in the negative.

(b) and (c). Do not arise.

Sir Muhammad Yakub : Are Government aware whether the people of Berar were consulted when the administration was formally taken from the late Nizam ?

The Honourable Sir Nripendra Sircar : I want notice to find out what was done so many years ago.

Sir Muhammad Yakub : Do Government always take the opinion of the people in Indian States into consideration when they make any administrative changes about controlling the States?

The Honourable Sir Nripendra Sircar : I want notice to find out in what cases.

Mr. M. S. Aney : Is the Honourable Member aware that assurances were given to the people of Berar by the Chief Commissioner of the Central Provinces and Berar that if there is going to be restoration, public opinion of Berar would be consulted?

Mr. President (The Honourable Sir Abdur Rahim) : I do not think that arises upon the answers already given.

Mr. K. Ahmed : Are Government aware that the people of Berar have got no *locus standi* whatever and that His Exalted Highness the Nizam is the proprietor of every thing there?

An Honourable Member : What is meant by proprietor of the people?

Dr. Ziauddin Ahmad : Will this principle enunciated in part (b) of this question be applied to the Hyderabad State alone or will it apply to all the Indian States?

The Honourable Sir Nripendra Sircar : I do not find any principle enunciated in part (b). Part (b) is a question of fact as to whether some opinion was asked for or not.

Dr. Ziauddin Ahmad : My second question is with reference to the question put by Mr. Aney, whether the Governor of Central Provinces and Berar has got a right to speak on behalf of His Exalted Highness the Nizam of Hyderabad.....

Mr. M. S. Aney : I only speak of facts, and not of any rights.

Mr. K. Ahmed : Are the Government of India aware that under rule.....

Sir Cowasji Jehangir : Sir, at present we have got five questions asked without any answer.

Mr. K. Ahmed : At any rate my question should be answered. Rule 33 at page 14 of the Manual of Business and Procedure says this :—“Provided that no question shall be asked in regard to any of the following subjects, namely :

(i) any matter affecting the relations of His Majesty's Government or of the Governor General in Council, with any foreign state.....

(ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief.....

Mr. President (The Honourable Sir Abdur Rahim) : I have admitted the question.

Dr. Ziauddin Ahmad : May I know, Sir, whether the Governor of the Central Provinces has got the power to speak on behalf of His Exalted Highness the Nizam of Hyderabad about Berar as expressed by Mr. Aney in his supplementary question?

The Honourable Sir Nripendra Sircar : If my Honourable friend, Dr. Ziauddin Ahmad, wants my opinion on the constitutional question, will he kindly give me at least two weeks' notice.

Sir Muhammad Yakub : Are Government aware that there is a good deal of feeling and resentment in India that Berar was forcibly taken away from His Exalted Highness the Nizam of Hyderabad, and it is not being returned to him?

Mr. Sri Prakasa : Was not the whole of India taken forcibly?

Mr. S. Satyamurti : I want to ask one question, Sir. I want to know whether, with reference to section 47 of the Government of India Act,—section 47 of the Government of India Act of 1935 deals with Berar also,—any action has been taken in the direction of the agreement contemplated there. I shall read the section, Sir, with your permission :—“Whereas certain territory (in this Act referred to as ‘Berar’) is under the sovereignty of His Exalted Highness the Nizam of Hyderabad, but is at the date of the passing of this Act, by virtue of certain agreements subsisting between His Majesty and His Exalted Highness, administered together with the Central Provinces, and whereas it is in contemplation that an agreement shall be concluded between His Majesty and His Exalted Highness whereby, notwithstanding the continuance of the sovereignty of His Exalted Highness over Berar, the Central Provinces and Berar may be governed together as one Governor's Province under this Act by the name of the Central Provinces and Berar : Now, Therefore, (1) while such an agreement is in force

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

Mr. S. Satyamurti : The question is, whether any action has been or is being taken with reference to the contemplated agreement mentioned in this section?

The Honourable Sir Nripendra Sircar : I want notice of that question.

SPEECH OF HIS HIGHNESS THE AGA KHAN ON THE GROWING CRITICISM IN INDIA OF THE LEAGUE OF NATIONS.

200. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the speech of His Highness the Aga Khan in the last Session of the Assembly of the League of Nations, on the growing criticism in India of the League ;

(b) whether they have examined his speech ; and

(c) whether they propose to take any action thereon ?

The Honourable Sir Nripendra Sircar : (a), (b) and (c). I would refer the Honourable Member to my reply on his own substantially identical question No. 112 of the 6th February, 1936.

Mr. S. Satyamurti : Have the Government re-examined the position since, in the light of His Highness the Aga Khan's speech ?

The Honourable Sir Nripendra Sircar : Re-examined what position ?

Mr. S. Satyamurti : The position of India in the League of Nations ?

The Honourable Sir Nripendra Sircar : The speech was made long ago, and a considered answer was given. Nothing further has been done after that.

ARTICLE ENTITLED " BROADCASTING IN ENGLAND AND INDIA " PUBLISHED IN THE *Hindustan Times*.

201. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to an article entitled " Broadcasting in England and India ", published in the *Hindustan Times*, dated the 19th March, 1936 ;

(b) whether they propose to accept the suggestions made in the article ; and

(c) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) Those suggestions which are applicable to Indian conditions are being followed as far as is practicable. The debates in the Legislative Assembly and the Council of State are broadcast as fully as the News Agencies report them. There are no Governors to decide programmes, but an Advisory Council has been established for the Delhi Broadcasting Station, and if this experiment is a success, similar Councils may be created for other stations. Alternative Sunday programmes are not a special need in India, but it is hoped that new stations will be established shortly in different parts of the country and they will enable listeners to choose amongst a greater number of programmes, while the programmes of each station will be adapted to the needs of the area which it is designed to serve.

(c) Does not arise.

Mr. S. Satyamurti : With regard to the speeches, debates, and votes in Legislatures, who decides the form, the content, and the emphasis of these Reports ?

The Honourable Sir Frank Noyce : They are broadcast as fully as the news agencies report them.

Mr. S. Satyamurti : May I know which news agency gives the news to the Broadcasting Station ?

The Honourable Sir Frank Noyce : Recognised news agencies.

Mr. S. Satyamurti : May I know if the news are broadcast just as they are received or is any attempt made at the Broadcast headquarters to edit them ?

The Honourable Sir Frank Noyce : The News Editor presumably puts them into a shape in which they can be broadcast.

Mr. S. Satyamurti : May I know if the Honourable Member's attention is drawn to the fact that this " recasting in form " is done more in favour of the Government and slightly against the opposition in the House ?

Dr. Ziauddin Ahmad : As regards part (b) of the question, may I know what those suggestions were, because we are not able to follow the questions on this side of the House ?

The Honourable Sir Frank Noyce : I can only refer my friend to the article published in the *Hindustan Times* of the 19th March, 1936.

Mr. S. Satyamurti : With regard to music programmes broadcast from Delhi, are any attempts proposed to be made to improve the quality of music ?

The Honourable Sir Frank Noyce : I think constant attempts are being made. That is one of the objects for which the Advisory Council has been constituted.

Mr. S. Satyamurti : Are Government aware that the music today is extremely dull and is not of that appealing quality which Indian music can make, if only attempts are made to get the best ?

The Honourable Sir Frank Noyce : I am quite sure the Controller of Broadcasting would welcome any suggestions that the Honourable Member is in a position to make in regard to this subject. He will be extremely grateful for any useful suggestions in this direction. He will be here during the course of the Session, and if my Honourable friend would discuss this with him, both he and I would be very glad.

Mr. M. Ananthasayanam Ayyangar : What is the composition of the Advisory Council in Delhi ?

The Honourable Sir Frank Noyce : I think it was published in the press a short time back. I cannot give it off hand, but I shall be very glad to send a list to my Honourable friend.

ARTICLE ON THE INDIAN MEDICAL SERVICE PUBLISHED IN THE *Hindu*.

202. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article on the Indian Medical Service, published in the *Hindu*, dated the 18th April, 1936 ; and

(b) whether they propose to redress the grievances mentioned therein ?

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

(b) Government do not propose to reintroduce an open competitive examination for entry to the Indian Medical Service.

Mr. S. Satyamurti : Why not, Sir ?

Mr. G. R. F. Tottenham : If the Honourable Member will read the debate on which comment is made in the article to which he has referred, he will find the reasons.

[8TH SEPT. 1936.]

Mr. S. Satyamurti : But after the debate, in view of the public opinion, I want to know if any action has been taken. I find we are constantly told to go back to what was said years ago. Don't they reconsider the question.

Mr. G. R. F. Tottenham : May I point out that the Resolution on the subject was defeated ?

Mr. S. Satyamurti : May I take it that the Resolutions which are carried will be accepted by the Government ?

(No reply.)

ARTICLE ON THE WORKING OF THE BRITISH DEPARTMENT OF OVERSEAS TRADE
PUBLISHED IN THE *Hindu*.

203. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article on the working of the British Department of Overseas Trade, published in the *Hindu*, dated the 20th April, 1936 ; and

(b) whether they propose to accept the suggestions made therein ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to by the Honourable Member.

(b) The only suggestion made in the article in question is that the mercantile community and the Government of India should study the working of the British Department of Overseas Trade. There is no suggestion in the article to have a Department of Overseas Trade.

Mr. S. Satyamurti : Therefore, the Government do not propose to have any Department for Overseas Trade separately to deal with the question ?

The Honourable Sir Muhammad Zafrullah Khan : The article does not suggest that the Government should have such a Department. It merely points out that Government should study the working of the British Department of Overseas Trade.

Mr. President (The Honourable Sir Abdur Rahim) : This is a great disadvantage when putting questions in that form.

Mr. S. Satyamurti : Sir, you are the custodian of this House, and I would request you to give us a ruling. Is every Honourable Member, when he refers to an article in the press, to copy out the entire article ?

Mr. President (The Honourable Sir Abdur Rahim) : I think I ought to make it quite clear to the House that this form of questions entails great disadvantage. I find there are too many questions which simply refer to what a particular paper has written on any particular subject. What is ordinarily expected of the Honourable Member, when he wants to put a question in order to elicit information, is to state the points himself ; he ought to read the article himself and state on what points he wants information from the Government. Honourable Members themselves must take the trouble to formulate the points on which they want information, so that the other Honourable Members may know what are the points on which questions are asked.

Mr. S. Satyamurti : This is a new ruling, Sir. I followed your previous ruling. Your ruling was, with regard to articles in well known newspapers, that reference to them was enough, but in view of your present ruling I will carry it out. I will write out the points.

Mr. President (The Honourable Sir Abdur Rahim) : At the time of my previous observations, I had not noticed that the articles were referred to in general terms in so many questions. Occasionally it may be necessary for Honourable Members to refer to certain newspaper articles and it was in reference to that practice that I gave my ruling that when any such circumstance arose where reference to an article in a newspaper had to be made it would be quite sufficient in the case of well known newspapers to refer to the newspaper by name and not to supply copies.

Mr. S. Satyamurti : Should I summarise all the points ? Is that the ruling, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : Whenever any Honourable Member wishes to obtain information on any particular point he has to state the point himself, because in newspaper articles generally there are mixed up comments and criticisms. When a question is asked it should be only to elicit information on a definite matter.

ARTICLE ENTITLED "THE CRISIS IN SOUTH AFRICA" PUBLISHED IN THE
Hindu.

204. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article entitled "The Crisis in South Africa", in the *Hindu*, dated the 21st April, 1936 ;

(b) whether they are in touch with the Indian community in South Africa, and whether they are prepared to use their good offices to avoid a split among the Indians there ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The Honourable Member presumably refers to the lack of unity amongst Indians in South Africa. The Government of India earnestly desire that the community should be united and it has been the constant endeavour of the Agent General, since differences appeared, to bring about their removal.

Mr. S. Satyamurti : What is the latest information in the possession of Government as regards unity amongst Indians in South Africa ?

Sir Girja Shankar Bajpai : I should not consider it altogether too satisfactory either to the Honourable Members opposite or the Government.

Mr. S. Satyamurti : Are Government pursuing the matter further with a view to bringing about that much desired unity among the Indians ?

Sir Girja Shankar Bajpai : I have already stated that the Agent General is doing all he can ; it is impossible for him to do anything more.

Mr. K. Ahmed : Intermarriage. (Laughter.)

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LEGISLATIVE ASSEMBLY.

[8TH SEPT. 1936.]

Mr. S. Satyamurti : Is the Agent General now in South Africa ?

Sir Girja Shankar Bajpai : My Honourable friend is probably aware that the Agent General had to leave South Africa owing to illness.

Mr. S. Satyamurti : And who is deputising for him ?

Sir Girja Shankar Bajpai : We have only made temporary arrangements. The Secretary is carrying on for the time being.

Mr. S. Satyamurti : How long is the arrangement to continue ?

Sir Girja Shankar Bajpai : I cannot say. It depends upon the state of health of the Agent General.

Mr. S. Satyamurti : Are Government satisfied that this temporary arrangement is the best under the circumstances in view of the acute situation in South Africa ?

Sir Girja Shankar Bajpai : I do not think the situation is so acute as to justify our sending out an Agent especially.

ALLEGED KIDNAPPING OF A HINDU GIRL IN PESHAWAR.

205. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a report about the alleged kidnapping of a Hindu girl in Peshawar ;

(b) what the latest position of the matter is ; and

(c) whether they have taken steps to present such occurrences in future ?

The Honourable Sir Henry Craik : (a) Yes.

(b) The criminal cases in regard to this affair have, I understand, been completed.

(c) It is for the Local Government to take necessary action, and they have no doubt done so.

Mr. S. Satyamurti : Have the Government heard from the Local Government about this matter ?

The Honourable Sir Henry Craik : The last communication is dated the 11th August.

Mr. S. Satyamurti : What did it say ?

The Honourable Sir Henry Craik : It mentions something about the temporary custody of the girl.

Mr. M. Ananthasayanam Ayyangar : What is the result of the criminal case ?

The Honourable Sir Henry Craik : All the five accused were convicted by the District Magistrate of Bannu. Their appeals were heard by the Sessions Judge with the result that three appeals were rejected, one was accepted and the sentence was reduced in the case of the other.

Pandit Lakshmi Kanta Mahtia : Has the girl been rescued ?

The Honourable Sir Henry Craik : She has not been in the custody of the kidnappers for a long time.

WITHDRAWAL OF THE CIRCULAR PROHIBITING GOVERNMENT SERVANTS FROM CO-OPERATING WITH CERTAIN ASSOCIATIONS.

206. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a discussion in the Legislative Council, United Provinces, on the 21st March, 1936, in which Mr. Chintamani asked Government to co-operate with the All-India Khadi Spinners' Association, and the Village Industries Association, to which the Minister said that the suggestion was interesting, but he was not sure if the other side was anxious for such co-operation ;

(b) whether they are aware that Mahatma Gandhi has said that both the Associations are non-political ;

(c) whether they will withdraw the circular prohibiting Government servants from co-operating with the above Associations ; and

(d) if not, why not ?

The Honourable Sir Henry Craik : (a) I have seen the report of the debate.

(b) Yes, I believe so.

(c) and (d). No request for assistance has, so far as I am aware, been made. If any such request is made it will be considered by the Local Government concerned on its merits.

Mr. S. Satyamurti : Will the Local Government have the final voice in the matter ?

The Honourable Sir Henry Craik : Yes, obviously.

IMPORTATION OF FOREIGN EXPERTS TO EXAMINE THE VARIOUS DEPARTMENTS OF GOVERNMENT.

207. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to an article entitled " Is there no end ? ", in the *Indian Express*, dated the 9th May, 1936, regarding the importation of foreign experts to examine the various Departments of Government ;

(b) whether they will consult the Assembly and take its permission before bringing down the experts ; and

(c) if not, why not ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). Action of the kind referred to in the article is the legitimate function of the Executive. The Assembly has opportunity to express its views on decisions of this character when it is approached to provide the requisite funds and Government do not consider that any other form of consultation is needed.

[8TH SEPT. 1936.]

Mr. M. Ananthasayanam Ayyangar : Are there not experts in India even for putting down immoral traffic in women ?

Sir Girja Shankar Bajpai : In the article to which my Honourable friend has referred there is absolutely no reference whatsoever to immoral traffic in women.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that the article therein referred to speaks of bringing in experts.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member does not know what is contained in the article.

Mr. M. Ananthasayanam Ayyangar : How do we know what is contained in the article ?

Mr. N. M. Joshi : That is exactly the point.

Mr. M. Ananthasayanam Ayyangar : How can we ask supplementary questions when we do not know what is contained in the article ?

Mr. President (The Honourable Sir Abdur Rahim) : There is force in that complaint. Next question.

DECLARATION OF POLICY REGARDING THE FUTURE OF MANDATED TERRITORIES.

208. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a statement of the Dominions Secretary that he should enter into consultation with Dominion Governments with a view to a uniform declaration of policy regarding the future of mandated territories ;

(b) whether they will also be consulted ; and

(c) if not, why not ?

Sir Aubrey Metcalfe : (a) No such statement appears to have been made by the Dominion Secretary who, according to the official Report of Parliamentary Debates, stated in the House of Commons that His Majesty's Government have no intention whatever of raising the question themselves.

(b) and (c). Do not arise.

Mr. S. Satyamurti : May I know whether to the knowledge of my Honourable friend, the Dominion Governments have been consulted by the Dominion Secretary with respect to the future of the mandated territories in Africa ?

Sir Aubrey Metcalfe : I have no knowledge on the subject. All that I was asked was whether a statement had been made. No such statement appears to have been made and we have no further knowledge.

Mr. S. Satyamurti : May I know whether the Government of India were ever consulted with regard to the future of any mandated territory ?

Sir Aubrey Metcalfe : I certainly think not, and there is no reason why they should be.

Mr. S. Satyamurti : May I know whether the Government have recently been consulted about the future of Palestine, the mandated territory there ?

Sir Aubrey Metcalfe : No.

NEGOTIATIONS FOR TRADE AGREEMENTS ON THE BASIS OF RECIPROCITY.

209. ***Mr. S. Satyamurti :** I do not put parts (a) and (b) of question No. 209†. I put only parts (c) and (d).

The Honourable Sir Muhammad Zafrullah Khan :

(c) Yes, Sir.

(d) Does not arise.

INVESTIGATION INTO THE NUTRITION PROBLEMS.

210. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a question in the House of Commons on the 11th May about the investigation into the nutrition problems ;

(b) whether experiments have been carried out ; and

(c) if so, what the results are ?

Sir Girja Shankar Bajpai : (a) and (b). Yes.

(c) I would refer the Honourable Member to some observations made by me in the course of a speech made in this House on 18th March last. The possibility of an all-India drive in the direction of investigation and propaganda with the aid of provincial Public Health Departments is the subject of study at present.

Mr. S. Satyamurti : May I know if any results have been arrived at and published for the benefit of the poor people of this country on the question of nutrition ?

Sir Girja Shankar Bajpai : I have answered questions on that point before and I have stated that dietaries for the poor of the maximum nutritive value for the expenditure involved have been published, but because they are not sufficiently well-known we are considering the question of making the results more widely known.

Mr. S. Satyamurti : May I know whether, in publishing these results, Government have considered the length or the shortness of the purse of the average Indian, and whether these results will be made available to those people who are the most affected by them and in their languages ?

†209. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether notice of termination of the Ottawa Agreement has been given ;

(b) whether negotiations have been started between India and other countries for trade treaties on the basis of reciprocity ;

(c) whether they will consider the necessity of the negotiations taking place in India ; and

(d) if not, why not ?

Sir Girja Shankar Bajpai : So far as the first point is concerned, the investigation has been directed towards suggesting dietaries involving expenditure which the poor man in this country can afford. The question of publication in different languages is engaging the attention of the Government.

Mr. S. Satyamurti : What is the cost, according to the Government expert, of a diet which will be nutritious and which the average Indian can afford? Have they arrived at any conclusion?

Sir Girja Shankar Bajpai : I cannot say that any uniform standard has been arrived at, but the dietary to which I have referred involves ordinarily a cost of two annas a day per head.

NEGOTIATIONS FOR THE SETTLEMENT OF THE TUNGABHADRA DISPUTE.

211. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) at what stage the negotiations for the settlement of the Tungabhadra dispute stand ;
- (b) whether the Madras and Hyderabad Governments have come to a joint agreement regarding the procedure to be adopted in the dispute over the waters of the Tungabhadra ;
- (c) whether the decision of the Government of India will follow only after they have heard from the Mysore and Bombay Governments ;
- (d) whether they propose to have a round table conference ; and
- (e) if so, when ?

The Honourable Sir Frank Noyce : (a) to (e). I would refer the Honourable Member to the answer which I gave on the 2nd of this month to Mr. Ananthasayanam Ayyangar's starred question No. 63.

SHORT NOTICE QUESTION AND ANSWER.

ROUTINE GRADE EXAMINATION FOR RECRUITMENT TO THE GOVERNMENT OF INDIA SECRETARIAT.

Sir Muhammad Yakub : (a) Are Government aware that the Routine Grade Examination for recruitment to the Government of India Secretariat will be held at Simla on the 16th September, by the Public Service Commission ?

(b) Are Government aware that the last date for producing the certificate of typewriting by the candidates is the 2nd October ?

(c) Are Government aware that the Fonetic Remington School was the only institution at Simla authorised by Pitmans to issue typewriting certificates on their behalf ?

(d) Are Government aware that about a fortnight ago Pitmans withdrew the authority which they had delegated to the Remington Fonetic School, Simla, and now there is no other institution at Simla authorised to issue such a certificate to candidates, and that this would inflict a very great hardship on the candidates, and that about 200 of them who are now

at Simla will not be considered as qualified in spite of their passing the examination, and some of them will be debarred for ever owing to age limit ?

(e) Is it a fact that last year, owing to some such difficulty, the date for submitting typewriting certificate was extended by one month ?

(f) Are Government prepared to direct the Public Service Commission to extend, by one month, the date for submitting the certificate ?

The Honourable Sir Henry Craik : (a) Yes, Simla is one of the centres in this examination.

(b) Yes.

(c) Government have no information.

(d) Government understand that difficulty has arisen between the Fonetic School, Simla, and Messrs. Pitmans, and that in consequence about fifty candidates for the ensuing Ministerial Services Examination will be unable to produce their certificates of efficiency in typewriting within the time limit.

(e) Yes.

(f) Government have referred the matter to the Public Service Commission and understand that the Commission are prepared to extend the date for submitting typewriting certificates to the 2nd of November, 1936, for those candidates who were affected by the difficulties between the Fonetic School, Simla, and Messrs. Pitmans.

Pandit Lakshmi Kanta Maitra : Why is it that Government select particular companies or agencies ? There are so many typewriting schools in this country ?

The Honourable Sir Henry Craik : I must have notice of that question.

MOTIONS FOR ADJOURNMENT.

ARRESTS AND DETENTIONS OF PUBLIC WORKERS IN THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : There is an adjournment motion in the name of Sardar Mangal Singh who wants to move the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, namely, the recent arrests and detentions of important public workers in the Punjab as also the imposition of restrictions on freedom of speech and movements thereon. As worded, it seems to be rather vague. I do not know what its meaning is. It does not seem to be definite at all.

Sardar Mangal Singh (East Punjab : Sikh) : My point is that this is a definite matter of urgent public importance. There have been recent arrests in the Punjab and so many people have been gagged or interned. It was not possible to give their names.

Mr. President (The Honourable Sir Abdur Rahim) : Surely some specific cases might have been given and some dates also should have been given.

Sardar Mangal Singh : I have the names and the dates in my possession.

Mr. President (The Honourable Sir Abdur Rahim) : What are those restrictions ?

Sardar Mangal Singh : Some people have been asked not to make speeches. Others have been asked not to go out of their villages. Two candidates in the coming elections have been gagged and one of them has been interned. Sardar Cawasheer is one of them.

Mr. President (The Honourable Sir Abdur Rahim) : This is too indefinite and vague, and I cannot accept this. I must rule the motion out of order.

INTERFERENCE BY THE GOVERNMENT OF THE UNITED PROVINCES WITH THE SUNNI MUSLIMS OF LUCKNOW.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Maulvi Syed Murtuza Sahib Bahadur. He wishes to raise the question of the interference by the Government of the United Provinces in an important religious matter by promulgating orders under section 144, C. P. C. against the Sunni Muslims of Lucknow banning the recital of *Madehe Sahaba* (Praise of the Companions of the Holy Prophet). When was the order passed ?

Maulvi Syed Murtuza Sahib Bahadur (South Madras : Muhammadan) : Just two or three days prior to the commencement of the Assembly.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member got a copy of the order ?

Maulvi Syed Murtuza Sahib Bahadur : It appeared in the Press. Meetings of protest have been held all over India.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot take notice of that. The Honourable Member knows the terms of the Rules and Standing Orders. He must comply with them.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Orders under section 144 are passed on almost every Friday when there is a likelihood of the recital of *Madehe Sahaba* or a procession. This started after the Assembly dispersed, and it is continuing every Friday.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Leader of the House anything to say on this ?

The Honourable Sir Nripendra Sircar (Leader of the House) : I do not know anything beyond the fact that some orders have been passed. I do not remember the date, nor do I know in what language the orders were passed, and what was their purport. I do not know whether it was for keeping the peace or for any other purpose.

Qazi Muhammad Ahmad Kazmi : There has been a notification by the Government.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must arm himself with copies of these orders. An adjournment motion is not a light matter.

Qazi Muhammad Ahmad Kazmi : I can produce the order this afternoon.

Mr. President (The Honourable Sir Abdur Rahim) : If there are any recent orders and if the Honourable Member so chooses, he can bring up another motion, but, as it stands, I am obliged to rule this out of order. The motion is ruled out.

ARREST OF PUBLIC WORKERS IN THE NORTH-WEST FRONTIER PROVINCE.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Pandit Govind Ballabh Pant who wants to discuss the policy of arrest of public workers and interference with public assemblies engaged in legitimate political activity, pursued in the North-West Frontier Province during the last two months.

When was the latest order passed ?

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : The latest order was for prohibiting and banning a procession in Peshawar ?

Mr. President (The Honourable Sir Abdur Rahim) : Why was it not mentioned ?

Pandit Govind Ballabh Pant : If I gave the whole list, I thought it would become too long a motion.

Mr. President (The Honourable Sir Abdur Rahim) : Some facts and some definite matters might have been given.

Pandit Govind Ballabh Pant : I thought it would be a more comprehensive thing to deal with the policy rather than with an incident. This consists of a series of incidents rather than one incident. Anyway, in this case I am prepared to give the names and other details. I think it is not disputed by the other side that such things have been done.

Mr. President (The Honourable Sir Abdur Rahim) : But, as I have said already, the Honourable Member ought to make that definite in the notice itself. At any rate some definite cases have got to be mentioned, and the dates also.

Pandit Govind Ballabh Pant : If necessary, I can give them now

Mr. President (The Honourable Sir Abdur Rahim) : That will require another notice by the Honourable Member.

Pandit Govind Ballabh Pant : But I know, Sir, I cannot move it again ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow it.

Pandit Govind Ballabh Pant : That would be almost futile, because it has already been disallowed by the Governor General. I do not want to take more time of this House, because I know the ultimate fate of this motion. It is only an academic discussion, and one in which I am not very much interested.

Mr. President (The Honourable Sir Abdur Rahim) : At any rate, I want Honourable Members to bear in mind that in the notice itself the requirements of the Standing Orders and Rules must be complied with.

EXTERMENT OF MR. M. R. MASSANI FROM THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion for adjournment stands in the name of Mr. Mohan Lal Saksena in connection with the externment of Mr. M. R. Massani from the Punjab. Does the Honourable Member wish to move that ?

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Yes, Sir.

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, I have an objection to make, but I do not know whether that is an objection which you will be prepared to hear or whether this is the proper forum, but my objection is that this is really not a matter which is primarily the concern of the Governor General in Council. If you think, Sir, that that is a point which cannot be taken up before you, then I have nothing further to say.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot deal with the motion on that ground. You mean you have no objection on any other ground ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The motion will be taken up at 4 o'clock.

Pandit Govind Ballabh Pant : I take it it will be open to either of us, Sir, to move it, as I have also another motion on the same subject ?

Mr. President (The Honourable Sir Abdur Rahim) : Only one Honourable Member can move it. Of course you can speak.

THE INDIAN COMPANIES (AMENDMENT) BILL.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I move :

“ That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration.”

Sir, when I introduced this Bill in April last, I gave a fairly long explanation of the reasons which induced the Government to start this measure and also explained why certain changes were thought necessary in the existing Act of 1913. The matter now is for consideration of the Report of the Select Committee. The course I propose to follow, Sir, and to indicate to the House the major changes which have taken place in the Select Committee, because there are a very large number of changes which are either extremely trivial or merely drafting corrections. Having done that, I do not propose to enter into a general discussion at this stage. As to what course the debate will follow, that is a matter entirely for this House. Some Honourable Members may prefer to wait until the particular clauses are taken up ; other Honourable Members may like to speak on matters of importance at this stage of the debate. That is a matter entirely for the judgment of any particular Member who wants to speak. Sir, as I said, I propose to place before the House the changes made in the Select Committee. If there is a general debate on any of the important matters, I may have to reply, depending on the

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importance of the matters which are raised. Sir, I am afraid the question of the managing agency throughout the discussions as also in the Press has assumed a rather disproportionate size as if there is nothing further in the Bill except the question of the managing agency. Be that as it may, on the question of the managing agency at one time or other I shall have to make a fairly long speech. I am afraid the speech will be rather dull, unexciting and probably boring to many Members of this House because it will involve going into voluminous facts and figures.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : Why not put some pepper and salt ?

The Honourable Sir Nripendra Sircar : The Honourable Member interrupting might get up and interrupt me in such a way that I can hear him, or he should not try to interrupt me. (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : This is a very important measure before the House, and I think Honourable Members ought to be more attentive to what the Honourable the Leader of the House has to say.

The Honourable Sir Nripendra Sircar : I thank my friend for suggesting the putting of some pepper and salt. I won't do it, because I can depend on some others doing it. Sir, I do not think the situation is one which lends itself to unbounded enthusiasm. It is a rather complicated, technical and dull matter, but of very great importance. So far as I am concerned, it is no inconvenience to me whether I have got to address this House on the question of the managing agency justifying the proposals made in the Bill in my reply on this motion, or whether I wait till the relevant clauses and amendments are taken up. I now propose, Sir, with these few sentences to proceed to the important changes made in the Bill.

In clause 2 of the Bill, we have made an attempt to define “ manager ” and “ managing agent ” separately. This was necessitated by the fact that various restrictions, prohibitions and requisitions have been cast upon the managing agent. The definition gave the Select Committee a good deal of anxiety. It is not easy to draft a definition, and, speaking entirely for myself, I should be very grateful if anyone would suggest an improvement in the definition. That will be particularly welcome. We have not been able to do anything better than this. But if it is capable of improvement, we shall be only too glad to hear further suggestions. Then, Sir, I omit some of the minor amendments, but in the definition in clause 2, sub-clause (b) of sub-clause (2), there are six or seven words which make a great change in the law. I draw the attention of the House to that. The paragraph now begins like this :

“ That other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression ‘ subsidiary company ’ in this Act means a company in the case of which the conditions of this sub-section are satisfied and includes a subsidiary company of such company.”

Honourable Members will notice the change which has been introduced by the Select Committee represented by the underlined words, “ and includes a subsidiary company of such company ”. That makes a very great change because, by means of this definition it is intended to get at not merely a subsidiary but the subsidiary of a subsidiary. In fact, Honourable Members when they come to the relevant section about

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subsidiary companies will find that while it has to a certain extent followed the English law on the subject, the Select Committee has proceeded very much further.

Then, Sir, the next thing to which I may draw the attention of the House is clause 7. That clause provides that certain articles in Table A, which are stated there and which I need not read, would be deemed to be compulsorily included in the articles of companies. There is one article to which I would like to make special reference. It is article 107. That article was the subject of much discussion in the Select Committee and the question was whether that article should be included or not. Opinion was equally divided before the Advisory Committee and I believe, speaking from recollection, it was carried in that Committee by my casting vote. Then, Sir, after the Select Committee's report had been published I have received very many representations pointing out the difficulty of making 107 compulsory. The Select Committee has included it and I am only pointing out that 107 is now compulsorily included and I may just tell my friends here that that is an article which deals with certain details which have got to be shown in the accounts.

I now pass on to clause 15 where slight changes have been made. It relates to transfer of shares and, of course, judging by some of the amendments of which I have received notice, this matter will be discussed at considerable length in the House. I now draw your attention to sub-paragraph (7) which says :

“ Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares.”

Now, Sir, the dispute which centres round this provision, shortly speaking, is this. I do not think that any section of the interests which were represented before the Select Committee by means of their opinions had any objection to the Directors having the discretion to refuse to recognise a transfer in the case of partly paid up shares. The objection was really to any discretion being given to the Directors to refuse to register the transfer of a fully paid up share. Now, Sir, the matter can be argued both ways but we have followed really what has been the law here and we have also followed what has been the law in England and what has been specifically stated here is to make it clear that it is not the intention of the Select Committee to change the law. I find some Honourable Members, judging by the conversation I had yesterday, are under the impression that in England the Directors have no power to refuse the transfer of a fully paid up share. That is not the law there.

I think, Sir, the next material clause will be clause 27. To put it very shortly, it says that instead of passing two resolutions—one, the original resolution followed by a confirmatory resolution—we are now following what is the law in England, that is, dispensing with the second resolution. That involves changes in many of the sections wherever the matter is specifically mentioned.

Then, I pass on to clause 30 which relates to a statutory meeting. This clause starts by saying that section 77 shall be amended and so on. Section 77, I may remind the House, refers to the statutory meeting of the

company. I draw your attention to page 10 and the underlying words in clause (c) which are :

“ showing separately any commission or discount paid on the issue or sale of shares.”

That has been added. In clause (d), the words “ managing agents ” have been added. That is to say, the names, addresses and descriptions ~~not~~ merely of the directors and auditors but also of managing agents must be contained in the report. Then, Honourable Members will notice a black line against clause (h) which runs thus :

“ the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director, managing agent or manager.”

That has been added by the Select Committee as an integral part of the report.

Then, I may pass on to clause 32. Honourable Members will find in clause (b) the following underlying words “ with a statement of the business to be transacted at the meeting ”. The idea is to give to shareholders information not only date and hour of the meeting but also the nature of the business which is going to be transacted on that day. In other words, to give a summary of the agenda. That is what was added by the Select Committee. Then sub-clause (e) makes a considerable change in the law in favour of the shareholders. It says :

“ In any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, any shareholder whose name is entered in the register of shareholders of the company shall enjoy the same rights and be subject to the same liabilities as all other shareholders of the same class.”

Possibly, it is not intelligible to some Honourable Members who have not much experience of these articles of companies. What happens sometimes is that the articles provide that before a shareholder can vote, he must be on the register for a certain length of time, for instance, a fortnight or four weeks or six weeks. That is being done away with and the result of this amendment, as approved of by the Select Committee, will be that once the name is on the register, the shareholder will have the same rights as any other shareholder of the same class.

Now, I pass on to clause 37. This clause makes a very important change. I would like to read the whole of sub-paragraph (2) and I am sure this matter will be thrashed out on the floor of the House. It says :

“ Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors, and at least one-third of the whole number of directors shall be appointed by the company in general meeting.”

Now, Sir, the position is this. One of the abuses complained of in representations made by public bodies was that, as a matter of fact, the Board of Directors in many cases is a mere farce because the Board is completely dominated by the large number of directors, who, under the articles, are nominated by the managing agents. The original Bill provided merely that the managing agents will not be in a position, whatever the articles may be, to nominate more than one-third. That would be the maximum fixed for nomination by the managing agents. In the Select Committee what has happened is that that one portion remains, namely, one-third is the maximum for appointment by managing agents, but a further proviso has been made that at least one-third will be

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selected by shareholders in a general meeting. Since the report has been made, my attention has been drawn to the difficulty which will be created in certain existing companies if this section is given retrospective effect. What I mean is this : in some companies, for instance, you find there is a power to certain Indian States to nominate one or two Directors, as the case may be. I cannot make a general statement because the articles vary. Now, that is done in consideration of the Ruler of the Indian State—of course the company is incorporated in British India—having taken a very large block of shares or the best part of the shares to the extent of nearly ten lakhs and he bargains that he must have one of his men on the Board and that he must have the right to appoint him. That is a complication which arises in some of the companies. The second complication is that under certain statutes, the Local Government, very often the District Board or the Municipality has got powers of nomination of Directors in connection with certain companies. I need hardly tell you that they are public utility companies. The Select Committee have proceeded on this footing that the gap of one-third which is left, that ought to be enough for fitting in such, if I may use a colloquial expression, special directors, directors who are appointed by special interests, whether he is the owner of a large block of shares or a debenture holder or a Local Government or a Local Board or what not. Whether in fact this creates any difficulty or not, if retrospective effect is given, I am not absolutely certain having regard to one or two cases which have been brought to my notice. But I dare say I shall discuss that when the proper time comes. At the present moment that is the position. Then, there is another difficulty which has been pointed out and this was done only last week. It was this. We have suggested that one-third of the whole number of Directors shall be appointed by the company in a general meeting. The idea therefore is that all shareholders meet to appoint these one-third of the directors. My attention was drawn to the articles of the East India Cotton Company which comes from Bombay and what happens there is that a definite number of directors are elected by a particular class of shareholders, for instance, the shippers have one director, the brokers have one director and so on. Obviously it will not fit in with those Articles if we provide that every one of these directors have got to be appointed by a general meeting. But that is a matter which surely after further discussion, if it comes out to be a formidable point, can be set right without much difficulty.

The next important thing is clause 40 which begins at the bottom of page 15. In clause 86-D Honourable Members will notice that a loan is prohibited :

“ No company shall make to a director of the company any loan out of moneys of the company.”

Of course I need not tell you that there is a penalty for contravention. I presume Honourable Members will notice the change which has been made. What the original Bill provided for was that a loan was not to be made to a director out of moneys borrowed by the company, that is to say, it would not be permissible for the company to borrow money and out of that borrowed money to lend it to the director. Now, it is a general prohibition and moneys cannot be lent to directors at all. That is the change which has been made by the Select Committee.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : May I know whether a director of a bank can overdraw on his banking account ?

The Honourable Sir Nripendra Sircar : Yes, he can, because banking has been made an exception under sub-clause (3) which reads :

“ This section shall not apply to a private company (except a private company which is the subsidiary company of a public company) or to a banking company.”

When the time comes, if the matter is debated, I think I shall be able to show that there is a considerable body of opinion if I may quote one opinion that the directors of banks are very often their best customers.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sometimes their worst.

The Honourable Sir Nripendra Sircar : I have not yet come across such cases. I know the general charges which are made against directors and managing agents that the sooner they are shot down the better and so on, but we should wait for concrete cases. I have no such cases which have at least come to my notice. Honourable Members may be aware of them.

Now, I pass on to page 17. Section 87 (1) reads :

“ Every company shall keep at its registered office a register of its directors, managers,”

—we have now added,—

“ and managing agents.”

Then, Sir, we come to the clause which I am sure will occupy a good deal of the time of the House. That is clause 42 which is found in pages 18, 19, 20 and a part of page 21. This clause relates to managing agents. The important changes are, first of all, if I may put in colloquial language instead of technicalities, the original Bill provided that a managing agent who was going to be dismissed at the end of 20 years—because that is the result of the Statute, he may be under his Articles entitled to remain for 50 years and very often as we have in Ahmedabad agreements they are permanent and non-removable and so on, instead of that they have got to go after 20 years under the present Statute—it was provided that a managing agent ought to be paid the moneys which are due to him. That of course no one objected to. The additions which have been made refer to two other matters, firstly a certain amount of money may not have been due to the managing agent at the time of his dismissal, but it may become due later on. He has got to be indemnified against his liabilities. As we shall see when we discuss the managing agency system, it is the business of the managing agent and it is his duty not only to lend money himself but to guarantee advances by the bank. That guarantee may not have matured at the time when he is dismissed. He may not have to pay that amount, it is possible that the company may clear off its debts and the managing agent will not be charged, but a provision has got to be made for indemnifying against liabilities which may accrue in future.

The other change is the question of compensation. That question arises only where the managing agent is being dismissed before the term provided for in his agreement. Supposing he is entitled to stay for 30 years, by the operation of the present Statute he is going to be sent away

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after 20 years. In the Select Committee, provision has been made for compensation, but I should like to tell the House that, as I read the law, the managing agents who are entitled to commissions will practically get nothing by going to Court. The authorities show that the Courts have refused to give any damages on the basis of future commissions, the reason being, as Lord Justice James put it, that although you have been appointed for 50 years, the company or the employer has given no undertaking that their business will continue for 50 years. There is no undertaking that that business will be of any size. It is open to the Company in the first week after the 20th year to reduce their business to negligible size; and I think Lord Justice James says that they can reduce it to zero. But whatever that may be, I will not go into too many law cases. My understanding of the situation, not only from the Indian cases but from the summary given by Lord Justice Buckley, is that, assuming they have got the right, they cannot get any substantial amount. Secondly, the other item is office allowance. Obviously, the Courts will ask him, "What about office allowance? You have been dismissed; you have kept no office; you no longer require a typewriter or the telephone; therefore, you have not really lost much". As I read the cases, in the normal case of the managing agent being remunerated by a commission on the business of the company, he practically gets nothing. But I need hardly remind my Honourable friends who must have read,—so I assume,—the opinions of some of the associations, that there can be other cases. For instance, I find in connection with a company,—I do not desire to name the company,—a bargain that in case of their dismissal they will get profit for eight years calculated on the average profit made during the last three years. There again whether this will mean that the Court will possibly rip it up on the ground that this is in the nature of a penalty and not liquidated damages,—these are difficult questions which I do not think the House need be troubled with just now. I simply want to inform the House that a change has been made and this House has got to consider what the effect of that change will be. Section 87-B introduces a change inasmuch as the removal follows if the managing agent:

"is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code, and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable; and for the purposes of this clause, where the managing agent is a firm or company an offence committed by a member of such firm or a director of or an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company;"

This is a matter which may require reconsideration.

Then, there is some change in sub-clause (b):

"A transfer of his office by a managing agent shall be void unless approved by the company in general meeting."

A possible defect is that "transfer" has not been defined.

There is a very important change in 87-C., which provides that the remuneration of the managing agent in connection with companies coming into existence after the passing of this amending Act of 1936 shall be a sum based on a fixed percentage of the net annual profits of the company. That is the result of the evidence which was given before the Textile Commission where most of the witnesses agreed that this is the form which is

least liable to abuse. But a change has been made in the proviso as under:

"Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus, or statement in lieu of prospectus, where the terms of the remuneration of such managing agent are there set forth."

I am drawing the pointed attention of the House to this because I find that this language has been open to misconstruction. What our idea was, is this; at least that was my idea, and I believe that was the idea of the Select Committee and those who supported this measure. If a prospectus sets out the net percentage which a managing agent will charge and the people buy on the faith of that prospectus, it is not fair that he should be asked to come up before a general meeting. The promoters, the managing agents, start a company, they incur expenses, they sell the shares, and every one buys the shares after seeing that the remuneration is so much percentage. Then the managing agent should not be asked to come up before the general meeting to be driven out by somebody who has taken no part in the company formation at all. But what is open to misconstruction is this. I am informed by at least two letters which I have received that they construe it to mean that it is permissible in the prospectus to state that the remuneration will be not merely the net percentage but there should be additional remuneration in other shapes also. I do not know whether that construction is right, but be that as it may, we want to make our position perfectly clear. In fact, the House will find that we ourselves shall move an amendment to make the meaning perfectly clear, that is to say, the remuneration to be stated in the prospectus for the appointment of the first managing agent must be the net percentage and nothing more. If after that he wants any additional remuneration, whether by increasing the percentage or in any other form, then he has got to come up before the shareholders. That meaning will be made perfectly clear by an amendment which we shall ourselves move.

Then, Sir, there have been some changes in the definition of "net profits" where we have practically, barring one exception, accepted the point of view which was represented by the shareholders; that is to say, additional amounts which are to be deducted before the profits are calculated, for instance, bounties or subsidies. They are not really trade profits and therefore there is really no reason why they should be taken into account. That was conceded by the Select Committee and that change has been made.

Sir, in the original Bill I believe as regards loans to managing agents the provision was that there was to be no loan, but that will not apply to a current account kept with the managing agent as that is very often necessary, almost universal, for current expenditure. That has been changed in this way:

"Nothing contained in this section shall apply to any credit held by a managing agent in a current account maintained subject to limits previously approved by the board of directors by the company with the managing agent for the purposes of the company's business."

Honourable Members will also notice that the prohibition is against lending money at all and not merely lending money out of borrowed funds.

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LEGISLATIVE ASSEMBLY.

[8TH SEPT. 1936.]

[Sir Nripendra Sircar.]

87-G. is rather important. It says :

"A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company."

That is to say, they have no power to issue debentures, and equally they will have no power to invest funds without the sanction or the authority of the directors.

I now draw attention to clause 44 :

"A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies and which shall be open to inspection by any member of the company at the registered office of the company during business hours."

I find that some amendments have been notified, but I had better keep my comments until the amendments are discussed.

I need not detain the House over the smaller changes in clause 48 and, I think, I may safely pass on to clause 52. There has been a substantial change from the proposal made in the original Bill. Honourable Members who remember the provisions of the original Bill will find that what was stated in the original Bill was, namely, either 33 1/3 per cent. of the share capital or 25 per cent. of the money required, whichever was higher : that has been omitted ; and I may explain to the House what induced the Select Committee—or at any rate which induced me—to accept the objections which were very strongly urged by the Ahmedabad interests. It was pointed out—and it is quite true, most if not all of the Ahmedabad mills are undercapitalised ; but they point out that this business which has now assumed gigantic proportions—and when I come to discuss the managing agency system, I hope, I shall be able to induce this House to accept the opinion, or rather my changed opinion to which I have been compelled to come to by a close study of this matter—that although there may have been abuses—there are abuses, and some of the abuses are gross—yet if you look at the whole picture, I think, any one ought to be proud of what has been done by Ahmedabad,—the size of their undertakings, the number of their looms have increased four and a half times within the last 16 or 17 years. Mills have been started for which the bloc account probably required was 10 lakhs of rupees. Some enterprising merchant or managing agent has come forward : he could not raise more than 2 or 3 lakhs by selling shares. What has he done ? He has raised the remaining seven lakhs by taking long term deposits from the public ; and those deposits were possible only because the names of the persons with whom the monies were deposited inspired confidence in the men who invested. We found on facts and figures that they have been able to establish a gigantic industry, not by raising the proper amount of share capital each time, but by being able to arrange otherwise, that is to say, whether by taking deposits or by arranging with banks or in some other manner. Therefore, we had to concede to them, but even after this modification, it is a great change from the existing law, because under the existing law the minimum subscription is a matter merely in the discretion of the promoters : they could say "We can go to business after we have received Rs. 20,000", whereas as a matter of fact they require a

ore to start the business. This clause provides for the amounts have got to be either raised by subscription or to be arranged by body, whether by directors or by managing agents, before they can

begins.....

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : May I ask to what extent he has changed his own opinion in this matter ? I did not quite follow him. Did he express an opinion as to how far he has changed his opinion or would he prefer to leave it to later on ?

The Honourable Sir Nripendra Sircar : About what ?

Sir Cowasji Jehangir : About the clause under discussion.

The Honourable Sir Nripendra Sircar : My changed opinion is represented in the Bill as now drafted.

Sir Cowasji Jehangir : I thought you said you had changed your opinion since then. I beg your pardon.

The Honourable Sir Nripendra Sircar : No, no. If I conveyed that, I am sorry. I did not mean to say that after the report of the Select Committee I had changed my opinion, in any way. I have not.

I may now proceed to clause 67—page 31. This is a very important section because Honourable Members will remember probably that under the present Act the publication of a profit and loss account is not at all necessary. Most respectable companies, as a matter of fact, do it in their own way, but under the law as it now stands, it is not compulsory to publish a profit and loss account. The Bill makes that compulsory, and certain changes have been made in the Select Committee to make further additions in the Profit and Loss Account. The clause now reads :

"The profit and loss account shall include particulars showing the total of the amount paid whether as fees percentages or otherwise to the managing agent if any and the directors respectively as remuneration for their services,"—(and now we come to the underlined words which indicate the change in the select committee)—"and where a special resolution passed by the members of the company so requires, to the manager, and the total of the amount written off for depreciation. If any director of the company is by virtue of the nomination, whether direct or indirect, of the company, a director of any other company, any remuneration or other emoluments received by him for his own use, whether as a director of, or otherwise in connection with the management of, that other company, shall be included in the total amount shown as the remuneration of the directors of the company."

That is the change made in the Select Committee.

The next matter to which I draw attention is clause 68 (5). This is a very great change indeed and—speaking subject to correction—this is a change which is in advance of English law. Complaints are made that when these subsidiary companies were started, they were started with the money of the parent company ; but once the subsidiary is started the shareholders of the parent company had really no control—they could not even get information as to what was happening. That has been corrected by this clause which says :

"The holding company may by a resolution authorise representatives named in the resolution to inspect the books of account kept in accordance with section 130 by any subsidiary company, and on such resolution being passed those books of account shall be open to inspection by those representatives at any time during business hours."

[Sir Nripendra Sircar.]

I am sorry my Honourable colleague, Sir James Grigg, has just left : otherwise I would have given him a very painful recollection of how, by a very complicated system of subsidiaries and holding companies, the revenues were done out of tax and super-tax to the extent of Rs. 2½ crores, and the Government has fought unsuccessfully right up to the Judicial Committee.....

An Honourable Member : Thank God !

The Honourable Sir Nripendra Sircar : The gentleman who just said 'Thank God' need not be afraid that he will be charged by the Income-tax authorities to that extent.

Mr. Sri Prakasa : The East India Company has done us out of our whole country.

The Honourable Sir Nripendra Sircar : Then, Sir, I would draw your attention to clause 75, because we on the side of the Government propose to move an amendment with reference to clause 75 (b) which provides that any registered accountant can, only for the purposes of signing the papers in relation to a company, sign himself as Chartered Accountant, India. I shall not go into the merits of that now, but the position will be, if it is passed as law, this gentleman who is not a Chartered Accountant, will sign as Chartered Accountant, India, when he is signing a Profit and Loss Account, of a Company but if he examines my accounts or my friend, Mr. Satyamurti's accounts which must be heavier, he cannot sign as Chartered Accountant.

Mr. S. Satyamurti : Oh, Yes ! (Laughter.)

The Honourable Sir Nripendra Sircar : Then as I said he is not allowed to sign as Chartered Accountant, India. However, I shall not go into the merits of the question now. I am merely pointing out the changes which have been made.

Then, Sir, I pass on to clause 76. Under sub-clause (4) the Select Committee has made it compulsory that notice of meetings should be given to Auditors, and that is shown by the words underlined at the bottom of page 35 under clause 76 (c) (4).

Then I would draw the attention of the House to clause 78 at page 36. I shall in a very few words explain to the House what changes have been made and what influenced the Select Committee to make those changes. Clause 78 relates to section 153 of the existing Act which refers to arrangements entered into by companies generally when they are in difficulties, and they have to get those arrangements sanctioned by the Court. Unfortunately, in Calcutta during the last three years there have been nine rulings, three one way and six the other way, on the words 'class of creditors' and the question has arisen very often. Now that the Loan Companies are going into liquidation or rather were going into liquidation at the rate of a few dozens per month, this question very frequently came up before the Calcutta High Court. The words 'the same class of creditors', according to one set of rulings held that there was a difference between a creditor who has obtained a decree and a creditor who has not. On the other hand, according to other rulings, secured creditors and

unsecured creditors, belong to different classes, but an unsecured creditor, because he has rushed to Court and obtained an *ex parte* decree or a contested decree, cannot claim to be dealt with as a separate class of creditor ; that was not right. That conflict has been put an end to, and the Select Committee has approved of the idea that a creditor does not gain any advantage : by simply obtaining his decree he will still be classified as an unsecured creditor, although he may have obtained a decree.

Then, Sir, another change has been made, and that is, whether there should be an appeal from an order either approving or disapproving of this arrangement. Now, there again up to the year 1934, which means at least till I was there (Laughter), appeals were allowed. It was held that it was a judgment within the meaning of clause 15. The subsequent rulings have gone the other way. The conflict has been put an end to, by restoring the previous state of things and providing for an appeal from the order of the original Court to the Court which ordinarily hears appeals from that Court.

There is again a very substantial change in clause 71 at page 39. In clause 81 (1), it is stated that "the liability of a contributory shall create a debt payable at any time specified in the calls made on him by the liquidator". This change in law has become imperative, because what was happening was this. A company makes a call and it is not paid. Supposing the call was made in the year of Grace 1930. The company subsequently comes into difficulties say in 1932 or 1933. Then the liquidator makes a fresh demand or if he does not do so, he brings a suit. Then he is told that the claim is time-barred, because the cause of action arose 4 years ago when the original demand was made by the company. The Bill now provides that where there is liquidation, the cause of action, so far as the question of recovery of those unpaid arrears of call is concerned, will arise from the date on which the liquidator makes a demand and asks the party to pay it up.

Then, there is another change.

Mr. S. Satyamurti : Mr. Bajoria is here.

The Honourable Sir Nripendra Sircar : The only person who will probably complain of this is my friend, Mr. Bajoria, who, fortunately, I find has put on a smiling appearance. The position is this. Thanks to the Mitakshara law. When a man was on the shareholders' list and subsequently died, and when the liquidator or the Company tried to recover his dues, the stereotyped answer given by his relatives was—'We have not got his property ; we are all survivors'. As a matter of fact, there is one company which has recently lost something like Rs. 47,000, because rich Marwaris have the habit of dying at convenient times. (Laughter.) To prevent them from escaping the liabilities, the Select Committee have provided that for the purpose of this section the surviving coparceners of a contributory who is a member of a Hindu joint family governed by the Mitakshara School of Hindu law shall be deemed to be his legal representatives and heirs. I will not trouble the House with the little changes in winding up orders and so on ; I do not think they will feel sufficiently interested in that. I pass on to clause 98, which is at page 51. There has been some change about the rules relating to provident funds and what the Select Committee has done is to give the people who have got to get monies from provident funds a preferential claim just as such a right is

[Sir Nripendra Sircar.]

given under the Workmen's Compensation Act. Clause 111 has made a considerable change in the banking sections. If Honourable Members will turn to page 61, they will find that a definition of banking has been attempted. It might be said that we rushed in where every one else feared to tread and that no committee or commission had up to this time tried to define banking. But in the Committee it was felt that there was danger unless the definition was extended by exhaustively stating the permissible forms of activities for banking companies. That explains the length of the definition which Honourable Members will find at pages 61 and 62. Another important change which has been made is to be found at page 63, clause 2771 :

"No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid."

Then, I think there are only two others which I need mention before I resume my seat. A provision has been put in by the Select Committee in this Bill on the lines of the English Act which gives power to the Court to relieve penalties. If the thing has been done in circumstances which may be overlooked the Court has got that power under the English Act, and that has been embodied here because we feel that we have introduced too many penal provisions in this measure. The only other change, but I will not go into the details of it, is in Form F of the Balance Sheet. There have been minute changes but they are not of sufficient importance to detain the House with an explanation of them.

Sir, that is all about the changes which have been made, and as I said at the beginning when I started my speech, I do not propose to do anything further at this stage. (Loud Applause.)

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

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration."

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

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

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I wish to congratulate the Select Committee on the general degree of agreement they have come to on this highly controversial and technical Bill. When I spoke at an earlier stage of debate on this Bill, I did congratulate my Honourable friend, Mr. Sen, whom I am glad to find as a Member on the floor of the House, and I again take this opportunity to congratulate him on the excellent report he produced, which revealed an intimate knowledge of the affairs of the commercial community of Calcutta in particular, and India as a whole. He knows the difficulties in the administration of the Companies Act, and he brought out a report which, on the whole, was an impartial one. Professionally, my Honourable friend, Mr. Sen, has to deal more with the community of company promoters and the capitalists than with the shareholders' class. Yet he produced a report to which no

shareholder can object. At the same time, I will offer a word of congratulation to the Honourable the Law Member for the amount of patience which he has shown in bringing forward this intricate Bill. On one thing we must all agree that there is no politics in this Bill. It deals with managing agents and company promoters on the one hand, and the investing public on the other who have sometimes been befooled, because they have no control over the companies they have invested their money with. I have gone through, not very minutely, the various minutes that have been appended. I may divide them into two classes. There is extreme capitalism in the notes appended by my Honourable friends, Sir Leslie Hudson and Mr. Buss, and also partially in the note which my Honourable friend, Sir Homi Mody, has attached. I regret that Sir Homi Mody is not present here today to justify his minute of dissent or to justify the ideas he cherishes. I hope he will come and enlighten us with his views on the control of companies. I find a very able note of dissent by my friend, Mr. Paliwal. I would call it as one of idealism to which India may come fifty years hence, not in my time. Even if the State becomes Socialist, it cannot go the whole hog as Mr. Paliwal has done. On the whole, I agree with the degree of control that has been brought in on the managing agents in the Select Committee's report. A certain amount of latitude has been enjoyed by them and certain privileges were, no doubt, illegally and immorally exacted by a certain class of managing agents. I said on another occasion a certain class of company promoters have become gangs of looters and swindlers like the American gangsters. If the clauses incorporated in this Bill are agreed to, they will stop such class of company promoters from swindling innocent investors. That will be indeed a great gain. The second point which I particularly welcome is that, if a company gets liquidated, the managing agents will not get much remuneration or compensation, and if the law is really to be interpreted, as the Law Member interpreted it this morning, then the managing agents on their retirement will get very little. That is a very welcome step, and I approve of it.

One of the complaints of the Bombay Shareholders' Association and other similar associations has been that capitalists in the garb of promoting subsidiary companies have not only enjoyed more profits than is their due, but they have deprived shareholders of their legitimate profits and, as was pointed out this morning by the Honourable the Law Member, promoters of subsidiary companies have also been cheating the exchequer of the Government of legitimate revenues. As a result of this amendment, Government have at last come to realise the truth of the criticism that has been very often brought to their notice by the various shareholders' associations and other public bodies. It has been an eye-opener to the Government, and incidentally I would ask the Government not to tarry long in amending other important Acts such as the Railway Act, the Insurance Act, whereby the investors are now cheated, and even the Government, of their right dues. I have not so far given any notice of any amendment, but I will oppose any amendment that will go to strengthen the hands of the company promoters and Board of Directors. I think the clauses, as now drafted, give latitude to honest directors to function in the interest of the companies.

At the same time, I will also utter a word of warning to those who will speak in extreme language on behalf of the investors and shareholders.

[Mr. B. Das.]

As the Honourable the Law Member pointed out this morning, it is the managing agency system which has brought the industrial development of India to the present position, and, in the present position of public finance in India, it will take a long time for joint stock companies to mature fruitfully by corporate and co-ordinate action of shareholders, and, therefore, the managing agency system in India must continue and should continue for another fifty years or more. (An Honourable Member : "Question.") If the managing agents take the responsibility of mortgaging their property and their credit with Banks and amongst their own comrades to get money so as to make successful the particular concerns—industrial or commercial, the managing agents ought not to be deprived of the fruits of their labours by one or two shareholders who often strive not after the benefit of the company so much as after getting a footing in the company as directors. Therefore, Sir, I welcome the position in which the shareholders will elect one-third of the directors in such companies.

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadan Rural) : Why not two-thirds ?

Mr. B. Das : My Honourable friend, Mr. Paliwal, questions me, "why not two-thirds ?" I would ask my Honourable friend to promote such a company which is built up by the individual efforts of the shareholders and not by the credit of the managing agents.

Pandit Sri Krishna Dutta Paliwal : I am a director of three such companies.

Mr. B. Das : I congratulate my Honourable friend on his success in having promoted three such companies, but one swallow does not make a summer. (An Honourable Member : "Three swallows.") Yes, three swallows do not contribute to the industrial development and the financial prosperity of India. Sir, with that warning to those who would like to socialize our industrial concerns, I wholeheartedly support the Select Committee's Report and, I would ask the House to consider it in all calmness, without any political influence....

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : I hope you will not introduce politics later on. (Laughter.)

Mr. B. Das : If I believe my friend aright, the Honourable the Law Member will welcome the expression of views political or economic—from my Honourable friend, the representative of the Marwari Association, and will reply to them, and I shall wait till then. Sir, I would urge on the House that when we will pass this measure we shall bring the greatest amount of good to all classes of investors and to those who control the funds of the investors,—not by any encroachment upon the control of the investing public, because they appear apparently to enjoy the fruits of these investments and not by denouncing the managing agents who apply to a large extent and in a multitude of cases, barring a few exceptions, all their credit and income to the benefit of India and for development of Indian industries, and, Sir, India needs industrial development. This Companies Bill, when it is passed, will no doubt help towards sound investment of public finance, and I hope India will advance towards

industrial development on sound economic lines to compete with world industrial countries.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I find that the Bill, as it has emerged from the Select Committee, has, no doubt, made considerable improvements on the original Bill but still, Sir, there are many matters in which the Bill is unfortunately silent or has not provided adequate remedies against the various abuses that have crept into the company law administration. First with respect to the managing agency system. I am surprised, Sir, at the readiness with which the Honourable the Mover of this Bill, who found various faults with that system, when he originally introduced the Bill and moved for its reference to a Select Committee, is now prepared to change his mind and support the managing agency system.

Now, Sir, a long time ago, when industrial enterprise was in its infancy, it might no doubt have been necessary for some persons who wished to speculate for their own benefit to start companies of this kind, get some capital, invest their own money not by way of share capital, or, if they did so, only to some extent, but usually by way of depositing monies as loans so that in times of crisis they might withdraw money for themselves and leave all the shareholders to suffer all the losses. Sir, it has been found by persons who have made a critical study of this system by themselves and through others, and also by the Banking Enquiry Committee that the disadvantages of this system are too many : and unless the system is properly controlled and the managing agents' powers are brought under proper check, it is likely to be abused, and the advantages of this system might be over-shadowed by the disadvantages. There is absolutely no other provision in this Act, barring the provision that the managing agent ought not to embark on trade or business similar to the business with respect to which they are managing agents. With respect to all other speculative business, the field is absolutely open to them. If on their credit, businesses that they start by way of floating companies come in, and if they are allowed a free hand to embark upon other speculative enterprises, and if they suffer loss—because very often the credit of these people or of their companies is largely linked up with the credit of the companies outside—and if on account of the various speculative enterprises on which they embark, their credit falls or sinks, then the credit of the companies associated with them also sinks along with them. This unfortunately is the result of bringing the managing agent into intimate contact with the running of the company. Sooner or later steps have to be taken to see that, as far as possible, companies are administered by directors, the choice of which directors is left entirely to shareholders, for it is ultimately the shareholders that have to profit by the gains or lose by the losses.

An Honourable Member : Are you against this managing system ?

Mr. M. Ananthasayanam Ayyangar : I am against this managing system, and I would like it to be under as much control or restriction as possible. In this connection, Sir, I would refer to the majority report of the Banking Enquiry Committee which has practically condemned this managing system and which advised that this system ought to be replaced by allowing or encouraging directors to manage their own affairs as much

[Mr. M. Ananthasayanam Ayyangar.]

as possible. Sir, on page 273 of the majority report of the Central Banking Enquiry Committee, in paragraphs 352-353 the Members say :

"Although the Managing Agency system is reported to have done a great deal for the industrial development of Bombay, it is admitted that it is not by any means a perfect arrangement but has many serious drawbacks. There have been cases where the Managing Agents have, besides managing their own mills, traded and speculated and the resulting weakness in their position has reacted on the financial position of the mills themselves and led to the banks withdrawing cash credits even when the mills were intrinsically sound, merely because the Managing Agents had become weak. Further, although it is true that in times of crisis such as Bombay has been going through, Managing Agents have incurred extensive losses as a direct result of financing the mills under their control, there have been a few cases in which these Agents have turned their loans to the mills into debentures, with the result that the concerns have passed into their hands and the shareholders have lost all their capital invested in the undertaking. It has also been pointed out that this Managing Agency system works well when everything goes on smoothly and when the industries are prosperous. During these periods of prosperity if more money is required by the industrial concerns, the Managing Agents may very often continue supplying the money themselves to a considerable degree. Later on, however, when conditions alter and the industry or the particular concern comes up against bad times and the Managing Agents find themselves compelled to find more money to support the industry, it is found that they are not able in all cases to comply with the requirements."

This is exactly what I request the Honourable Members of this House to note :

"We suggest, therefore, that attempts should be made to make industrial enterprises in India less dependent on this system for future development. The establishment of direct friendly relations between industrial companies and commercial banks is desirable especially in view of the capital demands that are likely to arise in connection with mergers and reconstructions which may follow the present economic depression."

During fair weather, the managing agents may continue their friendship with companies but in times of adversity they will be the first to bolt. That, I am told, Sir, is the experience in some of the mills at Ahmedabad. The picture has not been fully or correctly drawn by the Honourable the Mover. That is my information. Latterly, on account of various speculations in which the managing agents have indulged, no doubt the business or trade have been ruined to the same extent as the one for which they are responsible as managing agents in their trades and businesses. If they lost, the companies have also come to ruin on account of the loss that these managing agents have sustained elsewhere. This was with respect to several mills at Ahmedabad. I find that in the beginning it might not be necessary that 33 1/3 per cent. capital ought to be insisted upon before a certificate of commencement might be granted. But there is force in the contention that within a short time thereafter at least, the business must make itself self-supporting. It ought not to depend entirely upon the deposits that may flow into the company on account of the personal influence or the personal credit that the managing agent may command. That means that if the company is not able to stand on its own legs so far as its credit and reputation go or the flourishing of the industry or trade is concerned but stands entirely on the credit of the managing agents, then I would say that it is not a good sign of its growth or life. Therefore, if at the outset it is not insisted upon that 33 1/3 per cent. or 25 per cent. of the share should be subscribed in cash, then two or three years after the concern starts it must be insisted upon. The condition

must be laid there, because we find, as the Honourable the Law Member has said, that for many years the millowners of Ahmedabad, the managing agents, have been able to run on with very small capital, entirely depending upon the credit that they were able to find from elsewhere. But in times of crisis when the cash was withdrawn, the mills go into liquidation. I have heard that several mills in Ahmedabad have come to similar straitened circumstances of late. Mr. Lokanathan in his book at page 300 makes a reference to similar difficulties that may arise if too much dependence is made or insisted upon or forced on the companies by these managing agents. This is what he says :

"The fact is that managing agents have found that the profits which they receive from their ownership of the shares in the mill companies are not so important as the profits which a large number of related side activities afford them. They have an interest in the stores business, cotton business, and coal business, and in a large number of allied activities. It is not on the profits of Management as such that they depend. A managing agency agreement is significant to them only in so far as it opens out to them a vast field of miscellaneous activities capable of yielding them larger profits. Should, by chance, these activities land them in losses, the mill companies are there to which these losses can be passed on. Instead, therefore, of concentration of management being an advantage to the individual units, the manner in which the system is worked in some parts and by some agents results in weakness and the economies of co-ordination are entirely neutralised. While it would be wrong to say that the practices described above are universal in the cotton industry, there is little doubt that they are sufficiently widespread to cause the greatest distrust of the system. Broadly speaking, and subject to a good many exceptions both in Bombay and in Calcutta, while the best side of the managing agency system of organisation is witnessed in Bengal, it has revealed itself in its unfavourable aspect in Bombay."

Sir, there is sufficient testimony both in the Banking Committee report and also in the learned treatises of Mr. Lokanathan to show that too much faith ought not to be placed in this system of managing agency. Therefore, when the Bill is on the anvil and broad changes are contemplated, sufficient restrictions should be placed at this time so as to encourage the directors, who are representatives of the shareholders, so that they might be able sooner or later to take charge of the management of the company. I find that that aspect has not been kept in view, otherwise some of these alterations which have crept into the Bill during the Select Committee stage would not have been there. I would refer, in this connection, to clauses 87-B. and 87-C. on pages 18 and 19 of the Bill. In the first place, I would refer to the proviso to sub-clause (e) to clause 87-B. It runs :

"Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth."

Sir, if the object is to restrict the number of years for which the managing agent should be appointed at a time and also to stop the indefinite period for which managing agents were appointed during the previous regime, I would say that this proviso ought not to be there. It is possible by this proviso to circumvent the very object which is sought to be carried out by the terms of clause (e). Under clause (e) the appointment of a managing agent must be brought before a meeting of the general body of the company and then it is to be ratified. By this proviso a clause might be incorporated in the memorandum itself fixing the term for which the managing agent might work and make it impossible at a later stage for the general body to vary the terms or impose some additional restrictions. According to me, this object is not kept in view and too much importance

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is given to managing agency system. Many years ago, during the initial stages of the business, the managing agents might have been able to incorporate clauses in the Memorandum and the Articles of Association that their heirs and successors should be the managing agents indefinitely, but it is no longer easy nowadays having regard to the progress of education and the progress that has been made by the industrial enterprise. It is no longer possible for the managing agent to keep himself for a period of more than 20 years. Twenty years is the limit of time that has been imposed in the Bill. I would say it is not a very great deviation from the normal course which ordinarily such companies are taking at present. Therefore, it is not much of an advance on the present position; but even that small variation is sought to be given the go-bye by the proviso. I would say that this is not in the public interest or of the company. When once some two or three persons join together with the idea of starting a company, the first shareholders do not think very much regarding the conditions that are imposed and the powers that are given to the managing agents and the remuneration that is sought to be given to them. The original shareholders or the first shareholders do not scan it critically. Later on after a number of other shareholders come on the scene and a general body meeting is held, that is the time when the shareholders will scan more critically the terms of appointment of the managing agents, the remuneration offered to them and other conditions of the managing agents' services. Therefore, it is to give an opportunity to the shareholders at the first meeting that under the earlier clause (e) provision is made that notwithstanding anything contained earlier in the memorandum before the prospectus is issued, at the first meeting it is open to the general body to scan or vary the terms; and unless they are approved, they may not be able to come into operation. But the proviso does away with the effect of it, if in the memorandum the managing agents introduced a clause that they should be there for a period of 20 years and that the subsequent general body meeting may have to put up with such a provision in the original memorandum. I, therefore, suggest that this proviso which was introduced in the Select Committee ought to be done away with.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadian Rural) : Is there anything in this Bill which stands in the way of the general body scanning the terms of the managing agency?

Mr. M. Ananthasayanam Ayyangar : If the proviso is there, with great respect, I would suggest it would not be possible for the general body to do away with the managing agent or to lessen the period of the agency from 20 years or to impose any other restriction if the terms are incorporated in the memorandum. Without the proviso they can do it by the provisions in the earlier part of the clause, but with the proviso, if the terms of agency are already there in the memorandum, it is not open to shareholders to go behind them.

Sir Cowasji Jehangir : What does the proviso refer to?

Mr. M. Ananthasayanam Ayyangar : The proviso says :

"Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth."

Under section 87-A, it is no doubt open to a general body or even in the memorandum to have the managing agents appointed for a period of 20 years. Twenty years is the maximum. It is open to the general body to say that they shall not be appointed for more than 10 years. Why should that power be taken away by the proviso, which limits the power of the general body so far as managing agents who are appointed for the first time prior to the issue of prospectus are concerned? The Honourable the Law Member himself agreed that this proviso is liable to misconstruction. If the proviso stands as it is, it might be that it is open in the Memorandum before the Articles or before the prospectus are issued for the managing agents to have some terms included regarding their remuneration, not merely five per cent. but more. The Honourable the Law Member has agreed that it is susceptible of such a construction, and he has agreed to modify it suitably.

As regards the compensation that is sought to be given to managing agents in case of premature termination of the agency for which a provision is made in section 87-A (4), the Honourable the Law Member when he spoke this morning said, in practice it is futile to think of awarding any compensation because the Courts have found in various judgments that it is impossible to assess the amount of compensation and that such compensation may be even zero. Then it is not necessary to have such futile and useless provision. There is another vital objection to this compensation being given. The Act seeks to restrict the period that is still to expire to twenty years if under the Memorandum or the Articles of a company which came into existence before 1936 the managing agents were appointed for an indefinite period. If that is so, and if that could be done only on the condition that on that date if still some more period is to run, then the managing agents have to be given compensation for being kept on for a shorter term, I would say, Sir, that curtailing the period is really no good. Even today the managing agents cannot enforce by a suit for specific performance that they should continue to be managing agents. Even under the old Act, if persons were constituted managing agents for an indefinite period or for a long term such as 50 years, if within that period the company or the general body wants to terminate the agency, it can still do so. The only penalty that the company has to pay is some damages which, in the words of the Honourable the Law Member, might be assessed from zero to anything. Therefore, if you want to curtail the period for which the managing agents were appointed under the old memorandum or in the older companies, if you want to curtail that period to 20 years, after the coming into force of this Act, there is no purpose in giving compensation to them. If you once say that compensation has to be paid, the shareholders who might not be in a position to assess exactly the amount of compensation will be put to considerable difficulty. They would be obliged to pay compensation, and to avoid that, they might be instinctively forced to continue the managing agents for another period of 20 years. These are the difficulties that will flow out of this clause that compensation has also got to be paid in case before the normal term expires the managing agency system is terminated. This was not in the original Bill, but was added during the Select Committee stage. I will, therefore, say that this is a retrograde provision which ought to be eliminated. There are various other ways in which the provisions relating to the managing agency system should be improved.

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Then, I come to the other important person with regard to the management of the company, that is the auditor. An auditor according to me is the backbone of a company's management. It is he who can have peculiar knowledge of the working of any company or a bank. He has access to the records of the company. He can very easily get into them, make his own remarks, call for explanation from the various officers, the directors and others. Therefore, the appointment of an auditor must always be independent of the management. The auditor has to check and supervise the work of the administration. Naturally therefore even in the old Act it was not thought expedient to place his appointment in the hands of the directors. In the new Act, some more provisions have been made to see that he gives a dispassionate opinion on the affairs of the company. In my opinion these safeguards are not sufficient. First, with respect to his appointment the shareholders are entitled to appoint him. Now even though the shareholders are asked to appoint him, if a poll is demanded, at a meeting the number of votes depends upon the number of shares each man has, and the managing agents are able to get proxies and thus influence the votes. Very often the stable body that represents the management is there and the person who is appointed the auditor comes in only with the active support of the management. If any rules are framed, they must be such as to remove the possibility of either the managing agents or the directors having any hand in the appointment of the auditor. The auditor must be absolutely free and independent, and I would therefore suggest that neither the managing agents nor the directors should be allowed to vote at a general meeting when the appointment of an auditor is made. It may no doubt be that the managing agents and the directors may have a large stake in the business of the company. They may have the largest number of shares, but all the same, as it is with respect to their work and with respect to their administration and their management of the affairs of the bank or the company that the auditor has to check, it is not just and proper that they should have a voice in the selection of a man who is to be their own critic. I would say that such an auditor would not criticise the actions of the managing agent or the directors, but would certainly give a good picture of their administration. Therefore, I would say that just as in the municipalities and other local bodies a man who is interested in a particular matter ought not to vote on that matter is in the same way neither the managing agent nor the directors should have or exercise the right of vote in the appointment of an auditor. It is also necessary to entrust the power of appointing the auditor to those persons who care to be personally present in a general body meeting. Usually people can easily get proxy forms and manipulate votes. It is desirable to avoid proxies being used for the purpose of deciding by votes regarding the appointment of auditor.

I should also like some clause to be added in the Bill which would prohibit the auditor being appointed auditor during the same period for auditing any other business in which the managing agent may be interested. The reason is that when he is appointed auditor for this company, naturally being a business man and taking human values or virtues as they stand, if he is to audit another business over which the managing agent has got control, he may not discharge his duties by this

company properly. I would try to avoid any temptation being thrown in the way of the auditor discharging his duties dispassionately and in the best interests of the company.

There are some other matters I have to deal with, and I shall only refer to one or two of them. The auditor may also be directed to mention in the audit report or make reference to such other matters as may be necessary for the shareholders to know in the best interests of the company. The auditor, with all the changes that have been made in the Bill, has only to see and make a report that particular accounts have been kept, that particular forms have been filled up, the balance-sheet has been prepared in a particular manner, the profit and loss account has been brought up with particular details, etc. This is the certificate that is now expected of the auditor; and if these have not been kept in the proper form and contrary to the prescribed form, then he has to give his opinion and the reasons therefor. This itself is not sufficient to disclose in detail the administration or the affairs of the company or concern. There are various other matters which the shareholders ought to know so as to place the company in a proper footing or enable them to take adequate measures to provide against abuses before it is too late to avoid a critical turn. Then there are some other matters also with respect to auditors. As regards the punishment of an auditor, in case he does not go through the several details and address himself to the several matters which he is expected to, there is a provision that he should be punished with a fine of Rs. 100. That is clause 76 on page 35 of the Bill:

“If any auditors' report is made which does not comply with the requirements of this section, every auditor who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to one hundred rupees.”

I should like to add that if statements are made in the auditor's report which are untrue in material particulars he should be liable to punishment. The certificate in respect of auditors is given by the Governor General on the advice of the Board of Accountancy. Under the existing Act rules can be framed for establishing Boards of Accountancy in various other Local Governments. I understand that no effect has been given to this provision till now, so far at least as my Presidency of Madras is concerned. If the auditors commit default, if they are absolutely negligent in their work or are otherwise corrupt, there is no provision in this Bill to check their vagaries. The auditor who is corrupt or negligent can still escape the clutches of this Bill. The only provision imposed is a fine of one hundred rupees. If only he can prove that he had looked into these books, seen that the balance-sheet is all right and expressed his opinion that the balance-sheet is proper, even if his opinion is incorrect or false there is no provision in this Bill by which he can be taken to task. If he is to be removed from the rolls a complaint is to be laid before the Governor General in Council or the Governor General alone has got the power to remove him. I should say that in the Act itself provision must be made for a Board of Accountancy consisting of representatives of the shareholders as also representatives of the management, expert advisers, i.e., some accountants, etc. A Board of Accountancy composed in that manner should be appointed in each province to whom complaints can be made regarding the careless or negligent manner in which the auditors look into the affairs of a com-

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pany, if they do not discharge their duties properly or if they are corrupt. Such charges must be laid before that Board of Accountancy who must be able to recommend to the Local Government to remove these auditors or to take disciplinary action against them. As it is, Simla or Delhi is a long way off, and our cries do not reach here and are therefore unheard. The auditor has the ear of some clerk in the Secretariat and however corrupt he may have been it is easy for him to escape. Such instances are not wanting. Therefore, I would say that instead of the Governor General in Council exercising this right from a distance of removing an auditor in any part of India for misconduct, let this power be handed over to the Local Governments who can act in similar circumstances on the advice of the local Board of Accountancy, composed properly as I have already said. I am not suggesting any innovation. The necessary provisions are already there; the provision is already in the existing Act. But the rules have not been framed under section 144. It may be made compulsory under this Act for the constitution of a Board of Accountancy. This I consider might be adequate to prevent, in all human possibility, all neglect or corruption on the part of auditors.

Then, Sir, I have got a fetish which I would once again refer to in this debate, and that is with respect to foreign companies. Foreign companies have no doubt been given a latitude in foreign countries and similar provisions have been adopted here as exist in England. But they have not been sufficiently stringent. Shareholders in other countries are in a position to take care of themselves. It is due to the consciousness that our shareholders in this country are not able to take care of themselves that more than ordinarily stringent provisions are sought to be made in the Bill. Therefore, it would not be proper for anybody to object if I say that some more restrictions should be placed on the working of foreign companies in this country. If similar restrictions do not find a place in the statute-books of other countries, India must be made the exception. Joint stock companies are of recent growth in this country they are new institutions, and we have not taken to it easily in various parts of the country. The provisions of Chapter X relate to the working of foreign companies in this country. A company may be floated in a foreign country and it is easy for that company to come here and call for shares by issuing a prospectus: it may also raise loans by way of debentures. All that it has to do under the present sections of this Bill is that it must issue a prospectus setting out the various details which must conform to the prospectus issued under the Act and see that books are kept open for inspection: also charges upon properties belonging to the Company in India have to be registered. These are the main terms. If a foreign company trades here with foreign capital and does not call for shares here, it is none of our concern. It may lose or it may gain: if it gains it gains no doubt at our expense; but we may tolerate that. If on the other hand shares are canvassed in this country by prospectuses issued here, many persons may get deceived and take a number of shares in them or obtain debentures in those companies. What is the kind of control that this Government has under this Bill over such companies in this country? I would, therefore, suggest that if foreign companies choose to do business and call for shares in this country, the shareholders

must have a right to choose a local directorate and a local committee and also to have an auditor appointed to inspect the affairs of the company in this country. That is necessary in the interests of the shareholders of this country who invest their money in such concerns. Otherwise there may be no knowing as to what these companies do with respect to the monies raised in this country. No doubt they are expected to supply information but the shareholders have got absolutely nothing by way of control under the existing Act.....

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What does the Board of Trade in England say ?

Mr. M. Ananthasayanam Ayyangar : The Board of Trade in England says that all the trade in the world must flow towards England and that we must do the same thing for them and not take care of ourselves.

With respect to companies incorporated in India, there is a provision that if their affairs are not going on well, it is open to the registrar to suggest to the Local Government to have an inspector appointed to investigate into their affairs; and if anything goes wrong, he should advise the Advocate General to launch a prosecution. I would suggest that in the case a foreign company doing business in India after taking our money by way of shares or loans, the Government should have a similar power of control. We do not know under what auspices it was started in the other country; whether it had sufficient share capital; whether the management there exercise sufficient diligence in the conduct of their affairs: it may be after all a mushroom company and it may be that all the capital was obtained in this country alone. It is, therefore, proper that in our interests we should have those provisions relating to the appointment of inspectors whenever necessary, applying to these foreign companies also.

Even with regard to winding up, I would say that the provisions relating to winding up and so on, to local companies must also apply to foreign companies. There is nothing like discrimination involved in this matter. I merely say that foreign companies ought not to be allowed, if perchance they commit default, to defraud their shareholders in this country. They must take the local shareholders also into confidence and the local shareholders must have a right of control, if they want to do business in this country. If any officer of such a company commits default, when a foreign company is being wound up here, it must be open to a Local Government at the instance of any member or the registrar, to appoint officers to investigate into its affairs. There is no reason why foreign companies should be immune from these restrictions which are intended in the best interests of the companies and the shareholders who invest their monies.....

Mr. M. S. Aney (Berar Representative) : Do you not think that in that case there should be a definition of Indian companies in this Act ?

Mr. M. Ananthasayanam Ayyangar : Why should there be a definition? Any company that is not Indian is foreign. Any company which is incorporated in a foreign country is foreign.

I have another fad, that there should be a Board of Control or a Board of Trade set up in India. I am coming now to what the Board of Trade

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in England does. I would like to have a Board of Trade here appointed, if not for all the purposes for which it has been constituted in England, at any rate for the restricted purposes under this Act. In England the Board of Trade has the right to appoint inspectors to investigate into the affairs of a particular company. The ordinary layman may not be in a position to know what the affairs of a particular company are. We as laymen get perturbed over small losses : we may magnify them and immediately call for the winding up of a company or ask for an inspector to go into the accounts. Even a company that may normally work might be made to collapse like this. Therefore, the work of appointing inspectors must be entrusted to a competent body like the Board of Trade.

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

I would suggest it is not too late even now to make provision for a Board of Control for each province, consisting of representative men from the shareholders and management, with experts appointed by the Government to consider cases and advise whether a company is in a position to stand on its own legs and at what time the Board of Control can intervene by appointing inspectors to study the affairs of the company and so on. Such a board is absolutely necessary and I would suggest it should be incorporated in the Act.

Mr. K. Ahmed : What about the Act of Parliament ?

Mr. M. Ananthasayanam Ayyangar : The Act of Parliament does not stand in our way. As regards banks, the Honourable the Law Member said that various provisions had been made and with very great difficulty a definition of bank has been incorporated in the Act, and that he would welcome any suggestion by way of improvement. It has been suggested in the note of dissent and in various other quarters that banks must be regulated by a separate Bill dealing with the several transactions in a bank, because several peculiar circumstances arise for consideration so far as a bank is concerned. The Honourable the Law Member assured us the other day that he would soon be introducing a Bill to regulate the working of life assurance and other insurance companies in this country. Similarly, a separate Bill might be brought to regulate the working of banks and till that time the provisions set out here might be adopted.

Lastly, I do not know why, though for over 20 years private companies have been exempted from most of the provisions of this Act, a serious attempt should not have been made to introduce some of the restrictions and safeguards that are imposed in the Statute-book in respect of regular companies. A private company is one where the shareholders or members might be 50 or below. It is not easy to see why it should not be insisted upon that there should be at least two directors in such companies. In this and in various other matters private companies have been exempted from the stringent provisions of the Act. Sufficient time has been given to these private companies to flourish and now they are as much in need of regulation by the stringent provisions of this Act as other public companies. I would, therefore, say, Sir, even now it is not too late to amend the several clauses in the Bill so as to make them applicable to private companies also.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have just received a communication from His Excellency the Governor General, and it says this :

“ ORDER.

In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Mohan Lal Saksena to move the adjournment of the House for the purpose of considering ‘ the externment of Mr. M. R. Masani from the Punjab ’ on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Sd.) LINLITHGOW,
Viceroy and Governor General.”

SIMLA,

The 5th September, 1936.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the Bill further to amend the Indian Companies Act.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Mukam-madan Rural) : Sir, I met a lawyer of eminence, and he said that the definition given in this Bill of a Managing Agent is the best that can be devised as it covers every point of view. That may be the opinion of a distinguished lawyer, but I look at it from a purely practical point of view. I went on hunting for the definition of managing agency. I consulted many dictionaries, and the best definition that I came across was the one given by John Bull published in *Punch*, and that definition is this,—that managing agency is a contrivance invented by the capitalists of India for the prevention of dividends. That is a definition which correctly represents the actual position. Sir, sometime ago we discussed on the floor of this House the question of managing agency system in connection with the textile industry Bills, and we then quoted some passages from experts in textile industry in Japan and other countries, and we tried to prove that the textile industry would not flourish in India until and unless the managing agency system was abolished. We also said on that occasion that it would take a very considerable time to make the textile industry stand on its own legs, if the managing agency system continued to exist in this country. Sir, it is impossible to continue to tax indefinitely the consumers of India for the bad administration of the textile industry of this country and the time has now come when we should set matters right. I expected that the Honourable the Mover of this Bill would justify the continuation of the managing agency system. He has in fact taken for granted that the managing agency system should continue and he tried to improve it in some minor details. Sir, the question we have to seriously consider is whether we should or should not keep the managing agency system in this country, and, in order to have a full dress debate, I will formally move an amendment to clause 42 of the Bill that this managing agency system should be abolished altogether. (“ Hear hear ”.

[Dr. Ziauddin Ahmad.]

from Congress Party Benches.) If we fail to abolish the managing agency system immediately, at least we should fix a minimum period by which it should come to an end. I should like to tell the Honourable the Mover that we will fight every inch of ground to see that the managing agency system is abolished, or its evil effects are minimised. It is a system which does not exist in any other country. Is it not the device of the capitalists of India, why should we have it? Why not take immediate steps to abolish it altogether in this country? Why not improve the conditions so that its continuation may no longer be necessary? That is really a point on which I should like the Honourable the Leader of the House.....

The Honourable Sir Nripendra Sircar : I can answer that question. The managing agency system like the communal electorates does not exist anywhere outside India. (Laughter.)

Dr. Ziauddin Ahmad : I am surprised at the logic of the Honourable the Leader of the House. All that I can say is that he is irrelevant.

Then, Sir, the next point I would like to discuss is a question of facts. I feel that there is an omission in drafting the Bill. A company ought to be divided into two categories, that is to say, a company dealing with protected industries and a company which does not deal with protected industries. These two companies stand on quite different basis. In the case of protected industries, the companies get extra profit on account of a special tax which the Government has imposed on the consumers of the country. These companies do not make a profit on account of their skill, but they make a profit on account of a special tax which the Government has forced on the consumers, and therefore they should be treated separately. In the case the profits should be governed by law, and they should not be left to be decided by the companies themselves. There ought to be a special provision in this Bill relating to companies dealing with protected industries prescribing a certain sum for depreciation which should range from $3\frac{1}{2}$ to $7\frac{1}{2}$ per cent. providing a certain percentage for the Reserve Fund which should range between half to one per cent. ; there should also be a provision to the effect that the reserve fund in no case be spent for the extension of the business itself. The reserve fund should not be touched for improvement of business and it should be spent only in time of depression. Then the third thing which ought to be regulated by law is the maximum percentage which the shareholders should be permitted to have. We have legislated for this thing in the Reserve Bank Bill. Whatever the profits of the Reserve Bank may be, the shareholders get 3 per cent., and the rest goes to the Government. So in the case of protected industries there ought to be a similar provision providing for a maximum percentage of the profits, say, 6 per cent. and any additional profit should be divided equally between the shareholders, labourers, consumers, or the taxpayers.

Now, Sir, coming to the share of the labourers, I think, it is very desirable that the labourers should be permitted to participate in the profits of a concern. It is a thing which is completely ignored in this country. If there is a surplus profit, the labourers ought to get a certain bonus out of the profit he helps to make. I think if we introduce a system of this kind, many of the troubles which we are witnessing today like strikes and lockouts will be minimised to a considerable

extent, if not disappear altogether. I think, Sir, it is only fair that we should divide the profits equally among the shareholders, the labourers, the consumers. With regard to paying the consumers a share of the profits, this can be done in two ways ; either impose a special income-tax so that it may go to Government and our tax may be reduced, or the profits might be given to consumers by reducing the duty on the protected articles.

Then, the next thing I should like to emphasise in the case of a protected industry is, there should be a representative of the Government on the Board of Directors. This is not a novel proposal I am making. In the case of the Railway Companies, the Secretary of State has got a representative on the Board of Directors of every company. Therefore, it is quite fair that a Government Inspector should sit on the Board of Directors of all the companies dealing with protected industries.

Then, the next suggestion I wish to put forward is that there should be a kind of general report prepared by the Government, and it should be laid before the House. The House should have the right to discuss that report and to pass any resolution either imposing a special tax or reducing the amount of the import duty which may have become unnecessary.

In the case of unprotected industries the case is different. In the case of unprotected industries the profit is earned entirely by the skill of the Directors and the Managers.

Mr. N. M. Joshi (Nominated Non-Official) : Not always. The prices rise without the Directors doing anything.

Dr. Ziauddin Ahmad : But no special tax is levied from the consumers in order to protect those industries and they are I think in a different position. In this case the consumers do not appear on the scene. This is a question between the labourers, the small investors and the directors. I strongly advocate that the interests of the small investors ought to be protected in the case of these companies and the big capitalists should not be permitted to monopolise the whole affair. My Honourable friend, Mr. Satyamurti, has got a special theory that the election of directors should be by means of proportionate representation. I have very great sympathy with the object he has in view, namely, that small investors should be represented in the directorate, but I am afraid that this will not be achieved by his method. The question of proportionate representation is all right in the case of one man one vote, but when we have got a duplication of votes it is a very complicated affair and probably it will not be workable. I have not worked out the mathematics of it, but I think it will not be an easy affair. Even though it may be so, there are other means by which small investors can be represented. Government ought to have looked into this matter. They ought to encourage the investment of small capital. They should see that the capital of the country does not lie buried, but it is brought in circulation in the form of investment in various companies, and this would happen if the small investors have some confidence in the industrial concerns. It is very desirable that steps should be taken to restore the confidence of the small investors, and for this purpose it is very desirable that a certain proportion of the share capital should be reserved for small investors, say, one-fifth and out of this one-fifth nobody should be allowed to purchase more than

[Dr. Ziauddin Ahmad.]

two shares, in which case we will have at least two persons in that company representing small investors and these persons should have the power to elect a director of their own. In that case, the small investors will have representation in the directorate and we shall not have any necessity to enter into the controversy whether we should or should not have single transferable vote. There are one or two more points to which I would like to draw attention in order to safeguard the interests of small investors. Whenever a company becomes bankrupt or goes into liquidation, the Government should investigate matters and should hand over the company to one of their inspectors to look into the affairs of the company, and this may be done at the request of any shareholder. If the directors or the managers are found to have wilfully neglected their duties, and wilfully concealed the true state of affairs from the shareholders, that offence should be a punishable offence and it should be provided for in the Bill. I should like to emphasise what Mr. Ananthasayanam Ayyangar has said about auditors. We must make this audit business more stringent, that is, the auditors should give a really true picture of the business to the shareholders, not only in the form of balance sheet, but we should have a kind of report on the profit and loss of the business, because the balance sheet is not intelligible to the average investor. The Report must be a true report. In that case, I think the interests of the investors will be safeguarded. I summarise the points, which I should like to emphasise and which I hope will be discussed in detail later, are, first the question of the abolition, or if not abolition altogether, at least the fixation of minimum time limit for the existence of the system of managing agency,—my Honourable friend reminds me that the period of the managing agency is 20 years. In the first place, I submit that 20 years is too long a period. But, as my Honourable friend pointed out, after that period we have to give compensation, and so practically this provision is of no good to us. I am not going to enter into details about that now, we will have ample opportunities of dealing with it later on. The next point is that we ought to make a distinction in the case of an industry which is protected by levying a special tax on the consumers of the country—in that case the Government have got the right to interfere because the industry is getting profits at the expense of consumers and on the security of Government. The third point is, we must protect the rights of small investors and devise methods by means of which the ordinary people may be encouraged to invest large sums of money in these companies and minimise the chances of losing money.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadian Rural) : I am sorry that an atmosphere of class conflict has been introduced into the discussion of this Bill. There is neither Socialism nor Capitalism under discussion here. As far as I can see, the class from which the managing agents come and the class from which the shareholders come are not very different, and, having some experience as I do of the formation of many companies in my portion of the country, I can say confidently that many of the people who are shareholders in one mill are most probably partners in the managing agency of other mills. I have only a few observations to make on the provisions of this Bill. I am sorry that the conclusions of the Select Committee have watered down the recommendations that

had been made in the original Bill. The Honourable the Leader of the House said that many were obsessed with the importance of the managing agent. If he is really a very important part in the industrial organisation of our country, it is but natural that the managing agent should come in for a great deal of criticism. I may refer here to a few sections which require serious consideration in my opinion. Section 87B deals with the conditions on which the managing agent can be turned out. In the Minute of Dissent that has been submitted by my Honourable friend, Pandit Govind Ballabh Pant, and others, this is what they say :

“ Mr. Sen had recommended that the Managing Agents should be removable by the shareholders on the grounds of fraud, gross negligence, breach of trust or breach of duty, notwithstanding anything to the contrary contained in the articles or in the terms of appointment, by a resolution passed at an extraordinary general meeting to be convened for the purpose.

The draft Bill modified this considerably and restricted the right of removal to fraud or breach of trust proved in a competent court. This has been further interfered with, with the result that Managing Agents will not be liable to be removed except for a non-bailable offence relating to the affairs of the company.”

This does not stop here, for in many companies formed with a majority of shares of the managing agents it will be well nigh impossible, whatever breaches of law the managing agent may commit, if the managing agent has, say, about forty per cent. of the shares and his friends and relatives have about 10 to 15 per cent. of the shares,—it will be well nigh impossible to pass any resolution, removing him. Whatever may be the act of omission or commission that he has done in deceiving the company or in committing fraud or breaches of trust,—he may never be removed.

Mr. Sami Vencatachalam Chetty (Madras : Indian Commerce) : He is defrauding himself.

Mr. T. S. Avinashilingam Chettiar : Sir, I submit that it should not depend upon a Resolution of the company. If he had been convicted of a non-bailable offence, then the offence must be pretty bad. In such circumstances to allow a man to continue in the office of the managing agent is very deleterious to the public life and the industrial life of this country. I would suggest that as soon as he is convicted of a non-bailable offence that should be tantamount to his removal from office. I should like to add another clause to this section which governs his being removed from office and that is when he becomes insolvent. In the director's clause, I believe there is a provision that if a director is adjudged an insolvent his office would be vacated. If such a provision exists in the case of the director, there is all the greater need for a similar provision in the case of the managing agent.

The Honourable Sir Nripendra Sircar : So far as this point is concerned, it will perhaps shorten discussion if I inform my Honourable friend that we ourselves have given notice of an amendment to bring this into line.

Mr. T. S. Avinashilingam Chettiar : So, I shall not labour this point. The next point I should like to refer to is this. No reference has been made here to the contracts which the managing agents enter into in their private capacity. I should submit that allowing the managing agents to deal with the company in their private capacity has done no end of harm. I know from personal experience that, in many of the

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textile mills in Coimbatore, the managing agent is allowed to purchase cotton in his own capacity. If the price of cotton is high he sells it to the company and makes a profit. If it is down, he puts the loss on the company. If he makes a profit, it is his. If he loses, the loss is put down to the company. I should suggest that a suitable amendment should be inserted which would make private contracts between him and the company absolutely invalid. Not only that. If a managing agent enters into a contract on behalf of the company and if he has got interests in the contract, he should be made liable to removal. This is a point which has given rise to much abuse. I need not quote authorities on this matter, because this is a matter of common inference. If any authorities were needed, I shall be prepared to quote them at the proper time. I shall endeavour to have a full discussion at the stage when amendments are taken up.

I should like to point out another matter and that is about profits. I do not think I need try to establish the fact that the system of a share in profits will be better for the industrial growth of this country. If an authority were necessary, I should like to quote just a few lines from the Report of the Cotton Textile Industry Inquiry, where they say : Of the three systems, we have no hesitation in considering that of Commission on profits the best. The great defect of the system of commission on production is that it tends to concentrate attention on output rather than on quality but a greater objection to that system is that it removes the incentive to the disposal of production at the best possible price. Both these objections apply, though in a less degree to the system of commission on sales. The mills, which adopt this system unless they are managed by agents who hold the majority of the shares, are obviously only concerned with getting rid of their production and not with the price at which it is disposed of.

And here I may quote the opinion of Mr. Kasturbhai Lalbhai, the present President of the Millowners' Association at Ahmedabad. He says :

"On principle I admit that commission on profits is a sounder proposition than commission on sales."

So, I would like the insertion of a section something like this. Two years after the commencement of this Act, the managing agents, notwithstanding their contracts to the contrary, should have their remuneration governed on the percentage of profits.

Another important point I would like to put before the House is about loans. It has been admitted in section 87D, clause 42, that no company shall make to a managing agent of the company any loan out of moneys of the company. I suggest that this should include guarantees also and should be made clearer.

Thereafter, section 87E runs as follows :

"No company incorporated under this Act after the commencement of the Indian Companies Amendment Act, 1936, which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent, etc."

Suppose two companies are formed with different managing agents but with two or three people common to both. Under this section it

will be open for a managing agency firm which has got four partners in the firm to lend money or, according to a later section 87F, to purchase debentures or shares in any company which has got common directors and this will in a way give rise to abuse. At the proper time I should like to move an amendment that loans should not be given and debentures should not be bought in companies which have common managing agents.

There are certain smaller matters which have got to be put right and I shall deal with them when the time for the moving of amendments arrives.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I have no desire to deal with controversial issues or to advance any arguments in support of or against any proposition at this stage. I only intend to point out where I think the Bill has made an omission or where a change is desirable in order to improve it. Before doing so, I should like to make one or two remarks by way of introduction. Sir, I should state at the very outset that if the choice lay between throwing out this Bill and accepting it as it is, I would certainly accept the Bill as it is. On the whole it marks an improvement in the present state of affairs and I would not call it a reactionary measure. Secondly, I should also like to observe that this Bill does not involve any stigma or reflection on the industrial classes in this country. They have carried out industrial undertakings against odds in the midst of great difficulties. So we do not by this Bill, whether directly or by implication, condemn them ; but they must realize that there are black sheep in every fold and the law is needed in order to protect society against such truants. Sir, I may also point out that the industrialist in India is not tarred with a blacker dye than those who possess white faces in other countries.

The provisions of this Bill are not more stringent than those embodied in the company law of the United States and several other countries. We have had no scandals here like those associated with the name of Stavisky or Kruger. So we cannot be charged with having a lower industrial morality in our country than in other countries. Let there be no misapprehension on that point. But, Sir, society is dynamic : it changes and progresses, and that implies the replacement and supersession of the existing state of things by one expected to be better, more salutary and more wholesome. We outgrow old systems as we acquire more of experience and wisdom and thus alone the world lives, grows and advances. So, Sir, we should not think that a Bill of this nature is peculiar to this country alone. But we must remember that we have our own problems, and since 1913 there has been considerable experience and growth in the matter of companies in our country. The number has gone up from about two thousand five hundred to ten thousand of the registered companies. The capital paid up and held by such companies has gone up from about 60 crores to about 300 crores. It is but appropriate that the Honourable the Law Member should be connected with a measure of this sort, as we have got the largest number of companies, something between three and four thousand in the presidency of Bengal, and by far the largest proportion of the paid-up capital of joint stock companies stand to the credit of Bengal. Next to Bengal comes Bombay. The expansion that has taken place since the year 1913 has created new problems ; and we have besides the system of codifi-

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Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I have no desire to deal with controversial issues or to advance any arguments in support of or against any proposition at this stage. I only intend to point out where I think the Bill has made an omission or where a change is desirable in order to improve it. Before doing so, I should like to make one or two remarks by way of introduction. Sir, I should state at the very outset that if the choice lay between throwing out this Bill and accepting it as it is, I would certainly accept the Bill as it is. On the whole it marks an improvement in the present state of affairs and I would not call it a reactionary measure. Secondly, I should also like to observe that this Bill does not involve any stigma or reflection on the industrial classes in this country. They have carried out industrial undertakings against odds in the midst of great difficulties. So we do not by this Bill, whether directly or by implication, condemn them ; but they must realize that there are black sheep in every fold and the law is needed in order to protect society against such truants. Sir, I may also point out that the industrialist in India is not tarred with a blacker dye than those who possess white faces in other countries.

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creation of laws. Here our system does not grow like the bark of the tree, as in the case of common law, but we have to fit up our codes like our coats, as times change and as we grow and new problems face us. So what we are doing today is nothing more than a provision for a stage in the progress of industrial organization. I feel, Sir, that in spite of what one might wish, we cannot at the present stage get rid of the managing agency system. We feel that it would not be desirable in the interests of the industrial advancement of the country to give up this system altogether. I should rather say "I", because in this respect I know there are some friends here who feel and perhaps feel very strongly that the system should be abandoned. They have, however, not yet been able to persuade me to their view.

Sir, I would like to tell you in a few words as to what I think the Bill should have contained, and in what respects the provisions of the Bill should be improved. As we have been told, the managing agency system has loomed rather large throughout the consideration of this amending measure, but as the Honourable the Leader of the House pointed out, that is only one of many problems which this Bill tackles : and if that problem has a great importance of its own, there are nevertheless other aspects of the question which, taken together, are I think equally, if not more, important than the reform of the managing agency system. Sir, a company organization involves in our country three classes,—the shareholders, the directors and the managing agents. If a farsighted view is taken, there need not be any conflict between the interests of the shareholders, the directors and the managing agents. But besides these three, the general public are also concerned, for the question of industrial advance is a vital problem on which the welfare of millions of people in this country depends and will continue to depend. According to some of us nationalisation alone can yield the best results, but it is out of question so long as we have an anti-national Government ; nor can State guidance and assistance be available when the paramount Government has adverse interests. In the circumstances, we have to look for special measures, and that is the reason why the managing agency system came into existence and that is why the managing agency system has to continue so long as the alien Government with its step-motherly attitude towards the industries in our country continues. The initiative which the people get from the State in other places we can only secure through the enterprise and resource of the industrialists and these cannot be stimulated without the aid of some exceptional measure. That is the reason I think why the managing agency system has emerged in this country. In view of the protective policy that we have in our country, it is necessary that the cost of production should be reduced and the intermediaries should not be allowed excessive profits, so that the industries may run economically, the level of protection may be brought down, and the progress of industries may be accelerated. So, Sir, irrespective of the fact that primarily it is the concern of the shareholders, the directors and the managing agents, every company is ultimately also the affair of the entire general public. For, whatever they do reacts on the general public. Sir, I have kept these points in view in considering this question.

Now, I will just submit what I think this Bill might well have done. In the matter of directors, the original provision was that no more than

one-third of the directors would be available for nomination to the managing agents. The clause in the Bill now is that one-third may be appointed by the managing agents and one-third by the shareholders. The language is somewhat clumsy and open to objection and I have given an amendment by means of which I have tried to get over the difficulty that the language presents. My view is that at least two-thirds of the directors should be appointed by the shareholders and I have proposed that two-thirds of the directors should be such as are removable or as would retire by rotation. That form would perhaps meet the technical difficulty. The point of substance is simple : when you say that more than one-third of the directors should not be nominated by the managing agents, then supplement it with a positive provision that at least two-thirds will be elected by the shareholders themselves. I want to introduce that.....

The Honourable Sir Nripendra Sircar : May I put a question to the Honourable Member ? With regard to the suggestion that two-thirds of the removable directors should be elected by the shareholders, is my Honourable friend's amendment directed to make it retrospective or is it for new comers ?

Pandit Govind Ballabh Pant : It should come into force only after the commencement of the Act. I do not give it retrospective effect.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I draw the Honourable the Law Member's attention that it is impossible to hear a single word from that bench by Members who are sitting on this side of the House ?

The Honourable Sir Nripendra Sircar : I am sorry. I shall repeat what I said. I was informed by my Honourable friend, Pandit Govind Ballabh Pant, that he has suggested an amendment that at least two-thirds of the directors should be elected by the shareholders. I asked him whether he wanted that to apply to new companies which will be incorporated after this Act of 1936 or he wanted to make it retrospective. To that I have got the answer that he does not want to make it retrospective, but he wants to apply it only to new companies.

Pandit Govind Ballabh Pant : Then, I have a proposal which may be styled as more or less revolutionary. I am prepared to accept that it is so and I like it all the more because it is revolutionary for great changes of a genuine type for the good of the people cannot usually be brought about except through revolution. This revolutionary proposal of mine in this matter is to the effect that the directors should be elected by the system of proportional representation by means of a single non-transferable vote in accordance with rules to be framed under the section which gives such power to the Governor General. It seems to me reasonable that every group which is strong enough to return a director should be able to do so. As I stated at the outset, I will not argue out the point at this stage. I am only mentioning what I think should be done. Then, Sir, there are certain loopholes in the Bill. It prohibits loans to directors, but it does not prohibit loans to partners of the firm of directors or to a firm of which the director himself may be a partner. It does not prohibit loans to private companies which are no more than, and hardly distinguishable from, firms even when the director of the company is a director of a private company. Then, again, while it prohibits a loan, it does not prohibit any guarantee by the company for a loan taken by the director. In all

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these matters I suggest that amendments should be made so that these loopholes may be remedied. Then, Sir, there is one other important matter which I think should be considered by the Government. This Bill, as does the existing Act, only provides that in case of a contract concerning a director, information should be given to the company and the director concerned should not vote. I think it is against all canons of morality to encourage practices involving an inevitable conflict between duty and interest. A director holds a fiduciary position and to allow him to deal with a company on his own account and for his own profit seems to be reprehensible. So, while I would like to prohibit the practice altogether, the least I am suggesting is that no directors should enter into any sort of engagement, arrangement or contract with any company except with the consent of the general body of shareholders in a general meeting. That, I think, is the minimum that should be provided for. Then, Sir, the directors have the means of carrying on speculation in the shares of their respective companies. They can manipulate the value of the shares. So, to guard against such contingencies, the directors should be required to place a statement before the general meeting showing the transactions entered into by them in the course of the year as to the shares purchased or sold by them. That would enable the shareholders to know if there was real speculation or if there was a genuine dealing.

Then, Sir, the next question that I would like to refer to in passing relates to managing agents. Certain changes have been made in the Bill by the Select Committee which seem to me to be regrettable. According to the original Bill, the appointment of every managing agent was to be subject to the approval of the general body of the shareholders, but now it is provided in the amended Bill that if the prospectus refers to the appointment of the managing agent and the managing agent is appointed in that way, then the general body of shareholders will have no say. Then, Sir, there is another proviso now which says that even in the matter of remuneration the terms entered in the prospectus with reference to such a contract or agreement would be binding. The original clause in the Bill laid down that every such contract should be placed before the general body of shareholders. After all, the general body of shareholders are legal owners of the company and I think they should be given an opportunity for collectively forming an opinion and judgment regarding such an important matter. I am thankful to the Honourable the Law Member for what he said today that it is not intended to permit in this manner any remuneration to the managing agent except by way of percentage on the profits. To that extent it allays a certain amount of misapprehension, but I would much prefer the restoration of the original clause. Then, there are two other changes which have been made in the Select Committee. The Bill, as it has emerged, lays it down that compensation will be paid to the managing agent if his term comes to an end because of this Statute which provides a limit of 20 years. It seems to me illogical that, on the one hand, the Statute should lay down that the term of the managing agency will automatically come to an end on the expiry of 20 years and, on the other hand, prescribe that the managing agents will be entitled to compensation. That is penalising the shareholders for what the Statute compels them to do. That, I submit, is

unfair and unsound. Then, Sir, there is one other clause which says that even when a company goes into liquidation, the managing agent may be entitled to compensation. That looks to me still more—I should not say ludicrous—but incomprehensible that the company should suffer because of the managing agent and should also be required to pay compensation to him! I remember that it is laid down there that if it is the result of his own negligence—or there is some other expression which my Honourable friend, Mr. Sen, will be able to recall—or mismanagement, then in those two cases, he may not be entitled to any compensation.

Mr. Susil Chandra Sen (Government of India : Nominated Official): The expression used is "Negligence or default".

Pandit Govind Ballabh Pant : Yes. If it is the result of incompetence, why should he get compensation? Incompetence is neither negligence nor default. Inefficiency is neither neglect nor default. But in all these cases, he will be entitled to compensation. My own view is that even if the liquidation be the result of an accident or misfortune, then the man who would have got a lion's share in the profits should similarly share the loss with the shareholders. I think that it is very improper and unreasonable that he should get any compensation when in reality he should be, directly or indirectly, responsible for having allowed the company to go into liquidation. If he had brains enough and if he had energy enough, he should be able to foresee the disaster and to tide over it. I feel, Sir, that it is highly improper that he should get compensation for allowing the company to go into liquidation.

The Honourable Sir Nripendra Sircar : May I just point out to my Honourable friend for his consideration that there may be quite a different case, that is to say, a company has not come to grief, but just to get rid of the managing agents, it goes into voluntary liquidation.

Mr. M. Ananthasayanam Ayyangar : Then add the words "except in the case of voluntary liquidation".

Pandit Govind Ballabh Pant : In that case the company would get a very good return for its shares and the managing agents who have always got some shares in the company would have the benefit of the rise in the value of shares and in diverse other ways. If anybody manipulates, the managing agent will have the benefit of the inflated value of the shares if the property is worth it. So, in no case can he suffer. Then, Sir, after all, the body of shareholders would not be so foolish as to take a step that would be suicidal in their own interests. We cannot take into account remote possibilities. It is not the normal way of life. We do not assume that people will become so mad as to commit suicide. It is after all an exception, with all due respect to the Honourable the Law Member.

Then, there are other clauses in the Bill which I think have been left out. There is one about which I am very keen. A managing agent can under the Bill carry out contracts, arrangements and engagements with the company for his own benefit. It is unintelligible to me that a man who is in charge of the whole of the affairs of the company—and that is the definition given in clause 2—should be left free to manipulate the affairs of the company in such a manner as to earn the maximum profit for himself at the cost of the company. That again, as I

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just observed, in the course of my remarks relating to directors, is flagrantly opposed to the elementary notions of business equity and morality and I think a clause should be introduced—and I have given notice of one—that after the commencement of this Act—I am sorry I could not go beyond that because I do not think I will be able to persuade the Honourable the Law Member—the managing agents should not be allowed to deal with companies on their own account. There is no provision in the present Bill. Perhaps he had that in his mind, but it was inadvertently left out. I hope that that deficiency will be made good now.

Sir Cowasji Jehangir : What did the Honourable Member say ? Did he say deal with the company ?

Pandit Govind Ballabh Pant : Carry out transaction with the company for his own profit.

Sir Cowasji Jehangir : Having contracts ?

Pandit Govind Ballabh Pant : Whether it be contracts or no contracts, I do not mind very much. I say if they are to be for his own personal advantage, at the cost of the company, then they should not be allowed.

There is another fundamental point on which I think the Honourable the Law Member and the House should concentrate and to which some thought should be given. It relates to the existing managing agencies. As to the existing managing agencies, I am prepared to concede that they should not be treated exactly on the same footing as those which will be constituted hereafter. As Honourable Members are aware, this Bill is the result of the labours of my Honourable friend, Mr. Sen. He was placed on special duty and he had the opportunity of studying the reports from all interests including the Local Governments. He was of the opinion that the term of office of the existing companies should come to an end after one year from the commencement of this Act. Perhaps my Honourable friend was right. His report is such that I would rather consider him to be right generally, and if that policy had been followed throughout I would have welcomed it. But what I suggest is this : that even if you do not go to that length, and do not omit the pertinent clause in the Bill it should be modified, at least, to this extent, that, it should be open to the shareholders, five years after the commencement of this Act, to pass a Resolution for the removal of the managing agent provided the managing agent has completed at least 30 years from his first appointment. Thus you will be giving him ten years more as compared with the managing agents who will be appointed hereafter and you will be giving him a security of five years from the passage of this Act and his term will not come to an end automatically till the expiry of next twenty years. It will be only when the majority of the shareholders pass a Resolution to this effect that his term will cease.

Sir, there are one or two other points to which I should like to invite the attention of the House. The original provision in the Bill laid it down that foreign companies incorporated outside India which carried on business in this country should file their balance sheets in the same manner in which the companies incorporated in India are required to file theirs. I may also mention here that this clause had been bodily

adopted from the English Act, on which the present Bill is modelled and based. But the Select Committee has made a change in it and has prescribed a different form of balance sheet. I think the Select Committee was not right. I am using that expression because I myself was a Member of the Select Committee. I am of opinion that we must adopt the language of the English Act and when a company incorporated in Calcutta, Lahore or Bombay, if it has business in Great Britain, and is required to file a balance sheet there in the form prescribed for the companies registered in Great Britain, I see no reason why we should not observe the oft-repeated sacred principle of reciprocity in our own country in this matter. Sir, not only we, but if a company incorporated in New York or in Timbuctoo or in Tipperary carries on business in London, it has to file a balance-sheet in the same form. There is no reason why we should not do likewise here.

There is one other small matter about which I wish that some provision were made in the Act in order to make it difficult for people to swindle our simple investors here by selling shares of foreign companies. Those who have read Mr. Sen's report or will be doing so will find that many a man has been swindled in this manner, and it is necessary that some safeguards should be provided ; and if we were to adopt at least the hawking sections of the English Companies Act in the matter of the transfer of the shares of companies incorporated abroad, we would be giving some protection to these investors.

Sir, I will not take any more time. I hope the House will examine the Bill with a view to improving it and so as to safeguard the interests of the public. Above all, these interests must receive the greatest amount of consideration here. The Bill has accepted the principle of social welfare in place of the exploded principle of sanctity of a formal contract. And taking that as the basic principle let us apply our minds to this Bill with a view to getting the maximum for the society through this Bill, and let us make such changes as may be necessary to achieve that object.

Mr. Sri Prakasa : Sir, it is my genuinely pleasant duty to oppose this Bill. As the Honourable the Law Member and myself understand each other very well, I am sure he will have much sympathy with my point of view. My first reason for opposing this Bill is that my ideal of a company is the East India Company. This, Sir, was a company that was floated in the year 1600 in Great Britain with the obvious purpose of trading in pepper in the East Indies. But this company, later on, became the rulers of my country, and, by various processes of force and fraud, have today put themselves in a position strong enough to impose upon us this Companies Bill. Now, Sir, my fear is that if this Bill becomes an Act, any effort on my part to float a company like the East India Company with similar purposes and with similar hoped-for results, will be nipped in the bud. And, therefore, Sir, I want to have a sufficient loophole in the law of this country, so that some day I may be able to flower out like a Robert Clive (afterwards Lord Clive) and be a hero in every land except my own.

Now, Sir, the second reason for my opposing this Bill is that I am constitutionally against the overloading of the Statute-book. I have said before that I am afraid of lawyers. The Honourable the Law Member referred to an ancient incident when I happened to be his victim as his

[Mr. Sri Prakasa.]

client. And the memory of the fee that I paid still frightens me ; and I must confess, Sir, that the amount of work that he did for that fee was practically nil. (Laughter.) The whole work was really done by Mr. Sarat Chandra Bose and the larger fees went to my Honourable friend opposite. (Laughter.) I congratulate Government on having got such an eminent lawyer who sits for five whole hours in this House for a paltry sum of Rs. 200, while if he had been in the Calcutta High Court and if this Government had briefed him, they would have had to pay him at least ten times as much. I fear that the complicated nature of this Bill.....

An Honourable Member : Does the Honourable Member want to restrict that in the Companies Act ?

Mr. Sri Prakasa : I want a Bill for the decapitation of lawyers. (Laughter.)

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had a sufficiently long preface ; now he should come to the point.

Mr. Sri Prakasa : I will come to the point immediately, Sir. My fear is,—and that is a genuine fear ; I am sorry that my friends here do not regard me as serious, but really I am very serious (Laughter),—my real fear is that the law will be further complicated by this Act and that lawyers alone will have a good time. If the Honourable Member opposite can assure me that this is a fool-proof Act and that no case under this Act can possibly have lawyers on either side, I shall support him. But I am sure that whenever any case is brought under this Act there will be lawyers forthcoming on either side, and that shows that this law is defective. (Laughter.) A perfect law should be such that there can be only one meaning of its wording and that anybody who comes to oppose that plain meaning of the wording should be punished, and not paid. Therefore, Sir, I simply suggest a one-clause Act and that is just this :

“ Every one who voluntarily parts with his money to another person for whatever reason, does so at his own risk (Laughter) ; and he shall have no right to complain to any one, nor shall have any relief at law.” (Laughter.)

This one-clause law will demolish all the troubles that we have in the modern world ; and if this law does not suit the moral susceptibilities of the Honourable gentlemen opposite, I will suggest another one-clause Act, and that is “ that the Government of India expects every man to be honest ”. But if all that is not possible, then in a few words, if you will please bear with me, I will explain what exactly a company is. A company, Sir, is started with two objects and two objects only. First of all, there is a clever individual who finds himself unemployed in a world which consists of such luxuries as we see here, and he racks his brain to find a comfortable job in life. He says to himself that it would be a good thing if he could induce other people to part with a certain amount of, what he regards, superfluous money and forms a company for his own behoof. That is the object of one class of people. But there is another class of people who feels that certain things are necessary for the well-being of society ; that these things should not be lacking in the world ; that he himself has not sufficient money to float a concern to supply the lack ; and therefore he consults others and tries to pool the resources of a

number of persons in order to establish a company for the purpose of benefiting society. I cannot understand or imagine any third object. Either a man is searching for a profession for himself or he is really hunting after ways and means for benefiting society. Now, Sir, if there is any third type, I shall be glad to know as the discussion progresses.

Babu Baijnath Bajoria : Cannot he have both the objects,—benefiting society and also having a profession for himself ?

Mr. Sri Prakasa : If the two go together, then, as we say in Hindi, “ gold will have the additional qualification of smelling sweet ”.

Now, Sir, a company is floated, and then there may be a change in the attitude of the promoters themselves. I will give a sad experience of my own. Not only have I had experience of railways, police, jails and magistracy, but I have had my unfortunate experience even with a company, and I was done out of the fairly heavy sum of forty thousand rupees.....

Mr. N. M. Joshi : Did you possess that ? (Laughter.)

Mr. Sri Prakasa : A Swadeshi company was started—this was in the old days when *khaddar* had not come into existence—and I was patriotic enough or foolish enough to wish for the improvement of the Indian textile industry. I had a talk with a managing agent and I said to him : “ I will give you Rs. 10,000 ; that is all that I possess.” After some time I heard from him—I will not mention the place, lest my friend, Dr. Deshmukh, and my Leader get angry (Laughter)—saying that in accordance with my wishes expressed a year before, he had purchased shares in his company for me for Rs. 10,000. I thought that was all right and sent Rs. 10,000 to him. This was about 20 years ago—I was rather green then : I am all white now ; and I do not think any managing agent can do me now. So I sent him the money. He did not send me any share scrips. I thought it was a *bonâ fide* transaction ; but I fear it was *mala fide* from the start. After some time they started asking for further and further contributions, which they called “ calls ” ; and I wrote to ask what it was all about ; I wrote to the gentleman concerned that as I had informed him before, I could only purchase shares up to Rs. 10,000 all told and I had paid that sum already. I was informed in reply that it was only one-fourth of the total price of the shares he had purchased for me and that I was myself to blame if there was a misunderstanding. That is how laymen are always taken in : this is the attitude not only of Honourable Members opposite but also of big business. So I sent him more money and after some time there were more calls ; and at last a letter came from a gentleman who called himself liquidator of that company, asking for final calls. (Laughter.) I was badly bitten and I am very nervous of losing another Rs. 40,000 because that will ruin me completely. My prayer is that a layman, an innocent, ignorant and fairly good man like myself, should be saved from this type of company promoters.

This may have been *mala fide* transaction ; but something else can also happen. A man may start with very good motives. Most of us do. But then our attitude changes : either by success or by failure. If there is success, we want to keep all the money to ourselves ; if there is misfortune, we want to throw the misfortune on others. Therefore, I think that no law that human ingenuity can possibly frame can save

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LEGISLATIVE ASSEMBLY.

[8TH SEPT. 1936.]

[Mr. Sri Prakasa.]

human beings from the wrongs that other human beings can do them. There is a saying in my language that the better the law, the better the thief.....

Sir Cowasji Jehangir : You go to the Himalayas and become a *Sadhu*.

Mr. Sri Prakasa : I may do that after I have seen Sir Cowasji Jehangir safely out. I will not do it before then. Now, it is lucky for us, thanks to the Honourable the Law Member, the Criminal Law Amendment Act is still on the Statute-book ; and when we become the Government, you may be sure that we shall declare the association to which the Honourable Members opposite belong, to be an unlawful association. When my Honourable friend, the Law Member, finds himself in jail, he will meet some thieves, as I did ; and if he has that desire for knowledge that I have, he will probably get into conversation with them on the sly—because it is an offence to talk to any fellow-prisoner, if any jail officials are about : and then they will tell him, as they told me, how actually they steal. He will then find that the stronger the locks, the better are their instruments for breaking those locks. If you ask them, how they manage to break strong locks, they will tell you that they have some contrivance in the nature of electric wires

Mr. K. Ahmed : What is the point in all this ?

Mr. Sri Prakasa : My Honourable friend reminds me of the rhyme :
 ‘ Old King Coal
 Was a merry old soul,
 And a merry old soul was he ’. (Laughter.)

The thief will also tell my Honourable friend opposite how new gases have been invented by which people in a bed room can be sent into complete slumber and then things can be stolen in comfort and safety. The point is this : this law, so far as I can make it out, is trying to prevent fraud. My Honourable friend the other day asked “ Who is a fraud ? ” With his vast and intimate knowledge of men and affairs, he himself can answer the question best. He knows better than anyone else that if he wants to stop all fraud by this law, he cannot succeed. Because persons will be found in this world who will get round him, who will get round the law, and the fraud will continue as before.

The one thing that can save companies and shareholders would be some penal clause somewhere by which you could force shareholders to take interest in their concerns from day to day. I see nothing of that sort in this Bill. This shareholder is a person who parts with a certain amount of money on trust to another person. His only interest is to get dividends. He has no other interest in the company : When he hears later that the company is going to the dogs, or that all the dogs are coming to the company, he wakes up and then you have stormy meetings of shareholders. Otherwise the shareholders remain quietly in their homes ; they receive their six-monthly dividends ; and they are satisfied. If the shareholders can be made to take some interest in the concerns in which they have put their money, then alone can they be safe. All the provisions about one-third of the directors coming from the shareholders,

is so much moonshine. The shareholders not having any interest in the working of the company, will allow the election of directors to be manipulated. Just as they purchase those unfortunate Government promissory notes that are being introduced in profuse abundance from day to day, in the simple hope that they would get their six-monthly interest safely from the treasury officer ; so they invest money in these companies for the sake of the hoped-for dividends. They do not know the nice legal difference between interest and dividends : they know no distinction between the Government that sells its promissory note and a company that sells its shares. To me as a layman both things are alike. I find that a petroleum company pays 7 per cent. which I regard as profitable ; and so I go and purchase its shares. Another person feels that 3 per cent. is enough for him, and he goes and purchases a Government promissory note which he regards as a safer investment. So, that, Sir, if the Honourable Member opposite is really desirous of improving the morale of companies, the one thing he should do is that he should make it a penal offence for any shareholder to be absent from any meeting of the shareholders, he should make it impossible for any shareholder to escape his responsibility.

An Honourable Member : What about proxies ?

Mr. Sri Prakasa : Oh, proxies ? Have I not signed them ? What are proxies ? We sign proxy papers in favour of anybody who comes round to us for them paying for the stamp themselves and worries us to sign them. We do so, if for no other reason, at least to save our own time. These proxy papers are another series of frauds.

An Honourable Member : What about medical certificates ?

Mr. Sri Prakasa : Sir, not being a lawyer,—and I am glad I am not one,—

An Honourable Member : You were at one time.

Mr. Sri Prakasa : Not being a professional lawyer, I cannot put the matter in a proper legal form. If my friends in this House who are not anxious to make fortunes at the Bar, who are really anxious to save the country from fraudulent companies ; if they would only put what I suggest in proper language and produce an amendment to the effect that shareholders have their definite responsibility towards the company or companies in which they have invested their money, then this Bill will be a welcome Bill ; and in that case we shall be saved the trouble of studying the huge mass of literature that has been flung upon us, and we shall with the help of one little section of the Act pass on to glory and success.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, first of all, I should preface my remarks by expressing disappointment at the failure of the Honourable the Law Member in producing a consolidated Bill on companies, instead of placing before us this confusing bit of literature consisting of a copy of the Indian Companies Act, the amended Bill as it was originally introduced in this House, and the Report of the Select Committee on this particular Bill, the whole referring again and again to some sections in the original Act or to some sub-section or sub-clause, and there also referring again to some sub-sub-clauses from (a) right up to (z) ;—nay, not being

[Prof. N. G. Ranga.]

satisfied even with the vocabulary that the English language has presented the framer of this Bill with, he has added sub-clauses (bb), (ff) to (zz), and so on. Sir, I learn that even in England they thought it wise to bring forward a consolidated Act; they first brought forward an amending Bill, and then it was referred to a drafting Committee whose aid was called in, to prepare a consolidated Bill which was passed later on by the House of Commons into an Act. Even now if the House and the Honourable the Mover do not think it is too late to save the shareholders and all other parties who will be obliged hereafter to go to the Courts, if they want to save all this trouble and confusion.....

The Honourable Sir Nripendra Sircar : May I inform my Honourable friend that the practice which he asks me to follow had been followed in England and it has been condemned by the highest authority on Company law, Lord Justice Buckley.

Prof. N. G. Ranga : I know that opinions differ in regard to consolidating the Companies Act of England, but I still persist in my opinion that it would be best for everybody in this country even if at this stage the Honourable the Law Member and this House tried to co-operate in bringing forward a consolidated Bill. I do not think it will be impossible to do so or it would be beyond the legal acumen of the draftsman of the Government of India to bring forward a consolidated Bill in the light of the British experience and thus give more satisfaction with reference to the different interests concerned than the British consolidated Act has been able to give in England for British interests.

Then, Sir, coming to the question of shareholders and their responsibilities to these companies which are only an outward expression of the system of capitalism that we have here and in other countries, I am rather inclined to agree with my friend Mr. Sri Prakasa that some definite steps should be devised in order to help them, almost in spite of themselves, to evince more interest in the affairs of the companies in which the shareholders have invested their money and thus help the law maker himself in preventing fraud and prevent also the managing directors, managers and all those who are interested in the management of these companies from playing the mischief they have been playing not only in this country but also in other countries. It is to this effect that there should be a penal provision made,—the Honourable the Law Member may not be so very obliging as to provide it in this particular Act,—it is to this effect there should be a penal provision introduced compelling the shareholders to attend the meetings of the companies in which they have invested their capital and evince greater interest than they do now. In this connection I would suggest that at least the shareholders should be supplied with third class travelling allowance, so that every shareholder may have an additional inducement to attend a meeting of the company and thus take a little more lively interest in the affairs of the company

An Honourable Member : Then, the companies will soon go into liquidation.

Prof. N. G. Ranga : It is common experience, Sir, that almost all the directors of all companies are given not merely 1st or 2nd class

fare, but are paid in some cases even their sitting fees. They are remunerated in addition in a very generous fashion. If these companies can afford to pay these few rich and competent and capable men all these fees and travelling allowances for the slender services they render to the companies, I don't see any reason why a constructive proposal like mine should not be accepted either by the Law Member or by Honourable Members on this side.

Mr. N. M. Joshi : What is your proposal?

Prof. N. G. Ranga : My proposal is that the shareholders should be paid third class travelling allowance to and fro.....

Mr. S. Satyamurti : By whom?

Prof. N. G. Ranga : By the companies themselves which call a general or special meeting of the shareholders.

Mr. S. Satyamurti : Then the companies will soon have to wind up their show!

An Honourable Member : The companies will have to be wound up.

Prof. N. G. Ranga : If the companies will be obliged to be wound

5 P.M. up by the mere payment of travelling allowance, certainly no amount of legislation can save them in this country or in any other country.

Mr. K. Ahmed : What about those shareholders who won't travel third class?

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member want to continue his speech?

Prof. N. G. Ranga : Yes, Sir.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 9th September, 1936.

LEGISLATIVE ASSEMBLY.

Wednesday, 9th September, 1936.

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

QUESTIONS AND ANSWERS.

INDIAN SEPOYS IN ADDIS ABABA.

212. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) the number of Indian sepoy in Addis Ababa ;
- (b) the number of casualties among them ;
- (c) their present health ;
- (d) when they propose to call them back to India ; and
- (e) the nature of work they did and do in Addis Ababa ?

Mr. G. R. F. Tottenham : (a) to (e). The attention of the Honourable Member is invited to the Press Communiqué issued on September 1st, a copy of which I am laying on the table.

GOVERNMENT OF INDIA.

DEFENCE DEPARTMENT.

Simla, the 1st September, 1936.

PRESS COMMUNIQUE.

SUBJECT :—*The Legation Detachment at Addis Ababa.*

1. *Origin of the Legation Guard.*—Since its original establishment, His Majesty's Legation at Addis Ababa has been provided with a cavalry escort of 2 Non-Commissioned Officers and 7 sowars, the escort being drawn from different Indian Army regiments in rotation and serving at Addis Ababa for a tour of three years. This escort, while sufficient for ceremonial purposes and as a personal guard to the Minister, was quite inadequate and never intended for the protection of the Legation itself.

With the increase in tension between Italy and Abyssinia during the first half of 1935, the question arose whether a reinforcement of this guard was not necessary for the protection of British and Indian subjects in Abyssinia. The situation envisaged, and which ultimately materialized, was that, under the strain of bombardment from the air or as the result of defeat in the field or on account of political changes, the civil control of the population of Addis Ababa might break down, resulting in rioting, looting and probably a definite outbreak directed indiscriminately against all foreigners.

At this time the number of British and British-Indian protected residents in Abyssinia was estimated at one thousand, four hundred of whom lived in and around

Addis Ababa, two hundred at Dire Dawa on the Djibouti railway and the remainder, generally speaking, in the Harar consular district to the south of the capital.

The adoption of an evacuation scheme was considered but it soon became apparent that most of the Indian population, having considerable property and investments in Addis Ababa, would decline to be evacuated from Abyssinia. It was therefore decided to provide for their protection.

The decision to augment the Legation Guard was taken in the latter half of August, 1935. His Majesty's Government, requested the Government of India to make available a detachment of troops which was to consist of three British officers, one hundred rifles, and a section of machine guns. The British Minister at Addis Ababa particularly asked that the contingent, if supplied, should be of Sikhs, since Sikhs had been specially assigned to the Legation Guard for the past forty years and had earned the respect and good will of the local population.

His Majesty's Government made it clear that the whole cost of the contingent would be defrayed by them. With this stipulation and the proviso that the onus of responsibility for the withdrawal of this detachment in case of necessity would also rest on His Majesty's Government, the Government of India agreed to furnish the necessary troops. This action was felt to be the more appropriate inasmuch as the great majority of British subjects in Abyssinia were Indians and the protection of their lives and property essentially an Indian interest.

The contingent was found from the 5th Battalion 14th Punjab Regiment (late 40th Pathans) and left Poona on August 22nd with a strength of :

- 3 British officers,
- + Viceroy's commissioned officers,
- 129 Indian other ranks,
- 11 Followers.

In addition to the above, one Indian Medical Service officer was attached to the contingent and joined it at Bombay.

Addis Ababa was reached on September 7th without incident and without casualties, except for one Other Rank who was admitted to the French Military Hospital at Djibouti and rejoined his unit on September 18th.

2. *Work of the Legation Guard at Addis Ababa.*—It is unnecessary to describe in detail the work of the Legation Guard during the first seven months of their sojourn at Addis Ababa. A Defence Scheme was drawn up and the necessary digging and wiring of defensive positions undertaken, in so far as political considerations allowed. Particular attention was paid to the question of defence against gas, over two thousand respirators being held as reserve for issue in case of air raids. A system of alarm signals was inaugurated and the necessary practices carried out to accustom all ranks to their duties in the event of both ground and air attack. Measures to ensure the security of all foreigners had to be worked out in conjunction with the representatives of other nationalities. Trees had to be felled, searchlights to be positioned, field telephone systems installed, and reserve stocks of supplies, firewood, petrol, ammunition and many other stores accumulated, housed and periodically inspected. In addition to the manifold duties in connection with the protection of the Legation and of Indian residents, of which the above is merely an outline, the ordinary training of the troops was continued as far as considerations of space and the weather permitted, while the many unusual problems connected with the administration of the unit, inseparable from its situation, were successfully handled.

Although certain instances of anti-foreign feeling had occurred earlier and alarms had been caused on two or three occasions either by rumours of impending air raids or by actual air reconnaissances carried out over Addis Ababa, the situation in the capital remained generally satisfactory until the beginning of April, 1936. Throughout that month, however, alarms became more frequent and the uneasiness among both local inhabitants and foreigners increased. On April 20th the first refugees began to arrive at the Legation and arrangements were made to accommodate them and to

allot specific areas to the different communities. Eventually a total of 1,520 refugees were accommodated, comprising nationalities and communities as follows :

Americans	..	..	..	..	..	31
Arabs	..	..	..	..	..	253
Armenians	..	..	..	..	..	174
Austrians	..	..	..	..	..	8
Belgians	..	..	..	..	..	12
Bohras	..	..	..	..	..	160
British Islanders	..	..	..	..	..	38
Cypriots	..	..	..	..	..	8
Egyptians	..	..	..	..	..	12
French	..	..	..	..	..	15
Germans	..	..	..	..	..	11
Goanese	..	..	..	..	..	7
Greeks	..	..	..	..	..	319
Hindus	..	..	..	..	..	161
Hungarians	..	..	..	..	..	4
Jamaicans	..	..	..	..	..	1
Jews	..	..	..	..	..	16
Latvians	..	..	..	..	..	2
Moslems, Indians	..	..	..	..	..	198
Poles	..	..	..	..	..	1
Portuguese	..	..	..	..	..	6
Russians	..	..	..	..	..	12
Scandinavians	..	..	..	..	..	14
Somalis	..	..	..	..	..	30
Spanish	..	..	..	..	..	1
Syrians	..	..	..	..	..	2
Turks	..	..	..	..	..	29
						1,520

Certain Indian nationals did not take advantage of the protection offered in the refugee camp but preferred to risk their lives in defence of their properties. The only assistance which could be afforded to these, apart from patrol visits which were arranged, was to supply any deficiencies in arms and ammunition.

The crisis in the situation may be said to have started from the 1st May with the complete break up of the Abyssinian forces in the field. That evening continuous rifle fire broke out in the city and lasted all night. In the morning numbers of refugees of all nationalities arrived at the British Legation and reports were received that the city mobs had got out of hand and that fighting and looting had become general. By midday, part of the city was on fire. Lorry patrols were sent out to establish touch with the other Legations and to report on the situation. It was found that the largest shop in the city, that of Mohamed Ali and Company, an Indian firm which had been of great assistance throughout in supplying stores required at the Legation, was still intact and had become a rallying point for British-Indians. Throughout the day and night more refugees continued to arrive at the Legation and were provided with rations and accommodated in tents.

On the 3rd May the situation deteriorated. Up till then the patrols from the Legation had not been opposed, but on that day a patrol visiting the Belgian, French and Turkish Legations found traces of fighting everywhere and the Turkish Legation:

in a state of siege. The patrol was itself fired on. All the occupants of the Turkish and the majority from the Belgian Legation were successfully evacuated that evening, while other patrols rescued parties of Missionaries and part of the personnel of the United States Legation. It was on May 3rd that Dr. Melly, commanding the British Red Cross Ambulance, was mortally wounded while attending to casualties in the city.

On the 4th May the town was somewhat quieter and the opportunity was seized to send ammunition to Messrs. Mohamed Ali's premises and rifles and grenades to the United States and German Legations. In the evening an appeal for assistance was received from the Belgian Legation. This was at once answered, and a detachment, hurrying to the point in lorries, arrived just as an attack, covered by heavy supporting fire, was being made on this foreign Legation. The attackers were at once engaged in flank by automatic fire and the survivors routed by the Sikh riflemen. The civilian staff was then evacuated from the Belgian Legation and the position, which was a key one in the defensive system, was garrisoned by a detachment of Sikhs.

Some fighting took place during the night, and during the following morning (May 5th) it became necessary to rescue more occupants of the United States Legation. The British-Indians who had elected to defend the Mohamed Ali premises were still holding out well.

In the early afternoon the crisis passed with the arrival of the first Italian troops, a process which continued throughout the evening and night. Attacks by rioters were made on the United States and Belgian Legations during the night, the former being relieved by Italian troops. By the morning of the 6th partial control of the population had been re-established and refugees at the Legation began to return to the city. Practically all refugee areas were cleared by dark. Our troops suffered no casualties.

There is no question that, but for the presence at the British Legation of Major Charter and his company of Sikhs, who not only protected what became the rallying point for nearly all refugees but also served as a central reserve for the relief of other Legations, Missions and civilian establishments generally, the loss of life among foreigners, which was practically negligible, might have been much greater. In fact, the situation might have resulted in a general massacre. As matters turned out, the only known fatality among British and Indian subjects was that of Doctor Melly.

3. *Conditions at Addis Ababa.*—As has been pointed out above, the decision to reinforce the Legation Guard at Addis Ababa was taken suddenly and the despatch of the troops followed very shortly afterwards.

The available accommodation in the Legation grounds was naturally inadequate and, to begin with, a proportion of the troops had to live in tents under heavy rain and in thick mud. With the onset of winter, however, the weather improved and this, combined with excellent rations and the taking of adequate medical precautions enabled the Commandant to report on December 9th that no case of serious illness had occurred since the arrival of the detachment. Games were organized from the start, and though the surface of the ground did not allow the construction of a hockey field, football, rounders and other games were played regularly.

The Commanding Officer of the Regiment, reporting early in March after a visit of inspection to Addis Ababa, found the health and morale of the detachment excellent and stated that the only admissions to hospital had been cases of minor injuries received in playing games.

During the winter, sanction for the construction of barracks for the accommodation of the whole detachment was received and the new barracks were completed and to grant "town leave" to small parties in plain clothes at intervals, but this was only taken advantage of to a limited extent. Free postage to India for Indian officers died in hospital, but the general health of the troops at that date was still excellent. At the beginning of July the big rains arrived in full force but thanks to the provision of waterproof capes, bi-weekly rum issues and plentiful charcoal for heating purposes, conditions of life have remained quite tolerable. Throughout, the morale of the troops has been of the highest and neither the uncertainties of the situation, nor the monotony of long hours of hard work in a constricted area, nor the torrential rain appear to have sapped their vitality or diminished their cheerfulness.

4. *The Future.*—Although Italian troops have for some three months been in occupation of Addis Ababa and its communications with the Red Sea and Italian Somaliland, the situation in Abyssinia is not yet stabilized. The Legation Guard is, therefore, to remain in Addis Ababa for the present, to safeguard the lives and interests of British and British-Indian subjects in the capital.

Mr. S. Satyamurti : Are there any Indian soldiers yet in Addis Ababa ?

Mr. G. R. F. Tottenham : Yes, if the Honourable Member will read the Press Communiqué, he will find that that is so.

Mr. S. Satyamurti : Have all the men been withdrawn ?

Mr. G. R. F. Tottenham : They are still in Addis Ababa.

OPINIONS ON THE REPORT OF SIR OTTO NEIMEYER.

213. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they are aware of the public opinion and the opinions of the Local Governments on Sir Otto Neimeyer's Report ;
- (b) whether all Local Governments have protested against the Report ; and
- (c) whether they have accepted the recommendations of the Report ?

The Honourable Sir James Grigg : I would refer the Honourable Member to the answers which I have already given on this subject during the current Session.

ARTICLE ENTITLED "MADRAS AND NEIMEYER REPORT" REGARDING BORROWING ARRANGEMENTS OF PROVINCES.

214. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Madras and Neimeyer Report" ; and
- (b) whether they propose to devise methods of borrowing programmes on the lines suggested in the article ?

The Honourable Sir James Grigg : The question of the borrowing arrangements of Provinces in future is under consideration.

Mr. S. Satyamurti : Will Government issue a communiqué, or otherwise make their intentions clear at a suitable time ?

The Honourable Sir James Grigg : I will certainly consider that. This was one of the suggestions which was under consideration at the meeting which we had a short time ago with provincial financial representatives. I cannot give a promise to make public the results of those deliberations, but I will certainly consider whether we cannot clarify the position for the future in due course.

Mr. S. Satyamurti : May I know whether the Reserve Bank is really going to be a kind of adviser, or is going to be used in a consultative capacity, with regard to the borrowing programmes of Provincial Governments ?

The Honourable Sir James Grigg : I think I can put it shortly in this way. In future, the Reserve Bank will be the interpreter to Provincial Governments of the conditions of the money market and the means of giving to the money market information as to the financial position of any prospective borrower, including for that purpose the Provincial Governments.

Mr. S. Satyamurti : May I take it that the Reserve Bank will also be required to regulate the borrowing programmes of various Provincial Governments or other public bodies, so as not to upset the money market, and so as not to increase the rates of interest unnecessarily ?

The Honourable Sir James Grigg : If you mean co-ordinating it in the way the Bank of England does in London, arranging public issues so that they do not clash and so that each prospective borrower gets the best terms consistently with his credit, yes, certainly.

Mr. Ram Narayan Singh : Are the Government aware that there is great resentment and discontent against this report among all classes of people in Bihar ?

The Honourable Sir James Grigg : The Honourable Member's supplementary question would have arisen on the immediately preceding question. It does not arise out of this.

Mr. S. Satyamurti : May I know if the Reserve Bank came into the picture at all, when the United Provinces Government is raising a loan at 3 per cent., whereas I believe the Honourable the Finance Member's Government raised at two per cent. ?

The Honourable Sir James Grigg : The Reserve Bank, and, incidentally I may say, the Government were fully consulted in this matter.

Mr. S. Satyamurti : Do the Government of India take it that the credit of the United Provinces Government is less by a $\frac{1}{4}$ per cent. than that of the Government of India ?

The Honourable Sir James Grigg : I should have thought that that was not an exaggerated estimate of the position.

ATTITUDE OF THE GOVERNMENT OF THE UNION OF SOUTH AFRICA WITH REGARD TO THE ISSUE OF LICENCES TO INDIANS.

215. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the attitude of the Union Government of South Africa with regard to the issue of licences to Indians ;

(b) whether they will take it up with the South African Government ; and

(c) if not, why not ?

Sir Girja Shankar Bajpai : (a), (b) and (c). The attention of the Honourable Member is invited to the reply given by me to Mr. Ananthasayanam Ayyangar's question No. 91 on the 3rd of this month.

Mr. S. Satyamurti : Has this matter been under correspondence between the Government of India and the Union Government ?

Sir Girja Shankar Bajpai : The main lines on which this question was to be explored were settled several years ago. The position is that the Union Government have appointed a committee to go into the question of the underlying principles of the licensing laws, and the matter is being watched by our Agent.

Mr. S. Satyamurti : Have the Government of India instructed the Agent to make representations to this Committee, which has been appointed to examine this whole question ?

Sir Girja Shankar Bajpai : I have no doubt the Agent in South Africa will assist the Indian community in putting forward its point of view before the Committee.

COLLECTION AND UTILISATION OF PUBLIC SUBSCRIPTIONS.

216. ***Mr. Sri Prakasa :** (a) Are Government aware that public subscriptions sponsored by local officials or under the patronage of high officials are collected through police, magisterial or income-tax officers, and that the system has led to much abuse in the way of harassing of individuals ?

(b) Are Government prepared to issue instructions that such officers are not appointed to collect public subscriptions ?

(c) Why is it that the assistance of judicial officers is never utilised for such purposes ?

(d) Are Government aware that there is a widespread feeling that such subscriptions are not properly utilised and their final accounts never published ?

The Honourable Sir Henry Craik : (a), (c) and (d). Government are not aware that the facts are as stated.

(b) I would invite the attention of the Honourable Member to the reply given by me on the 24th March, 1936, to question No. 1428 asked by Mr. Satyamurti.

Mr. Sri Prakasa : Is it not a fact that, for the King's Silver Jubilee, Magistrates were asked to collect subscriptions, and sometimes figures up to Rs. 25,000 were fixed, and that they called meetings of local traders and merchants and put down figures against the names of each which they were thus forced to subscribe ?

Mr. K. Ahmed : What is the harm ?

An Honourable Member : King Cole !

The Honourable Sir Henry Craik : I have no information to that effect.

Mr. T. S. Avinashilingam Chettiar : Is it not a fact that some volunteers went out on cycles daily and collected subscriptions for Lady Willingdon ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise.

Mr. Sri Prakasa : Will the Honourable the Home Member just look behind and ask the District Magistrates who are sitting there whether this is a fact or not ?

The Honourable Sir Henry Craik : The District Magistrate sitting behind me informs me that he never got 25,000 from merchants.

Mr. Sri Prakasa : Go further back.

Mr. S. K. Das-Gupta : So far as my district is concerned, I can assure any friend that it is not true.

Mr. N. V. Gadgil : Is it not a fact that, in the districts of West Khandesh and East Khandesh, compulsory subscriptions were levied from many villages in order to buy stud bulls ?

The Honourable Sir Henry Craik : The answer is "No".

Mr. Ram Narayan Singh : Is it not a fact that subscriptions for the King George Memorial Fund are being collected in the mofussil ?

The Honourable Sir Henry Craik : I believe that is so.

Mr. N. V. Gadgil : Is it a fact that in Chalisgaon, in the district of East Khandesh, a certain dramatic performance was organised by the District Magistrate and people were forced to buy tickets, and part of the proceeds went to the buying of stud bulls.

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise.

Mr. S. Satyamurti : Will Government inquire into the allegation contained in part (a) of the question ? Some of us can positively say that this is being done every day.

The Honourable Sir Henry Craik : This is a matter for the Local Governments.

Mr. S. Satyamurti : Will Government make inquiries of all-India officers who are serving under Local Governments, and find out whether subscriptions are being collected by them by the exercise of undue influence and coercion ?

Mr. T. S. Avinashilingam Chettiar : Will the Honourable Member make inquiries so far as the Centrally administered areas are concerned ?

The Honourable Sir Henry Craik : If the Honourable Member will refer to the previous answer I gave on the 24th March, he will observe that it says that the Government Servants' Conduct Rules contain rules which restrict the freedom of officers. I invite attention to Rule 4 (2) (c) which enables Local Governments to issue general or special orders, and I have no doubt that they have done so.

Mr. S. Satyamurti : Is the Honourable Member aware that these rules are disobeyed every day ? Will he make inquiries ?

The Honourable Sir Henry Craik : I do not see any special necessity to make inquiries. The matter is entirely within the discretion of Local Governments.

ABOLITION OF THE USE OF THE WORD "COOLIE" FOR PORTERS AT RAILWAY STATIONS.

217. ***Mr. Sri Prakasa :** (a) Is it a fact that the word 'Native' was used for Indians and 'Eurasian' for Anglo-Indians in the old days on the Railways ?

(b) If so, when and why were these terms abolished ?

(c) Was the Oxford or any other dictionary consulted to find out their exact meanings, and were the words found objectionable ?

(d) Do Government propose to consider the desirability of abolishing the use of the word 'Coolie' for porters at railway stations ?

(e) Are Government aware that English people object to the use of the word 'Coolie' for English porters ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) So far as can be readily ascertained instructions were issued to the State-managed Railways in 1911 directing them to substitute the word "Indian" for "Native". The substitution of the words "Anglo-Indians" for "Eurasian" was permitted in the census statistics of the same year. The substitution of these terms seems to have been due to a desire to fall in with modern practice.

(c) and (d). I would invite the Honourable Member's attention to Mr. P. R. Rau's reply to his question No. 536, asked on the floor of this House on the 25th February, 1935.

(e) Government have no information.

Mr. Sri Prakasa : Did not Mr. Rau reply to the effect that the Oxford Dictionary permits the use of the word ? That is why I am asking whether the Oxford Dictionary was consulted in the case of other terms also ?

The Honourable Sir Muhammad Zafrullah Khan : I note the explanation given by the Honourable Member.

Mr. Sri Prakasa : Sir, one more supplementary. I just want to know what objection Government have to abolishing this undesirable word ?

The Honourable Sir Muhammad Zafrullah Khan : How can Government abolish it ? Passengers start shouting out "Coolie, coolie" the moment a train stops at a station. How can Government abolish the use of the word by passengers ?

Mr. Sri Prakasa : By not writing the word "Coolie", but by writing the word "porter" on the badges of these men. That is all.

The Honourable Sir Muhammad Zafrullah Khan : Most porters, I have noticed, have the word "porter" on the number plate.

Mr. Sri Prakasa : I think everywhere the word used is "Coolie".

ASSESSMENT OF INCOME-TAX FROM INCOME-TAX OFFICERS.

218. ***Mr. Sri Prakasa :** (a) To what authorities do Income-tax Officers return their own incomes for purposes of assessment of income-tax ?

(b) Are income-tax officers required to show their private accounts also ?

(c) Are Government satisfied to deduct income-tax from the salaries paid by themselves to their servants, or do they also investigate into the income of Government servants from other sources ?

Mr. A. H. Lloyd : (a) The Income-tax Officers submit returns of their income to the Income-tax Officer having jurisdiction. In almost all cases the latter is a different officer from the one who submits the return.

(b) Yes, where there is reason to think this necessary.

(c) The income of Government servants from sources other than salary is investigated in the same way as in the case of other assesseees.

Mr. Sri Prakasa : Is the Honourable Member aware that a District Magistrate in the United Provinces did not pay the income-tax due from him on income besides his salary for about fifteen years, and, when he retired from service, he was caught and fined a thousand rupees ? And, in view of that fact, will he see to it that other District Magistrates do return their incomes properly ?

Mr. A. H. Lloyd : May I ask whether it is in order to ask as a supplementary question one of which notice has been given and which has been disallowed by you, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : That certainly cannot be put.

RESERVATION OF SOME COMPARTMENTS FOR MEN ONLY ON RAILWAYS.

219. ***Mr. Sri Prakasa :** Is it a fact that women are allowed to travel in the general compartments on railway trains, even when compartments reserved for women are empty, and are Government aware that much inconvenience is caused to men passengers ? Do Government propose to consider the desirability of reserving some compartments for men only, or prescribing some specifically, in which both men and women can travel ?

The Honourable Sir Muhammad Zafrullah Khan : The possibility of taking action to mitigate the inconvenience referred to was considered by the Indian Railway Conference Association at the instance of the Railway Board about three years ago, but it was not felt that action could be taken on the lines indicated by the Honourable Member. The inconvenience arises generally in the case of second class compartments, the number of which on most trains is not sufficient to permit of reservations in the manner suggested.

PERSONS CONVICTED IN CONNECTION WITH THE RAID ON THE BENDA VILLAGE.

220. ***Mr. Sri Prakasa :** (a) What are the names of the gentlemen who were convicted in connection with the raid on the Benda village and the amount of punishment awarded to each ?

(b) Have they been classified as higher class prisoners ? If so, what class has been given to each ? Will Government state the exact reason for the classification of each prisoner ?

(c) Do they receive any salary from Government at present ? If not, shall they be entitled to any pension on their release ?

The Honourable Sir Henry Craik : (a) It is not in the public interest to give the names. The sentences ranged from eighteen months to seven years rigorous imprisonment.

(b) They have been classified as B class. I presume that in giving the classification the Local Government and the convicting Court followed the principles stated in the Home Department Communiqué of the 19th February, 1930.

(c) No.

Mr. Sri Prakasa : May I ask where they were kept in the summer, and, if they were kept in the plains, were they supplied with *punkhas* ? And, if so supplied, who pulled the *punkhas* ? Whether it was their fellow-prisoners who pulled the *punkhas* or persons from outside ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise out of this question.

Pandit Lakshmi Kanta Maitra : In view of the fact that these gentlemen were convicted of heinous offences, do Government approve of their classification in class B ?

The Honourable Sir Henry Craik : The nature of the offence is not one of the elements in deciding classifications under class B,—with of course certain exceptions.

Pandit Lakshmi Kanta Maitra : Is not the class of the offence a factor in considering the matter of classification ?

The Honourable Sir Henry Craik : The nature of the offence only enters into the question of classification for Class A. I do not think the nature of the offence enters into the classification for class B, except that habituals cannot be classed in class B.

Pandit Sri Krishna Dutta Paliwal : Do Government intend to send them to the Home Member's "paradise" ?

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

PRACTISING OF RIFLE SHOOTING WITH AN AIR-GUN BY THE VOLUNTEERS OF THE HINDUSTANI SEVA DAL.

221. ***Mr. Sri Prakasa :** (a) In view of the Honourable the Home Member's statement that volunteers of the Hindustani Seva Dal were found practising rifle shooting with an air-gun, will Government state at what place and time was such practice discovered ?

(b) Was the air-gun recovered and any action taken against the person practising it under the Arms Act ?

(c) If not, what action was taken against the official who discovered such practice and did not take any step to recover the air-gun or arrest the volunteer concerned ?

(d) Was the possession of an air-gun an offence under the Arms Act at that place and at that time?

(e) Is this the sole reason why the Hindustani Seva Dal still continues to be an unlawful association in some provinces?

The Honourable Sir Henry Craik : (a) Volunteers of the Hindustani Seva Dal were found practising rifle drill with air-guns at Benares in 1931.

(b) No.

(c) None.

(d) No.

(e) No.

Mr. Sri Prakasa : When such a dangerous practice was discovered, why were they not promptly arrested and prosecuted?

Mr. President (The Honourable Sir Abdur Rahim) : When was that?

An Honourable Member : In 1931.

Mr. Sri Prakasa : Sir, the year really does not matter.

The Honourable Sir Henry Craik : Will the Honourable Member kindly repeat his question?

Mr. Sri Prakasa : I was asking : when such a dangerous practice was discovered, why were not the guilty persons immediately arrested and prosecuted?

The Honourable Sir Henry Craik : I cannot say that they were committing any offence.

Mr. Sri Prakasa : Does not the Honourable Member regard practising of rifle-shooting an offence? If he does not, why was the whole institution barred on that account?

The Honourable Sir Henry Craik : I have already explained that there was no question of rifle-shooting. The air-guns were used for practice in drill and aiming. So far as I know, that is not an offence.

LEAVE GRANTED TO THE GOVERNORS OF MADRAS AND THE CENTRAL PROVINCES.

222. ***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that His Excellency Lord Erskine, the Governor of Madras was granted leave to proceed to England, and the Governor of the Central Provinces also was granted leave?

(b) Why was the Governor of Madras given leave so soon after his appointment?

(c) What is the amount of loss incurred by the Local Government by granting leave?

The Honourable Sir Henry Craik : (a) Yes.

(b) The leave was given for urgent reasons of health and private affairs.

(c) During his leave Lord Erskine will draw leave allowance at the rate of Rs. 4,000 a month.

Mr. S. Satyamurti : Sir, have Governors got to submit any medical certificate, when they get leave on grounds of ill health?

The Honourable Sir Henry Craik : I must have notice of that.

FIVE-YEAR PROGRAMME OF BROADCASTING.

223. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has a five-year plan for the development of broadcasting in India been settled by Government?

(b) What is the probable cost of such a scheme? What is recurring cost per year?

(c) Have Government considered any similar plan to improve the economic condition of the country, its trade and industry and for the relief of unemployment? If so, what are the details of such a programme?

(d) If not, what is the urgent necessity to take up the question of broadcasting in preference to others?

(e) Is any portion of the amount set apart for the five-year plan proposed to be set apart for the manufacture of the broadcasting machinery and receiving sets in India? If not, why not?

(f) Wherefrom are the broadcasting apparatus and the receiving sets to be purchased?

The Honourable Sir Frank Noyce : (a) and (b). No five-year plan has been settled but a sum of Rs. 40 lakhs has been set aside as a fund for the development of broadcasting. The recurring cost will depend on the scheme on which the Rs. 40 lakhs is spent.

(c) This is not a subject which can be adequately dealt with in reply to a question. The Honourable the Finance and Commerce Members have dealt with it fully on more than one occasion in the course of the debates in this House.

(d) Broadcasting is a valuable social service which it is in the interests of the country to develop. It is also likely to be at least self-supporting.

(e) None of the 40 lakhs has been set aside for this purpose, but a research organisation has been established under the Controller of Broadcasting and it will investigate problems connected with the best type of receiving set for India and encourage manufacturers here to produce them.

(f) As I have previously stated, apparatus purchased for Broadcasting Stations will be bought after calling for tenders. Receiving sets will in general be bought by the public in the open market.

Mr. M. Ananthasayanam Ayyangar : Sir, is a five-year plan in contemplation?

The Honourable Sir Frank Noyce : I have already answered that question. I said that "no five-year plan has been settled but a sum of Rs. 40 lakhs has been set aside as a fund for the development of broadcasting".

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Mr. Ram Narayan Singh : May I know whether all this apparatus will be purchased from outside or made in this country ?

The Honourable Sir Frank Noyce : That depends. The ordinary rules will be followed. If satisfactory apparatus is made in this country—which is not the case at present—it will be purchased in this country. If it is not available here, it will have to be bought from outside.

Mr. Ram Narayan Singh : What is the difficulty of making all possible arrangements so that all the apparatus may be prepared in this country ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise.

The Honourable Sir Frank Noyce : How can Government make arrangements ?

Mr. M. Ananthasayanam Ayyangar : Is there any programme for spending the sum of Rs. 40 lakhs ? What is the programme that is likely to be evolved ?

The Honourable Sir Frank Noyce : As I explained the other day, proposals for the expenditure of the Rs. 40 lakhs will shortly be placed before the Standing Finance Committee.

Mr. M. Ananthasayanam Ayyangar : What will be the cost of the investigation that has been started ?

The Honourable Sir Frank Noyce : I would ask my Honourable friend to wait until the detailed scheme is placed before the Standing Finance Committee when he will get the fullest information in reply to the questions he is now putting.

Mr. M. Ananthasayanam Ayyangar : As regards the apparatus, may I know if the tenders will be invited not only from the United Kingdom but from other countries as well which manufacture the receiving apparatus ?

The Honourable Sir Frank Noyce : The ordinary rules will be followed.

Mr. M. Ananthasayanam Ayyangar : What are the ordinary rules ?

The Honourable Sir Frank Noyce : I should require notice of that question.

Mr. M. Ananthasayanam Ayyangar : If this broadcasting programme should be extended from Cape Camorin to the Himalayas, what will be the total cost of the apparatus that might be intended for this country ?

The Honourable Sir Frank Noyce : I submit that that is a hypothetical question.

Mr. M. Ananthasayanam Ayyangar : May I know how much has been spent so far ?

The Honourable Sir Frank Noyce : I should require notice of this question.

Pandit Lakshmi Kanta Maitra : May I know whether beyond imposing an *ad valorem* duty of 50 per cent. on all foreign imports of radio sets and appliances Government have so far done anything for the manufacture of indigenous sets in this country ?

The Honourable Sir Frank Noyce : I am not in a position to add anything to the reply that I have already given, namely, that a research organisation has been established under the Controller of Broadcasting and it will investigate problems connected with the best type of receiving set for India and encourage manufacturers here to produce them.

Mr. M. Ananthasayanam Ayyangar : Would Government consider the desirability of giving any subsidy for such an infant industry if it should be started in this country ?

The Honourable Sir Frank Noyce : I submit that that question does not arise. In any case, the answer is in the negative.

RAISING OF THE RUPEE LOAN OF 1948-52.

224. ***Mr. M. Ananthasayanam Ayyangar :** (a) Why was the new Rupee loan of 1948-52 raised ?

(b) Why was not the same provided for in the budget of 1936-37 ?

(c) Is not the raising of the loan contrary to the statement of the Honourable the Finance Member in his budget speech this year, and what is the change in the circumstances which necessitated the loan and why were these not satisfied ?

(d) Are Government contemplating raising any further loans this year ?

The Honourable Sir James Grigg : (a), (b) and (c). I would invite the attention of the Honourable Member to the following sentence in my Budget speech on the borrowing programme :

“ However, that depends on conditions later in the year and not being a prophet I can only express hopes.”

(d) I am not prepared to make any statement.

Mr. M. Ananthasayanam Ayyangar : Why is it that in the Budget this loan was not referred to at all ?

The Honourable Sir James Grigg : Because, like most sensible people, I adapt myself to changing circumstances.

Mr. M. Ananthasayanam Ayyangar : How did the Honourable Member expect to do away with the raising of the loan, and how did he expect to get along without raising a loan ?

The Honourable Sir James Grigg : I am sorry I cannot understand that question.

Mr. M. Ananthasayanam Ayyangar : Was it not contemplated or intended by the Honourable Member that a loan will be necessary during the course of the year ?

The Honourable Sir James Grigg : I said that any expression of opinion about a loan programme is provisional and must depend on the

changing circumstances during the course of the year. It is no good sitting or standing unmoved when the world is moving ahead of you.

Mr. M. Ananthasayanam Ayyangar : May I know how the circumstances have changed so soon after the Budget speech that it has been absolutely impossible for the Finance Member to get on without raising a loan ?

The Honourable Sir James Grigg : I never said it was absolutely impossible to get on without raising a loan. I said that circumstances have changed. It is not the question of impossibility, it is a question of expediency.

Mr. M. Ananthasayanam Ayyangar : What were the changed circumstances ? Sir, it is a point which I wish to bring to your notice.....

The Honourable Sir James Grigg : I cannot go through a description of everything which has occurred during the last four months.

Mr. M. Ananthasayanam Ayyangar : Last year you will remember, Sir, that in Budget itself a provision was made for raising a loan in this country but the raising of a loan in England was not contemplated. A supplementary demand was brought for the expenses that were incurred. We objected then that it ought not to be allowed as it could have been anticipated. This year no opportunity is given for its inclusion in the Budget. We may have.....

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : The Chair cannot allow a speech on a matter like this. The Honourable Member will have plenty of opportunities to raise that question.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

225. ***Sardar Sant Singh :** Will the Army Secretary please state if it is a fact that prior to 1930 Indian Overseers in the Military Grass Farm Department were divided into two classes, viz. :

“ A ”—“ Civilian ”, i.e., non-pensionable, and

“ B ”—“ Military ”, i.e., transferred from combatant Units on the unattached list on Form I. A. F. U.-1741 to whom special rules of pension applied,

and if so, give the total number of Class A and B respectively employed upto 1930 before the coming into force of the new scheme ?

Mr. G. R. F. Tottenham : Yes ; class A—54, class B—46.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

226. ***Sardar Sant Singh :** (a) Is it a fact that in 1930 the Indian Overseers in the Military Grass Farm Department were militarized and every one of them was given an option to say whether he wanted to be governed by the old rules or by the new rules ?

(b) If so, will Government be pleased to state the number of men who selected to be under the new rules and of those who selected to be under the old rules ?

(c) Is it a fact that the majority of the Indian Overseers who selected to be governed by the old rules were of the Military class, serving under the terms of the unattached list ?

Mr. G. R. F. Tottenham : (a) Yes, with the exception of ten who were retrenched.

(b) 76 elected the new rules, and 14 the old rules.

(c) Yes.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

227. ***Sardar Sant Singh :** (a) Is it a fact that the Indian Overseers in the Military Grass Farm Department, who were serving under the terms of the unattached list, selected to be governed by the old rules for the reason of protecting their pension, to which they would be entitled on completion of their service ?

(b) How long will an Indian Overseer serving under the new rules take to reach the rank of a Risaldar ?

(c) Are the I. O. designated “ civilians ” Senior to the I. O. serving under the unattached list having regard to the date of their employment in the department ?

Mr. G. R. F. Tottenham : (a) Government are not aware of the reasons which led the individuals to elect the old rules.

(b) Promotion is by selection and not by length of service in any particular rank.

(c) On the introduction of the militarisation scheme, all Indian overseers whether serving under old or new conditions were placed on one list, seniority being determined according to the length of service.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

228. ***Sardar Sant Singh :** Is it a fact that the following grades were in force among the Indian Overseers in the Military Grass Farm Department prior to the introduction of the new scheme :

No. of posts.	Pay.
6	150
6	125—3—140
10	100—3—115
12	80—2—90
22	60—2—70
44	50

and that by the new scheme the following grades were introduced :

Rank.	No. of posts.	Pay.
Risaldar Major	2	200
Risaldar	9	150
Jamadar	9	100
Dafadar Major	20	70
Dafadar	50	40—2—60

Mr. G. R. F. Tottenham : The reply to the first part is in the affirmative, but the number of posts in the last two grades was 21 and 45, respectively.

Under the new scheme the following grades were introduced :

Rank.	No. of posts.	Pay	
		Rank.	Departmental.
		Rs.	Rs.
Risaldar Major	2	160	40
Risaldar	9	104—8—128	26—2—32.
Jemadar	9	60—4—80	15—1—20.
Dafadar Major	20	23	37 <i>plus</i> extra duty pay Rs. 10.
Dafadar	50	23	17—2—37.

Mr. President (The Honourable Sir Abdur Rahim) : A question like this, which merely asks for certain figures ought to be unstarred.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

229. ***Sardar Sant Singh :** Is it not a fact that most of the unattached list Indian Overseers in the Military Grass Farm Department who selected to be governed by the new rules were those in the grade of Rs. 50 ?

Mr. G. R. F. Tottenham : Yes.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

230. ***Sardar Sant Singh :** (a) Is it a fact that only one list is now maintained of all the I. Os. for promotion ?

(b) Is it a fact that the I. Os. previously on the unattached list will get grade Rs. 60—2—70, when they will be due Dafadar-Major's rank ?

(c) Is it a fact that the I. Os. who have selected the New Rules are getting Rs. 60 though those under the old rules are getting Rs. 50 per mensem ?

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

(b) and (c). I would refer the Honourable Member to the reply I have just given to his question No. 228.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

231. ***Sardar Sant Singh :** Is it a fact that while under the old scheme the Indian Overseer in Military Grass Farm Department, 56th on the roll, was drawing Rs. 70 per mensem, under the new scheme 40th on the roll was allowed Rs. 70 per mensem and that the lowest pay drawn by any one of them was now Rs. 60 per mensem ?

Mr. G. R. F. Tottenham : 56th on the roll cannot draw Rs. 70 per mensem under the old conditions. Under the new conditions, 40th can. The lowest pay under new conditions is Rs. 50 and not Rs. 60 per mensem.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

232. ***Sardar Sant Singh :** Is it not a fact that prior to the new scheme the Indian Overseers in the Military Grass Farm Department serving under the unattached list were entitled to ration or ration money and to furlough leave with free Railway pass under the Military Rules, and the Civilian Indian Overseers were not entitled to these concessions, but under the new scheme the latter have been granted not only these concessions but also free quarters and clothing allowance ?

Mr. G. R. F. Tottenham : Yes.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

233. ***Sardar Sant Singh :** Are Government prepared to consider the case of the old Military Indian Overseers, serving under the old rules and keep them for purposes of promotion on a separate list and grant them promotions according to the old rules, so that the 56th man on the roll be given the grade of Rs. 60—2—70 and the 34th man the grade of Rs. 80—2—90 and so on, or to grant them pay according to the new rules as soon as any one of them is entitled to promotion ?

Mr. G. R. F. Tottenham : No.

INDIAN OVERSEERS IN THE MILITARY GRASS FARM DEPARTMENT.

234. ***Sardar Sant Singh :** Will Government please state :

- (i) how many of the Indian Overseers of the Military Grass Farm Department who selected to serve under the old rules, are still serving ; and
- (ii) how many of them have retired before completing their service or have been dismissed or discharged and after what period of service and why ?

Mr. G. R. F. Tottenham : (i) Seven.

(ii) Seven. Details are given below :

One with 22½ years' service was dismissed for being involved in certain defalcations. One with 16 years' service was discharged as his services were no longer required. Three were discharged to pension. They had 17—19 years' service. One died and one resigned.

CONDITIONS FOR TRAVELLING OF SERVANTS WITH THEIR MASTERS IN FIRST AND SECOND CLASS RAILWAY COMPARTMENTS.

235. ***Mr. Sri Prakasa :** (a) What are the conditions for servants for travelling with their masters in the first and second class compartments ?

(b) In the absence of any rules on the subject, are Government prepared to ask the Railway Administrations to frame specific rules to prevent any misunderstanding between fellow passengers or between a passenger and the railway official, on this score ?

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LEGISLATIVE ASSEMBLY.

[9TH SEPT. 1936.]

The Honourable Sir Muhammad Zafrullah Khan : (a) I would refer the Honourable Member to rules 83 and 84 on page 73 of the Indian Railway Conference Association's Coaching Tariff No. 10, a copy of which is in the Library of the House.

(b) Does not arise.

WAITING ROOM FOR INTERMEDIATE CLASS PASSENGERS AT THE BENARES CANTONMENT RAILWAY STATION.

236. ***Mr. Sri Prakasa :** With reference to the reply given to starred question No. 1617 on the 14th April, 1936, regarding the partition of a portion of the sweetmeat-vendors' shed at Benares Cantonment Station to provide for a waiting room for intermediate class passengers, or permitting them to use the Second Class Waiting Room in the interval, will Government state what answers, if any, they have received from the Agent of the East Indian Railway on the subject?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is referred to the reply given to starred question No. 1617, on the 14th April, 1936. As promised, a copy of the question was sent to the Agent, East Indian Railway. Such matters are within the competence of the Railway Administration and Government are satisfied that the East Indian Railway Administration will give due consideration to the suggestions made by the Honourable Member.

Mr. Sri Prakasa : In view of the fact that a common waiting room is now provided for first and second class lady passengers at the Benares Cantonment Railway Station, will the Honourable Member suggest to the Railway that a common first and second class waiting room may be provided for gentlemen also; and the room that will then be left vacant might be converted into an intermediate class waiting room, pending the construction of a separate room?

The Honourable Sir Muhammad Zafrullah Khan : I will send down the suggestion made by the Honourable Member to the Agent.

AVAILABILITY OF THE DUFFERIN BRIDGE NEAR BENARES FOR VEHICULAR TRAFFIC.

237. ***Mr. Sri Prakasa :** (a) Is it a fact that the Dufferin Bridge near the Kashi Station on the East Indian Railway is the only bridge available for vehicles to cross over the river Ganges during the rainy season when the pontoon bridge is dismantled, and are Government prepared to ask the Railway Administration to set aside an hour definitely both in the mornings and the evenings when the bridge shall be available for vehicular traffic, besides opening it between the passage of trains for the large traffic that goes over the bridge?

(b) Are Government aware that sometimes persons coming by motors from Calcutta, even though facilitated to cross the river Sone at the Sone East Bank, by expeditious supply of trucks, are held up helplessly for hours at the Dufferin Bridge near Benares?

The Honourable Sir Muhammad Zafrullah Khan : (a) There is no other bridge for a considerable distance, but Government would point out that the Dufferin Bridge was built mainly for railway purposes.

In view of the very heavy railway traffic, Government do not consider that any increase in the existing facilities for road traffic of the nature proposed is possible.

(b) The Honourable Member is referred to part (d) of the information placed on the table on the 5th March, 1935, in reply to starred question No. 5 asked by Dr. Ziauddin Ahmad on the 5th February, 1935.

Mr. Sri Prakasa : What is the difficulty in setting apart one hour definitely both in the mornings and the evenings when the bridge shall be made available for vehicular traffic during rainy season when the pontoon bridge is dismantled?

The Honourable Sir Muhammad Zafrullah Khan : I have pointed out the difficulty; that is heavy railway traffic.

NON-ACCEPTANCE OF CURRENCY NOTES WITH CRACKS BY THE CURRENCY OFFICES.

238. ***Mr. Sri Prakasa :** (a) Are Government aware that even if there are the slightest of cracks through the printed numbers on currency notes, the same are not accepted by Currency offices and that very often not more than half the amount is regarded as payable to the owners?

(b) If so, are Government prepared to relax the rules, if any, in this behalf, and if not, instruct the offices concerned to accept such notes at their full face value?

The Honourable Sir James Grigg : (a) and (b). The Reserve Bank makes full payment on a defective or mutilated note if it is satisfied that the pieces produced form part of the same note and that no claim can be based on any missing portion.

Mr. M. Ananthasayanam Ayyangar : Is it a fact that oiled notes are not received in any bank?

The Honourable Sir James Grigg : I want notice.

ATTACHMENT OF A THIRD CLASS BOGIE FOR SERVANTS TO THE EAST INDIAN RAILWAY PUNJAB MAIL.

239. ***Mr. Sri Prakasa :** Is it a fact that the East Indian Railway Punjab Mail carries no third class passengers and are Government aware that the amount of accommodation provided for servants of first class and second class passengers is insufficient in view of the large number of first and second class bogies attached to this train? If so, are Government prepared to consider the desirability of running an extra third class from Howrah to Saharanpur to provide for an overflow of servants of first and second class passengers, as is done between Madras and Calcutta in the combined mail trains of the Bengal Nagpur and the Madras and Southern Mahratta Railways?

The Honourable Sir Muhammad Zafrullah Khan : Third class passengers, other than servants of first and second class passengers, are not booked by the Punjab Mail. Government are informed that the servants' compartments of upper class carriages running on this train provide accommodation for 35 servants, and that this is considered

sufficient for traffic requirements. The reply to the latter part of the question is, therefore, in the negative.

Mr. N. M. Joshi : May I ask why third class passengers are not booked by the Punjab Mail ?

The Honourable Sir Muhammad Zafrullah Khan : Because there are alternative convenient services for third class passengers.

Mr. N. M. Joshi : May I ask whether the Honourable Member has enquired and found that the alternative services are not as fast as the Punjab Mail ?

The Honourable Sir Muhammad Zafrullah Khan : I have not enquired and found whether that is so, but I have no doubt that there are good alternative services.

Mr. N. M. Joshi : May I ask whether the Honourable Member will enquire into the facts of the case ?

The Honourable Sir Muhammad Zafrullah Khan : Facts of what case ?

Mr. N. M. Joshi : That the third class passengers have not got as fast a passenger service as first and second class passengers have.

The Honourable Sir Muhammad Zafrullah Khan : It is quite possible that they have not.

Mr. N. M. Joshi : If it is possible, may I ask the Government of India whether they will attach third class carriages to the Punjab Mail which is the fastest service between Calcutta and other places ?

The Honourable Sir Muhammad Zafrullah Khan : I will send down that suggestion to the Agent of the East Indian Railway.

Pandit Lakshmi Kanta Maitra : Particularly for long distance travel.

The Honourable Sir Muhammad Zafrullah Khan : Obviously the question refers to long distance travel.

Mr. Sri Prakasa : What is the amount of accommodation for first and second class passengers on this train ? Is it not also a fact that each first class passenger can take two servants and each second class passenger one servant with him ? Is the Honourable Member satisfied that accommodation for 35 servants is enough ?

The Honourable Sir Muhammad Zafrullah Khan : I have not got the exact figures. May I point out however that it is not a question of maximum accommodation, but a question of the average number of passengers of those classes travelling by that train.

Mr. Sri Prakasa : Has the Honourable Member assured himself that the accommodation provided is enough for the average number of servants of first and second class passengers that travel by that train ? I can say from personal experience that while coming up to Simla, I experienced a lot of difficulty in accommodating my servant in this train.

The Honourable Sir Muhammad Zafrullah Khan : I am assured by the administration that the accommodation is sufficient. Through what other means does the Honourable Member want me to assure myself ?

Mr. Sri Prakasa : I am the means. I got into a lot of trouble in finding room for my servants because there was no room in the servants' compartments and other servants would not allow my servants to go in.

Mr. K. Ahmed : Then buy an intermediate class ticket for your servants.

PERMISSION FOR A BREAK OF JOURNEY AT MIRZAPUR OR CHUNAR.

240. ***Mr. Sri Prakasa :** With reference to the reply given to starred question No. 1622 on the 14th April, 1936, will Government state what the Agent of the East Indian Railway has replied to the suggestion of permitting a break of journey for 24 hours at Mirzapur or Chunar, as is allowed at Bindhachal, for passengers between Benares and Allahabad ?

The Honourable Sir Muhammad Zafrullah Khan : The Agent, East Indian Railway, states that permission to break journey at Bindhachal was allowed in consideration of the fact that it is a famous place of Hindu pilgrimage, a consideration that does not apply to either Chunar or Mirzapur.

Mr. Sri Prakasa : Is it not a fact that Chunar is regarded as a sanitarium by people in Bengal, and that it is an important station on the line ?

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of that.

OPENING OF A PASSAGE DIRECT TO THE DHARMASHALA OUTSIDE THE ETAWAH RAILWAY STATION.

241. ***Mr. Sri Prakasa :** (a) With reference to the reply given to starred question No. 1623 on the 14th April, 1936, will Government state what the Railway Administration have replied as regards the date of acquiring of the land by the Railway outside the Etawah Railway Station and the purpose for which the same was required ?

(b) Are Government aware that the Government of the United Provinces pleaded with the Railway, after making local enquiries and consulting the convenience of passengers, that a gate should be left open in the wall that shuts out the frontage of the Dharmshala outside the Etawah Railway Station and that the Railway has declined to do so ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Honourable Member is referred to the information laid on the table of the House on the 31st August, 1936.

(b) It is understood that the United Provinces Government unofficially drew the attention of the Agent, East Indian Railway, to representations on the subject which they had received, but have taken no further action after hearing the other side of the case.

Mr. Sri Prakasa : Is it not a fact that the United Provinces Government asked me to negotiate with the Government of India after they had failed to induce the railway authorities to agree to their wishes ?

The Honourable Sir Muhammad Zafrullah Khan : Surely that is a matter within the knowledge of the Honourable Member himself.

Mr. Sri Prakasa : Is there anywhere in the universe a courtyard outside the railway premises over which the railway has proprietary rights as is the case at Etawah ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid my knowledge does not extend to the whole universe.

RULES ON THE EAST INDIAN RAILWAY *re* ALTERNATE ROUTES FOR THROUGH TRAVELLING AND BREAK OF JOURNEY.

242. ***Mr. Sri Prakasa :** With reference to the reply given to starred question No. 1624 (c) on the 14th April, 1936, are Government prepared to afford an opportunity to some members of the Assembly to examine a few Travelling Ticket Examiners selected at random on the rules pertaining to alternate routes and break of journey on the East Indian Railway and thus find out if all of them interpret these rules similarly ?

The Honourable Sir Muhammad Zafrullah Khan : No.

Mr. Sri Prakasa : Why not, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : There is no need, Sir.

Mr. Sri Prakasa : Is it not a fact that various ticket examiners interpret the same rules differently ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know whether that is a fact, but that is a possibility certainly.

Mr. Sri Prakasa : If it is a possibility, will not the Honourable Member then take steps to see that there is uniformity of interpretation of the rules in the interests of the passengers ?

The Honourable Sir Muhammad Zafrullah Khan : Everything is done to secure that there should be uniform interpretation. The Honourable Member is aware that with regard to perfectly clear matters, there is often a difference of opinion between reasonable men.

BOOKS FORFEITED UNDER A CERTAIN NOTIFICATION OF THE FINANCE DEPARTMENT.

243. ***Mr. Sri Prakasa :** (a) Will Government lay on the table a list of books forfeited under the Finance Department (Central Revenues) Notification No. 61, dated September 10, 1932 at the various ports of India ?

(b) Is it a fact that books are seized from publishers on suspicion that they are of the description specified in the said notification and kept on for months before being sent back ?

(c) What relief, if any, have such publishers been given in such cases ?

The Honourable Sir Henry Craik : (a) I am not prepared in the public interest to lay a list on the table.

(b) Books may be detained for examination under the provision of the law. When it is found that they are unobjectionable they are passed on with as little delay as the circumstances permit.

(c) No occasion has arisen to grant publishers relief.

Mr. Sri Prakasa : Is it in the public interest that the public should suffer ?

Mr. S. Satyamurti : What are the tests by which Government decide, whether certain books are objectionable or not ?

The Honourable Sir Henry Craik : It is difficult to state that in reply to a supplementary question, but I should say generally the decision is arrived at on a perusal of the book or on a perusal of a note as to its contents received from reliable sources.

Mr. S. Satyamurti : Are there any rules or conventions governing this matter ?

The Honourable Sir Henry Craik : There are notifications of Government.

Mr. S. Satyamurti : Who are the people to examine these books ?

The Honourable Sir Henry Craik : Officers of Government.

Mr. S. Satyamurti : Are they educated people ? Do they understand the contents of these books ?

The Honourable Sir Henry Craik : Yes, Sir.

Mr. Sri Prakasa : Are Government aware that a number of books belonging to the Theosophical Society, Madras, were detained for about eight months by the authorities under this notification ?

The Honourable Sir Henry Craik : My Department has had some correspondence with the Honourable Member on the subject.

Mr. Sri Prakasa : That is why this question has come. I never knew of the existence of the notification till then.

The Honourable Sir Henry Craik : There was a certain amount of delay, but I do not think it was as long as eight months. I think it was about four months.

Prof. N. G. Ranga : Are books proscribed on the basis of the colour of the outer cover of the books ?

The Honourable Sir Henry Craik : No, Sir.

Mr. M. Ananthasayanam Ayyangar : May I know under what law or statute was the notification issued by the Finance Department ?

The Honourable Sir Henry Craik : Under the Sea Customs Act : the particular case referred to in the question.

Mr. Mohan Lal Saksena : What is the total number of books detained in this way ?

The Honourable Sir Henry Craik : I want notice.

Mr. Sri Prakasa : Why is the Honourable the Home Member replying to this question when it refers to the Finance Department ?

Mr. N. V. Gadgil : The two are hand in glove.

The Honourable Sir Henry Craik : By arrangement with the Finance Department, I have answered this question.

BAN ON PREM MAHA VIDYALAYA OF BRINDABAN.

244. *Mr. Sri Prakasa : (a) Is it a fact that the Prem Maha Vidyalaya of Brindaban is still an unlawful association ?

(b) If so, what are the circumstances because of which this institution is not being released ?

The Honourable Sir Henry Craik : (a) Yes.

(b) The matter is one for the decision of the Local Government but I understand that the question of the removal of the ban will be considered by the Local Government after the disposal of the civil suit now pending in regard to the proper management of this institution.

Pandit Lakshmi Kanta Maitra : Since the ban was imposed on this institution for the first time, did Government ever enquire into the case subsequent to that, as to whether the ban should be removed or not ?

The Honourable Sir Henry Craik : That is being considered from time to time by the Local Government.

Mr. Sri Prakasa : Cannot the civil suit go on after releasing the institution from the political ban ? What have the two got to do with each other ?

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

INADEQUATE GUMMING ON THE FLAPS OF EMBOSSED ENVELOPES.

245. *Mr. Sri Prakasa : (a) Are Government aware that the gumming on the flaps of embossed envelopes sold by the post offices is very inadequate and prevents the flap being properly fastened ?

(b) Are Government prepared to issue instructions that the defect be remedied at an early date ?

The Honourable Sir Frank Noyce : (a) and (b). The flaps of embossed envelopes sold by the Post Office are adequately gummed with the best gum arabic. Complaints of inadequate gumming are occasionally received. The gum on the flaps of envelopes which have been in stock for a considerable period is liable to deterioration which is also caused by climatic action. Instructions have already been issued to the staff of the department not to sell to the public postal stamps and stationery if the gum on them is found to have perished or to have become defective.

Mr. S. Satyamurti : Will Government issue instructions to use good gum, when our letters are opened by the censor and then pasted, so that when we open them, the contents may not be torn ?

The Honourable Sir Frank Noyce : That possibility will be examined.

GOVERNMENT SERVANTS EXEMPTED FROM THE NECESSITY OF PURCHASING PLATFORM TICKETS.

246. *Mr. Sri Prakasa : (a) Is there any class of Government servants which is exempted from the necessity of purchasing platform tickets at stations where there is a rule to purchase them before going to the platform ?

(b) Are members of the Government of India required to purchase these tickets, and do they always purchase them ?

The Honourable Sir Muhammad Zafrullah Khan : (a) On certain of the principal railways, viz., the Bombay, Baroda and Central India, Burma, East Indian, Great Indian Peninsula and North Western, officers or non-commissioned officers provided with instructions for the reception or despatch of a party of military personnel by rail are allowed on the station platform without purchasing platform tickets.

(b) The reply to the first part is in the affirmative. Government have no information as regards the second part.

RAILWAY SALOONS SUPPLIED TO THE MEMBERS OF THE GOVERNMENT OF INDIA.

247. *Mr. Sri Prakasa : (a) What is the cost of the railway saloon supplied to a Member of the Government of India ?

(b) How many tickets and of what classes have to be paid for the use of the saloon ?

(c) What is the amount of luggage allowed to be carried free on these saloons ?

(d) How much ice is allowed to be carried free in the saloon to keep a Member cool in the summer ?

(e) Is there ever a check of luggage and tickets of persons travelling in these saloons ?

(f) What persons other than himself can a Member take with him in the saloon without extra payment of fares ?

(g) Can friends of Members travel in the saloons and if so, what class of tickets, if any, have these to purchase ?

(h) Can Members use these saloons even when they are travelling on private work ? If so, do Government or they themselves pay when so travelling ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Rs. 90,000 approximate.

(b) A haulage charge of twelve annas per mile is paid to Railways when the saloon is occupied by a Member of the Executive Council.

(c) and (d). The haulage charge covers all personal luggage.

(e) Yes.

(f) Only servants.

(g) Yes, on a first class ticket.

(h) Members are entitled to use these saloons so long as they are on duty as Members.

Mr. S. Satyamurti : Even if they travel to meet their sons, or daughters, or wives ?

Mr. Sri Prakasa : Are they supposed to be on duty all the time ?

The Honourable Sir Muhammad Zafrullah Khan : Members are on duty all the time except when they are on leave.

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(d) How much ice is allowed to be carried free in the saloon to keep a Member cool in the summer ?

(e) Is there ever a check of luggage and tickets of persons travelling in these saloons ?

(f) What persons other than himself can a Member take with him in the saloon without extra payment of fares ?

(g) Can friends of Members travel in the saloons and if so, what class of tickets, if any, have these to purchase ?

(h) Can Members use these saloons even when they are travelling on private work ? If so, do Government or they themselves pay when so travelling ?

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(c) and (d). The haulage charge covers all personal luggage.

(e) Yes.

(f) Only servants.

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Mr. S. Satyamurti : Even if they travel to meet their sons, or daughters, or wives ?

Mr. Sri Prakasa : Are they supposed to be on duty all the time ?

The Honourable Sir Muhammad Zafrullah Khan : Members are on duty all the time except when they are on leave.

DEATH OF ONE ZAMIR AHMAD BY A TRAIN AT THE DEVI NAGAR CROSSING NEAR
CHANGIGARH RAILWAY STATION.

248. *Syed Ghulam Bhik Nairang : Will the Honourable the Commerce Member please state (after making inquiry, if necessary) :

- whether he is aware that one Zamir Ahmad, driving a bullock cart, was killed on the night of the 29th March, 1936, or thereabout, at the Devi Nagar level crossing near Changigarh Railway Station, by a Railway train, which also smashed his bullock cart to pieces and killed his bullocks as well ;
- whether it is a fact that the gate at the level crossing mentioned in part (a) was left open by the gate-keeper at the time of the approaching of the train ;
- whether he is aware that just near the level crossing there is a curve which prevented the said Zamir Ahmad from seeing the train approaching ;
- whether it is a fact that the gate-keeper was asleep at the time of the approaching of the train mentioned in part (a) ;
- whether he is aware that Zamir Ahmad had eight dependents who are left without any means of support ;
- if the answers to parts (b), (c), (d) and (e) be in the affirmative, what action Government intend to take in the matter ; and
- if the answer to part (e) be in the affirmative, what compensation, if any, Government intend to make to the dependents of the deceased ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). Yes.

(c) There is a curve, but had the cartman been on the alert he could have seen the headlight on the engine of the approaching train.

(d) At the official enquiry held in this case no evidence was produced to support this allegation.

(e) No. The Administration have not received any communication from any dependent or relative of the deceased cartman.

(f) The gateman is being prosecuted, and action is being taken to provide a semaphore signal interlocked with the gates and fitted with a warning bell worked electrically from a treadle $1\frac{1}{4}$ mile from the signal.

(g) The matter is one for consideration by the Administration if and when a claim for compensation is received from those entitled to it.

BATTALIONS OF THE ASSAM RIFLES.

249. *Mr. Kuladhar Chaliha : Will Government please state :

- the number of battalions of the Assam Rifles and their names and strength ;
- the number of commissioned and non-commissioned officers ;
- the number of Indian officers commissioned and non-commissioned ;

(d) the number of European, Assamese and Gurkha officers ; and

(e) the number of soldiers in each battalion (i) Assamese and (ii) Gurkhas ?

The Honourable Sir Henry Craik : I lay a statement on the table giving the information asked for.

Statement regarding the strength of the Assam Rifles.

(a) The number of Battalions of the Assam Rifles is four ; their names and strengths are given below :

Strengths (British Officers, Indian Officers and other Ranks).

		Sanctioned strength.	Temporary reduced strength.		
1st (Lushai Hills) Battn.	..	616	Not reduced	} Excluding supernumeraries and recruit boys who are entertained at 3% and 2% respectively over the sanctioned strength.	
2nd (Lakhimpur) ..	..	1,229	Not reduced		
3rd (Naga Hills) ..	..	820	704		
4th Battalion, Imphal	..	820	704		
(b), (c) and (d).—The number of officers is as follows :					
				Temporary reduced sanctioned strength.	Actual.
Commissioned Officers	} ..	Europeans	.. ..	18	17
		Assamese	.. ..	63	9
		Gurkhas	.. ..		51
		Others	.. ..		3
			Total	..	81	80
Non-Commissioned Officers	} ..	Europeans	.. ..	Nil	Nil
		Assamese	.. ..	324	42
		Gurkhas	.. ..		243
		Others	.. ..		30
			Total	..	324	315

(e) The number of Riflemen in each Battalion is as under :

		Assamese.	Gurkhas.
1st Battalion	.. .. .	11	525 (actual).
2nd ..	.. .. .	197	1,013 ..
3rd ..	.. .. .	192	475 ..
4th ..	.. .. .	33	454 ..

The balance is made up in the 1st Battalion by Lushais ; in the 3rd Battalion by Nagas or Kukis and in the 4th Battalion by Kukis.

[9TH SEPT. 1936.]

RECRUITMENT OF ASSAMESE IN THE ASSAM RIFLES.

250. *Mr. Kuladhar Chaliha : Will Government please state :

- (a) whether according to the Assam Rifles Manual, 50 per cent. non-Assamese are to be enlisted only and not 62.5, as indicated in reply to starred question No. 1758 put on the 18th April, 1936, in the Delhi Session ; and
- (b) whether they are prepared to take steps to recruit the Assamese upto 50 per cent. ?

The Honourable Sir Henry Craik : (a) It is contemplated under rule 12, Chapter VII, of the Assam Rifles Manual that eventually there would be 50 per cent. Gurkhas in all Battalions except the 2nd Battalion where the proportion would be slightly higher and that the balance would be natives of the Province from the Hills and the plains districts. The percentage of 37½ given in reply to question No. 1758 was exclusive of the percentage of 12½ for hill tribes such as the Lushais, Kukis and Nagas.

(b) Every endeavour is made to recruit natives of the province up to the prescribed percentage but sufficient recruits of a suitable type are not available.

Mr. Kuladhar Chaliha : Will the Honourable Member be pleased to state whether 750 Gurkhas were recruited by the Recruiting Officer for Gurkhas from the depôts at Kuraghat and Ghoom in the year 1934-35 for the first time for the Assam Rifles ?

The Honourable Sir Henry Craik : I should like to have notice of that question.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say that suitable recruits are not coming for filling these commissioned and non-commissioned offices. May I know what steps they are taking to get the reasonable required recruits from the provinces ?

The Honourable Sir Henry Craik : There, again, I must have notice. I am afraid I have no personal knowledge.

RETIREMENT OF OFFICERS WHO HAVE SERVED THEIR USUAL TERMS IN THE ASSAM RIFLES.

251. *Mr. Kuladhar Chaliha : Will Government please state :

- (1) the number of officers, Indians and Europeans, in the Assam Rifles who have served for more than (i) forty years, (ii) thirty-five years, (iii) thirty years and (iv) twenty-five years ; and
- (2) whether they are prepared to see that officers who have served the usual term retire in due time and not block promotion of junior officers ?

The Honourable Sir Henry Craik : (1) Number of officers who have served for more than—

	40 years.	35 years.	30 years.	25 years.
European	Nil	Nil	Nil	Nil
Indian	Nil	3	2	9

(2) Under the rules officers can serve up to the age of 55 years and they cannot be compelled to retire before that age should they continue to

be efficient. It does not appear that the promotion of junior officers is blocked as extension of service to senior officers who have attained the age of 55 is rarely granted.

Mr. Kuladhar Chaliha : How many officers are there now above the age of 55 years ?

The Honourable Sir Henry Craik : I must have notice of that question.

Pandit Lakshmi Kanta Maitra : Can the Honourable Member state in how many cases retirement of these British officials is due ?

The Honourable Sir Henry Craik : I have said that no British officers are serving who have more than 25 years' service. I imagine that none of them have attained the age of 55.

CLASSIFICATION OF TECHNICALLY TRAINED SUPERVISING STAFF OF THE MECHANICAL DEPARTMENT, EAST INDIAN RAILWAY.

252. *Mr. Amarendra Nath Chattopadhyaya : (a) Will Government please state how technically trained hands are classified with the non-technically trained hands for the posts of Supervisors in the Mechanical Department, East Indian Railway, and what qualifications are required for a technically trained hand ?

(b) Is it a fact that in the Mechanical Department, East Indian Railway, Jamalpore and Lillooah, the supervising staff who at least passed the Matriculation or Junior Cambridge examination and underwent the full course of bound apprenticeship training in any workshop and successfully passed full course of theoretical training from any technical institution, are classified as technically trained hands, but in Charbagh and Alambagh in the same Department on the same Railway that principle is not adopted and the supervising staff, specially Europeans and Anglo-Indians, who have not passed the Matriculation or Junior Cambridge examination and have not undergone full course of bound apprenticeship training from any workshop and have not completed successfully the full course of theoretical training from any technical institution, are classified as technically trained hands ? If so, will Government please state the reasons for such difference ?

(c) Are Government aware that some supervising staff in the Mechanical Department, East Indian Railway, Lillooah, who have not passed the Matriculation or Junior Cambridge examination, have not been classified as technically trained hands, although they had undergone full five years bound apprenticeship training and successfully passed full course theoretical training from the technical school of the same administration ?

(d) Is it a fact that one Anglo-Indian journeyman who has neither passed any university examination, nor successfully completed the full theoretical and practical course of bound apprenticeship training from any workshop, has been classified as a technically trained hand and has been promoted to officiate as a chargeman in the grade of Rs. 185—15—350 in succession leave vacancy of Progress Supervisor in preference to many seniors, in the Mechanical Department, East Indian Railway, Alambagh ? If so, why ?

(e) If the answer to part (c) above be in the negative, will Government please state whether :

- (i) they are prepared to enquire whether some supervising staff who have not passed any university examination have not been classified as technically trained hands and have not been given the benefits of that grade although they successfully completed full five years' course of bound apprenticeship, both in the workshop as well as in the technical school from the same administration ; and
- (ii) they are prepared to classify them as technically trained hands and give them the benefits of that grade without further delay and issue necessary orders to the Agent, East Indian Railway, to this effect ?

If not, why not ?

(f) If the answer to part (d) above be in the negative, will Government please state :

- (i) whether they are prepared to enquire whether one Anglo-Indian journeyman who neither passed any university examination nor successfully completed full theoretical and practical course of bound apprenticeship training from any workshop has been classified as a technically trained hand and has been promoted to officiate as a chargeman in the grade of Rs. 185—15—350 ;
- (ii) whether they are prepared to lay on the table of this House the name of the Anglo-Indian with the copies of certificates of his general education, theoretical and practical training and previous service ; and
- (iii) how he has been given the higher chargeman grade instead of chargeman T. T. grade like others ; whether it is due to his colour ?

If not, why not ?

(g) Will Government please state whether they are prepared to classify all technically trained supervising staff of the Mechanical Department, East Indian Railway, under the same principle, as has been done in Jamalpure and Lillooah workshops which are all under the one and the same head, i.e., the Chief Mechanical Engineer, and issue necessary orders to the Agent, East Indian Railway to this effect ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : With your permission, Sir, I propose to reply to questions Nos. 252, 253, 254, 256 to 258 together.

I am collecting information and will lay a reply on the table of the House in due course.

APPOINTMENT OF APPRENTICES ON THE EAST INDIAN RAILWAY.

†253. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Are Government aware that the answer given in reply to starred question No. 255 of 11th February, 1936, regarding the appointments of two *ex*-apprentice

† For answer to this question, see answer to question No. 252.

mechanics is not correct and that it is not a fact that they stood first in the technical school in their respective batches ? If so, will Government please state what justification they had in selecting those two *ex*-apprentice mechanics in preference to others ?

(b) Are Government prepared to take immediate steps against such action of the Railway Administration, who are acting in contravention of the policy laid down by them ? If so, in what way ? If not, why not ?

(c) Will Government please lay on the table of this House the copies of certificates of general education, theoretical and practical training of those two *ex*-apprentice mechanics referred to in part (a) above ? If not, why not ?

EX-APPRENTICES OF THE JAMALPUR TECHNICAL SCHOOL, EAST INDIAN RAILWAY.

†254. ***Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the answer to starred question No. 254 of the 11th February, 1936, regarding the appointment of senior *ex*-apprentice mechanics of the East Indian Railway Technical School, Jamalpure on revised scale of 1934, are Government aware that those senior *ex*-apprentice mechanics who have been re-appointed after 15th July, 1931, accepted their apprenticeship training for the better prospects of the old scale of pay which then existed ?

(b) Are Government aware that those senior *ex*-apprentices were discharged due to no fault on their part and they were re-appointed for their good service records ?

(c) Are Government aware that they were in Government service on and before the 15th July, 1931 ?

(d) Are Government aware that other State Railway employees who were in service on and after 15th July, 1931 and were discharged and have been re-appointed till April, 1936 have been given the benefits of the old scale ?

(e) Are Government aware that they were re-appointed from the waiting list alike the retrenched staff ?

(f) Are Government aware that those senior *ex*-apprentices have been re-appointed according to their old service records and their old service records are even used just like those of the retrenched staff who have been referred to in part (d) above ?

(g) Are Government aware that it has been stated in reply to starred question No. 1325 (f) of the 2nd April, 1935, that the practice of promoting mistries and others who received no theoretical and practical training, at all, to the supervising grade such as journeyman, chargeman and Assistant Foreman, in the Mechanical Department, East Indian Railway, have been discontinued since the amalgamation, and the posts are reserved for *ex*-apprentice mechanics ?

(h) Are Government aware that a large number of Mistries and others who received no theoretical and practical training at all have been promoted to the grade of journeyman, chargeman, and Assistant Foreman after the amalgamation in the Mechanical Department, East Indian Railway, in Charbagh and Alambagh workshops, although those *ex*-apprentice mechanics who have been re-appointed on revised scale of 1934

† For answer to this question, see answer to question No. 252.

were available? Are Government aware that there would have been no break of service of those *ex*-apprentice mechanics if they were appointed against those vacancies in accordance with the procedure cited in answer to starred question No. 1325 (f) of the 2nd April, 1935?

(i) Are Government aware that those senior *ex*-apprentices are the only *ex*-employees of the Railway who have suffered a lot—they had break of service, not only this they were re-appointed after a lapse of considerable period under new scale of pay?

(j) Are Government aware that a large number of *ex*-employees who have been re-appointed have been given the benefit of old scale and it is anomalous to have excluded those senior *ex*-apprentice mechanics whose number does not exceed 25?

(k) Will Government please state whether they are prepared to consider the cases of those senior *ex*-apprentice mechanics who have been re-appointed on revised scale of 1934 and give them the benefits of old scale at least as it has been done in the case of the other *ex*-employees who have been re-appointed before April, 1936?

REVISION OF THE FREE PASS RULES ON THE EAST INDIAN RAILWAY.

255. *Mr. Amarendra Nath Chattopadhyaya : (a) Will Government please state whether they have revised the free pass rules for those who have been appointed on the revised scale of 1934 in the East Indian Railway?

(b) Are Government aware that according to the revised scale of 1934, the pay of some posts has been reduced from 28 to 50 per cent.?

(c) Are Government aware that a journeyman who draws Rs. 130 in the grade of Rs. 100—10—170 is entitled to get second class free passes, while a journeyman (chargehand according to revised scale) on the revised scale of 1934 who draws the maximum of the grade is entitled to get intermediate class free passes? If so, will Government please state the reasons for such difference?

(d) Will Government please state whether they are prepared to revise the free pass rules for those who have been appointed on revised scale of 1934?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) Yes, for a few grades only.

(c) Yes. The class of pass admissible is determined by the rate of pay of the employee. Subordinates drawing Rs. 126 per mensem and over are entitled to second class passes. The maximum of the revised scale for charge hands is Rs. 85 which entitles them to intermediate class passes.

(d) No.

SUCCESSFUL *EX*-APPRENTICES OF THE LILLOOAH WORKSHOPS.

†256. *Mr. Amarendra Nath Chattopadhyaya : With reference to unstarred questions Nos. 434 and 435 of the 23rd March, 1936, regarding successful *ex*-apprentices of the Lillooah Workshops, will Government

† For answer to this question, see answer to question No. 252.

please state whether they have received the required information now and whether they are now prepared to lay the statements on the table? If not what are the reasons for delay?

APPOINTMENT OF SUCCESSFUL MECHANICAL *EX*-APPRENTICES OF THE LILLOOAH WORKSHOPS.

†257. *Mr. Amarendra Nath Chattopadhyaya : Are Government aware that in spite of the assurance given, one Anglo-Indian who neither received theoretical nor practical training at all has been promoted to officiate as Assistant Foreman against permanent vacancy in Wagon Repairing Shop, Mechanical Department, Alambagh, East Indian Railway? If so, will Government please state whether in view of their answer to starred question No. 1324 of 2nd September, 1935, they are prepared to take necessary steps in the matter and revert him to his substantive post without further delay and issue necessary orders to the Agent, East Indian Railway to this effect? If not, why not?

EX-APPRENTICES OF THE JAMALPUR TECHNICAL SCHOOL, EAST INDIAN RAILWAY.

†258. *Mr. Amarendra Nath Chattopadhyaya : (a) Are Government aware that, in spite of the repeated assurance given, some mistries, journeymen and chargemen who received no theoretical and practical training at all are still officiating in higher grades against permanent vacancies in the Mechanical Department, East Indian Railway, in Charbagh and Alambagh Workshops? If so, will Government please state whether in view of their answers to starred questions Nos. 1325 (f) and 252 (a) of the 2nd April, 1935 and 11th February, 1936, they are prepared to issue necessary orders to revert them to their substantive posts without further delay and take necessary steps against such action of the Railway Administration who are acting in contravention of the policy laid down by them? If so, in what way? If not, why not? Are Government aware that many successful *ex*-apprentice mechanics of Jamalpur Technical School are still waiting for appointments?

(b) If the answer to part (a) above be in the negative, are Government prepared to enquire whether some mistries, journeymen, etc., who (Messrs. Stears, Deen, Md. Razak, Burns, Fluskett, Fanthoms, Arjun Sing, Lab Sing, Gurdit Sing, Fauja Sing, etc.), received neither theoretical nor practical training at all, are still officiating in higher grades for years in preference to many *ex*-apprentice mechanics who are still waiting for appointments?

(c) Are Government prepared to lay on the floor of this House the names of the journeymen, chargemen and Assistant Foremen who are still officiating, in the Mechanical Department, in Charbagh and Alambagh Workshops, East Indian Railway, with the following particulars :

- (i) theoretical training ;
- (ii) practical training ;
- (iii) division passed in technical school ;
- (iv) general education (university examination, passed, if any) ;

† For answer to this question, see answer to question No. 252.

- (v) service ;
- (vi) dates of promotions ;
- (vii) designations and grade ;
- (viii) present pay ; and
- (ix) the name of the workshop employed ?

If not, why not ?

SPECIAL QUALIFICATIONS OF SIR OTTO NEIMEYER FOR CONDUCTING THE FINANCIAL ENQUIRY IN INDIA.

259. ***Mr. M. Ananthasayanam Ayyangar** : (a) What were the exceptional and special qualifications of Sir Otto Neimeyer for undertaking the inquiry ?

(b) Had he any previous knowledge of the provincial conditions and their finances ?

(c) What was the total remuneration paid to him, and what were the additional expenses incurred in connexion with the inquiry ?

The Honourable Sir James Grigg : (a) and (b). I cannot do more than refer the Honourable Member to "Who's Who".

(c) Sir Otto Neimeyer received no salary from Government. He was paid in all Rs. 3,193 by way of allowances. The other expenses of the enquiry amounted to about Rs. 33,400.

INDIA'S WITHDRAWAL FROM THE MEMBERSHIP OF THE LEAGUE OF NATIONS.

260. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :

(a) whether the League of Nations could do anything effective in the recent Italo-Ethiopian War ;

(b) what the object of keeping up this organisation is ; and

(c) whether they propose considering the advisability of withdrawing from the League ?

The Honourable Sir Nripendra Sircar : (a) I must leave the Honourable Member to form his own opinion regarding the effectiveness or otherwise of the action taken by the League.

(b) The Honourable Member is referred to the preamble to the Covenant.

(c) No.

GOVERNMENT'S LOAN POLICY.

261. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to a leading article in the *Hindu* of the 1st June, 1936, entitled "The Government's Loan Policy" ;

(b) whether they propose to take steps to see that they so regulate their demands on the nation's savings as not to compete with the needs of productive industry and commerce ; and

(c) whether they propose to so order their borrowing short term and long term alike as to act as a regulator of the flow and absorption of funds to the best advantage of the nation, borrowing when the market has surplus funds and releasing funds when stringency makes its appearance ?

The Honourable Sir James Grigg : (a) Yes.

(b) and (c). I would refer the Honourable Member to the answer I gave to his question No. 159 on a very similar subject.

Mr. S. Satyamurti : With reference to the answer to clause (b), may I know whether Government are considering or propose to consider any change in their policy, with regard to their demands on the nation's savings ?

The Honourable Sir James Grigg : That is a very general question, and I would rather like the Honourable Member to specify a little more clearly what he wants. Does he want to know whether we are going ourselves to indulge in large inflationary loans ? If so, the answer is in the negative.

Mr. S. Satyamurti : I am asking specifically whether in floating loans Government are considering only their own needs as having to run the machinery of Government, or whether they will take into consideration the needs of productive industry and commerce.

The Honourable Sir James Grigg : That was the general effect of the answer I gave before ; that is, that we take into account the needs and conditions of the market, but our own needs are the paramount consideration.

Mr. S. Satyamurti : With reference to the answer to clause (c), are Government considering or will they consider the policy of borrowing when the market has surplus funds, and releasing funds when stringency makes its appearance ?

The Honourable Sir James Grigg : I think I might without offence suggest to the Honourable Member to talk to his colleague from Madras. When I did carry out a loan operation in accordance with that principle, he asks questions accusing me of breach of faith in doing so.

Mr. S. Satyamurti : But various friends may accuse him and my friend is not on the Treasury Bench yet. I am asking the Finance Member who is now in charge of the Government of India's finance as to what the policy of Government is. It does not matter who criticises that.

The Honourable Sir James Grigg : To borrow when they most conveniently and profitably can, consistent with the general needs of the market.

Mr. S. Satyamurti : And release funds when stringency makes its appearance ?

The Honourable Sir James Grigg : Release of funds is much more a matter for the Reserve Bank than for Government. Obviously, talking as a general principle without reference to any particular case, Government would be very silly to borrow, if they can avoid it, at a time of stringency, because they would have to pay more interest.

Sir Cowasji Jehangir : I want to raise a point of order, Sir. I presume that questions and answers are made for the benefit of the whole House. At present, an important question was asked : we neither heard the original answer, nor did we hear the supplementaries on this side of the House. If Honourable Members would only turn their faces a little more this way, instead of talking exactly opposite to each other, we may be able to catch a word or two. We, all of us, are interested.

The Honourable Sir James Grigg : Before you give your ruling, Sir, on that point of order, may I ask how we can turn our faces in all directions at one and the same time?

Sir Cowasji Jehangir : I will tell the Honourable the Finance Member how : if he turns his head a little more this way, more of us on this side will be able to hear him, somewhat more clearly, while he will not be inaudible to those opposite to him.

The Honourable Sir James Grigg : It is a well-known rule of this House that Honourable Members must address the Chair.

Mr. S. Satyamurti : But not face the Chair all the time !

Mr. President (The Honourable Sir Abdur Rahim) : I hope Honourable Members will try and make themselves heard all over the House.

Mr. S. Satyamurti : I am not asking question No. 262, Sir.
†262*.

PROPAGANDA MADE BY THE ROYAL CONSUL GENERAL FOR ITALY THROUGH THE POST OFFICES.

263. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether it is a fact that the Royal Consul-General for Italy, Calcutta, uses the post offices in India for propagating anti-British and anti-League of Nations literatures ;
- (b) whether their attention has been drawn to the following extract in his circular, dated the 29th May, 1936 : " British people can never tolerate a policy involving the risk of military sanctions. Today England is strongly pledged by the Covenant, whilst she has no sufficient force to carry into effect her obligations. Therefore, assuming new ones, Great Britain would commit dishonesty in the true and proper sense of the term " ;

- (c) whether they propose to take any steps to stop this abuse of post offices by the Royal Consul-General for Italy ; and
- (d) if not, why not ?

Sir Aubrey Metcalfe : (a) to (c). The Honourable Member's attention is invited to the answer given to his question No. 141.

* This question was not put by the questioner.

Mr. S. Satyamurti : Have Government considered the statements in clause (b) of the question :

" British people can never tolerate a policy involving the risk of military sanctions. Today England is strongly pledged by the Covenant, whilst she has no sufficient force to carry into effect her obligations. Therefore, assuming new ones, Great Britain would commit dishonesty in the true and proper sense of the term."

May I know why the Government did not take any steps to protest against this allegation, unless they accept it as true ?

Sir Aubrey Metcalfe : It is difficult to see what steps they can take. What does the Honourable Member suggest ?

Mr. S. Satyamurti : At that time, was any step taken when this was brought to the notice of the Government ?

Sir Aubrey Metcalfe : Certainly : I have already stated that protests were made to the Italian Government.

Mr. S. Satyamurti : On this particular matter ?

Sir Aubrey Metcalfe : On the general matter of this propaganda that was going on from the Italian Consulate General in Calcutta.

Mr. S. Satyamurti : Are Government now examining their pamphlets, and are they satisfied that this propaganda is not being carried on now ?

Sir Aubrey Metcalfe : They have seen no pamphlets lately.

INDIAN SOLDIERS IN ADDIS ABABA.

264. ***Mr. S. Satyamurti :** Will Government be pleased to state .

- (a) the number of Indian soldiers still in Addis Ababa ;
- (b) the reasons why they are still kept there ; and
- (c) the arrangements made for their safety and convenience ?

Mr. G. R. F. Tottenham : (a), (b) and (c). The attention of the Honourable Member is invited to the press communiqué issued on September 1st, a copy of which I laid on the table this morning.

Mr. S. Satyamurti : With reference to part (c), are the Government satisfied that adequate arrangements are being made for their safety and convenience, and may I add, comfort ?

Mr. G. R. F. Tottenham : Yes : if the Honourable Member reads the communiqué, he will find that that is so.

BAN ON MR. SUBHASH CHANDRA BOSE.

265. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a statement by Mr. R. A. Butler in the House of Commons that Mr. Subhash Chandra Bose had been released from gaol but placed under restraint ;
- (b) the nature of the restraint ; and
- (c) the reasons for the same ?

[9TH SEPT. 1936.]

The Honourable Sir Henry Craik : (a) Yes.

(b) Mr. Bose is detained at his brother's residence at Giddapahar, Darjeeling, under the provisions of Regulation III of 1818, with certain restrictions relating to his movements, visitors and correspondence.

(c) I have already stated the reasons.

Mr. S. Satyamurti : What are the restrictions on his visitors, on his correspondence, and on his movements ?

The Honourable Sir Henry Craik : I understand that, before he receives visitors, he has to receive the permission of Government or of the officer of Government in charge : his correspondence has to be seen : and as regards his movements, I think he is allowed to take exercise within a certain distance of the house he is living in—I forget the exact distance.

Mr. S. Satyamurti : When visitors are allowed, is anybody posted there to overhear their talk or be in their presence, or is Mr. Bose allowed to talk to visitors, without any one being present ?

The Honourable Sir Henry Craik : I think he is : I do not think any officer is present when a visitor is allowed to visit him.

Mr. S. Satyamurti : Are letters to him censored, and then sent to him or are they withheld from him ?

The Honourable Sir Henry Craik : I must have notice : as far as I know, they are sent to him.

Mr. S. Satyamurti : When he takes exercise, does anybody shadow him, or is he allowed to go all by himself ?

The Honourable Sir Henry Craik : I really do not know : I imagine not.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that Mr. Subhash Chandra Bose is not permitted to read nationalist newspapers like the *Amrita Bazar Patrika* and the *Ananda Bazar Patrika* ?

The Honourable Sir Henry Craik : No : I should be very surprised to hear that.

Mr. Mohan Lal Saksena : Is the Honourable Member aware that Mahatma Gandhi wanted to interview Mr. Bose, and he has been refused permission ?

The Honourable Sir Henry Craik : No : as far as I know, there is no ground for that suggestion whatever.

Mr. Mohan Lal Saksena : Is the Honourable Member aware that Pandit Jawahar Lal Nehru wrote a letter to Mr. Subhash Chandra Bose and it has not been forwarded to him ?

The Honourable Sir Henry Craik : I have no knowledge whatever of that.

Mr. Mohan Lal Saksena : Will the Honourable Member make inquiries ?

(No answer.)

Mr. Mohan Lal Saksena : Are Government paying any rent for this house ?

The Honourable Sir Henry Craik : I am informed that that house belongs to Mr. Sarat Chandra Bose.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that Mr. Subhash Chandra Bose made several representations to the Government complaining that he was not permitted to read nationalist dailies, and that the newspapers supplied to him—the *Statesman* and the *Star of India* were papers which he does not like to read ?

The Honourable Sir Henry Craik : I am not aware of that ; but if the Honourable Member will put down a question, I will furnish the information.

Pandit Lakshmi Kanta Maitra : May I know if Government have got any objection to his reading nationalist dailies or any newspapers other than the *Statesman* and the *Star of India* ?

The Honourable Sir Henry Craik : There, again, it is quite possible that some orders have been passed on that, but the Honourable Member must put down a separate question : it does not arise out of this question.

APPOINTMENT OF MR. FRANKS AS THE EDITOR OF THE *Indian Listener*.

266. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the reasons why Mr. Franks, formerly News Editor of the Delhi Broadcasting Station, had to be appointed Editor of the *Indian Listener* ;

(b) whether they are aware of the strong feeling against the gentleman because of his *anti-Indian* views ; and

(c) the reasons why they have dispensed with his services ?

The Honourable Sir Frank Noyce : (a) Mr. Franks was employed in Delhi in the dual capacity of Editor *Indian Listener*, and News Editor of the Delhi Broadcasting Station. It was then found that the arrangement by which the *Indian Listener* was edited from Delhi was unsatisfactory and that a full time Editor was required at Bombay. Mr. Franks was, therefore, transferred to Bombay in the sole capacity of Editor of the *Indian Listener*. His appointment is temporary, and as I stated during the Delhi Session, the whole question of permanent arrangements is still under the consideration of Government.

(b) Government are aware that there has been adverse criticism on account of some of Mr. Franks' writings before he took up his appointment in the All-India Radio.

(c) Does not arise.

Mr. S. Satyamurti : The word "not" is omitted in clause (c) of the question—whether by me or the office, I do not know.

The Honourable Sir Frank Noyce : I may say that that very obvious slip was duly noticed in the reply : the reply is really to the Honourable Member's question as he meant it, not as it is printed.

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Mr. S. Satyamurti : May I know what is the period of this temporary appointment of Mr. Franks—how many more months has he a right to serve, before his temporary appointment comes to an end ?

The Honourable Sir Frank Noyce : No period has been specified : as I have stated the whole question of permanent arrangements in regard to news is still under the consideration of the Government. It is an extremely difficult question and it will probably take some time to arrive at satisfactory arrangements.

Mr. S. Satyamurti : May I know if Government will expediate the decision on this question, especially with regard to Mr. Franks' continuance, in view of the very strong feeling against this gentleman's well-known *anti-Indian* feelings ?

The Honourable Sir Frank Noyce : Government will do their best to expedite the question of the permanent arrangements, not necessarily with reference to the particular aspect raised by my Honourable friend.

Mr. S. Satyamurti : Will Government consider that broadcasting is still an experiment in this country, and it would be disastrous, if you put a man in charge, whose views and activities are notoriously *anti-Indian* ?

The Honourable Sir Frank Noyce : That is asking me for an expression of opinion.

Mr. S. Satyamurti : Is not my Honourable friend aware that this gentleman has expressed *anti-Indian* views in his own publications ?

The Honourable Sir Frank Noyce : I have said that Government are aware that there have been adverse criticisms on account of some of his writings.

Mr. S. Satyamurti : Have Government examined those criticisms and do they accept them as sound, or do they reject them as unsound ?

Sir Muhammad Yakub : Supplementary question, Sir

Mr. S. Satyamurti : On a point of order, Sir : I want my question answered first.

The Honourable Sir Frank Noyce : Government have seen the article to which my Honourable friend refers. I am not prepared to admit that those articles have necessarily any bearing on the question of an appointment which has no connection whatever with news.

Sir Muhammad Yakub : Will Government be pleased to state the reasons why Mr. Pothan Joseph, formerly Editor of the *Hindustan Times*, is appointed as News Editor at the Broadcasting Station at Delhi ?

Are Government aware of the strong feelings amongst the Muslim community on account of the general *anti-Muslim* feelings of Mr. Pothan Joseph which he exhibited in his writings as editor of the *Hindustan Times*, and are Government aware that

Mr. S. Satyamurti : On a point of order, Sir.

The Honourable Sir Frank Noyce : May I ask, Sir, that I may be permitted to answer one question at a time ?

Sir Muhammad Yakub : These are all parts (a), (b) and (c) of the same question.

The Honourable Sir Frank Noyce : They are all separate questions as far as I am concerned.

Mr. President (The Honourable Sir Abdur Rahim) : These questions do not arise out of the main question.

MOTION FOR ADJOURNMENT.

EXTERMENT OF MR. M. R. MASANI FROM THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : There is an adjournment motion in the name of Pandit Govind Ballabh Pant about the externment of Mr. M. R. Masani from the Punjab. Under Rule 11 I cannot consent to the motion being made as the identical motion by Mr. Mohan Lal Saksena has been disallowed by the Governor General.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill to amend the Indian Companies Act, 1913, for certain purposes.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, yesterday I was dealing with the various measures that can be taken by Government and this House to see that the shareholders play their part properly and are helped in that respect. I find, Sir, that the various provisions of the Bill are not calculated to help the shareholders to play their part efficiently and properly. There is one provision according to which shareholders are expected to give notice of seven days to the company after a meeting of the Board of Directors has been held to get a copy of the minutes of the meeting, and even for that copy of the minutes, the shareholders are expected to pay a fee of six annas per 100 words. If this restriction were to be imposed, it would not be possible for the shareholders to gain an adequate knowledge of the manner in which their Board of Directors carry on the business of the various concerns in which the shareholders have invested their money. Therefore, I suggest that whenever shareholders wish to have copies of the minutes of the meetings, those minutes or proceedings should be supplied to them free of charge.

Then, Sir, it is a well-known fact that most of the shareholders are just as bad as absentee landlords. Many of them have small sums of money to invest, and they want merely to get some interest on it regularly, and if possible, profitably. They come across some one who holds out huge hopes in regard to a particular concern, and the man who wishes to invest his money hands it over to that particular person in the hope that his money would be safely invested. He wakes up to his responsibility only when he is asked to pay up further calls, or when he is told that all his money is lost, the company in which he had taken shares or made investment having gone into liquidation. Therefore, Sir, it is not fair that the public should be expected to co-operate in passing laws in order particularly to benefit the shareholders without at the same time fixing a limit beyond which they should not try to reap benefits from the companies which, after all, carry on their business only so long as law

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and order is maintained in the country and the Government also helps them in every possible manner to carry on their business. I, therefore, suggest that a maximum rate of interest should be fixed beyond which the shareholders ought not to be entitled to get themselves remunerated for the money they have invested in these companies. The question then arises as to what should be done with whatever balance there may remain over out of the profits made by the companies. I suggest, Sir, that one-fourth of the profits should be set apart for the welfare of labour, another one-fourth should be set apart for reducing the prices of goods that are produced and sold or to reduce the cost of the services rendered by the various companies, another one-fourth for the State in order to compensate it for all the trouble it takes in carrying on the administration of the country and for making it possible for these companies to prosper and also because the State goes out of its way almost to protect many of these industries, either indirectly by protective duties, or directly by bounties and subsidies,—and then another one-fourth should be set apart for an industrial development fund for each industry in order to enable the committee to carry on experiments, investigations and research for the improvement of the industry and thus help the country to sooner industrialise itself and help the agriculturists and others also generally.

We find here several provisions to help the shareholders as against the Directors, Managing Directors and all those who are in charge of the companies, but all these provisions are a sort of negative provisions made to help them. But who is to implement these sections? Who is to help them actively? We are told that any shareholder who is aggrieved can go to the Court, but it is a well-known fact, Sir, that most of the shareholders are quite ignorant of the condition of the companies in which they have invested their money, and many others are too poor to be able to go to the Court. Those few who can afford to go to Court are often in league with those who are in charge of these companies, and therefore they do not like to go to the Court. Therefore, I think it is absolutely necessary that additional powers should be given to Registrars of Joint Stock Companies so that it may be possible for them to take the initiative whenever they think that a particular company is going wrong or adopts fraudulent practices either through a Director or a group of Directors. I find, Sir, that, as far as this particular Bill is concerned, the State as well as the public can stand to gain more by placing a little more confidence and a little more power in the hands of Registrars of Joint Stock Companies than the framer of the Bill is inclined to give.

Then, Sir, coming to the question of public utility of those companies which are interested in carrying on their business, in supplying the utilities that the public want on such a large scale, the demand for which is so inelastic, the control over which gives such a tremendous amount of power and influence to these companies over the every day life of our people, it is a fact that our life is becoming more and more complicated; the towns are growing more and more in number, and size, and also the needs of the people are growing, especially in regard to the clearance of slums, the supply of electricity, gas, water and several other public utilities. It is in this direction that we should take care to see that these private companies are not given any chance to ply their trade, any chance to play their tricks, any chance to get their stranglehold over the every

day life of our masses. It is for that reason, Sir, that it is absolutely necessary to prohibit private companies or rather any joint stock companies to carry on their trade in regard to our public utilities in a manner prejudicial to the interests of the shareholders. We should try to classify all those companies which carry on their business in public utilities, which try to satisfy the public utilities of the public as public companies, so that they would be liable to very much greater control by the State than is possible if joint stock companies alone are allowed to carry on these businesses. In fact, as far as possible, and whenever any particular industry dealing with a public utility reaches a magnitude, a big enough magnitude that the services that it renders can easily be said to have been standardised, steps must be taken by the State to nationalise that industry so that the interests of the public may be fully and adequately safeguarded. It is generally accepted by the economists in different countries and also by the statesmen in some of the European countries that such industries should not be allowed to be exploited by profit earning concerns. Even if we wish to respect the existing vested interests which have grown in the recent past owing to the failure of many of our municipalities to supply themselves with their own electricity, to develop their own electric supply concerns, we can certainly make a provision even in this Act to the effect that these existing interests will be sufficiently and adequately respected for a definite and yet a short time so that a little later it would be possible for the State, even as it is now constituted on an imperialistic and capitalistic basis to legitimately nationalise those concerns and take control of all these companies.

We can also try and we ought to try to nationalise all those industries concerned with communications and the accessories thereof. We have a large portion of our railways now being managed and owned by the State, but there are still many important railways in this country which are being managed by companies and we know only too well how these companies have been exploiting not only the investing public but also the public as a whole. It is a well known fact that even this House itself has unanimously passed a Resolution to the effect that the Madras and Southern Mahratta Railway and the Bengal North Western Railway should be nationalised because this Honourable House has come to the conclusion that it is better that such an essential industry like communications, and national communications like railways ought to be nationalised and ought to be controlled and run and managed in the interests of the people of the country, in the interests of the Labour employed in that particular industry, rather than run and managed by companies for the sole benefit of their shareholders and the special benefit of their managing agents and managing directors.

It may be wondered how it would be possible for anybody to define these public utilities. It is such a vague term it may be said, and it will be impossible for the State to try to amend in that direction this particular Act which deals with certain definite and specific grievances and defects noticed in the working of the Indian Companies Act. But, Sir, it is not impossible to try to define public utilities as we find them even in our own country, and I shall take an opportunity later on to define them specifically and in detail when I give notice of an amendment to this effect. In the very nature of our modern society, railways, telegraphs, telephones, radio, even broadcasting, road traffic, have come to play a

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very important and essential part. These industries should be developed as soon as possible; we find now that the railways are not so very anxious that the motor industry should grow and they are even trying to thwart its growth by bringing in all sorts of Bills. We find also in the Punjab and some other provinces this industry is slowly going into the hands of a few monopolists who have it in their power to fix whatever rates they like and exploit the consumers of the services they offer, in whatever way they like and they wish. Therefore, it is necessary that it should be laid down as a principle that whenever the State finds it possible to nationalise them, they are liable to be nationalised, and only subject to that condition any companies may be allowed to carry on their business.

There are two provisions in this particular Bill which deal with compromises which may be arrived at between any two or more companies and coalition that may be arranged between any two or more companies, and also the holding companies. It would be possible under these clauses and other clauses of this Bill for various companies in any particular industry or any two or more like industries in the supply of one or more national services to organise themselves into a trust or a cartel or combine, and thus try to exploit the public by restricting their output and by raising their prices and even by refusing to supply their services except at a particular price and thus victimising the public. I do admit that in the capitalistic conditions and within the capitalistic system, it is impossible for any particular company to ensure itself against the bogey of over-production. I also admit that there is an imperative need within this system for as many companies as possible within any particular industry to come to some sort of understanding, open or secret, public or private, so that it would be possible for them to gauge the demand for their supplies, to gauge the nature of the market for their supplies and thus produce only that much as is really needed by the consumers, produce only that much as can really be absorbed under the present economic conditions by the consumers and thus help themselves and help their workers and the public. But at the same time it is necessary for the State to take every possible step in advance if necessary, in time certainly, to see that these companies are not brought out in such a manner and to such an extent that the public are likely to be exploited, that their workers are likely to be victimised. In the experience of England and America and even Germany it has been found that these cartels or combines or trusts have operated more often than not against the public and against the industry as a whole and not in favour of the consumers and in favour of the public and of the State. That is why in America specially any number of laws have come to be passed to protect the public against the operations of the trusts. In England too, even under the common rule of law it has been held again and again that these combines are illegal because they have been considered to be operating against the interests of the public and therefore these combines have been prevented from being formed. In Germany the State has taken a more constructive attitude. It has tried to regularise the organisation of these cartels. It has tried to control the activities of these cartels and for that purpose it has imposed certain restrictions upon the rights of these cartels. In the case of every cartel it has now become necessary for the board of directors to invite the co-operation, active co-operation of one or two directors nominated by the State.

In addition to that, the State also fixed, and has fixed in the case of certain industries, a maximum rate of profit beyond which the shareholders should not expect to get any profit and the State also reserves to itself the right to see that the prices fixed by these cartels for the products that they place on the market from time to time are not too high and are really reasonable and within the capacity of consumers to pay for under normal circumstances.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Is the Honourable Member suggesting that a certain percentage of the profits should be reserved for the consumers ?

Prof. N. G. Ranga : I have already suggested that one-fourth of the surplus profits which remain after allowing the shareholders to take 6 per cent. maximum profit should be set apart for the lowering of the prices of the services that they render.

It is a pity that the Honourable the Law Member has not made provision for the possibility of the development of these trusts or combines and for seeing that when they do come into existence they are not operated in such a way as to exploit the public, in the way the public is being exploited at present. It may be thought that after all there are not many monopolies even in our country and that it is too early to think of anti-trust legislation to protect ourselves from the operations of trusts. It is a well-known fact that even recently the Indian Steam Navigation Company and the British Navigation Companies that ply in the Bay of Bengal have come to an agreement and have raised the fares charged even on third class deck passengers and they have been exploiting the public. Again take the steel industry. There you have an extraordinary instance where almost one company has come to exercise a sort of monopoly and power under the shelter of the protection given by the State itself. Certainly the production of steel is a very essential national necessity and even in times of war pig iron and steel are found to be of extraordinary use and it is for that purpose that the Indian Tariff Commission also made a special recommendation to the Government of India that special protection should be given to such an industry and it is for that reason, I dare say, that the State has given protection to this industry with the co-operation of the public. It is only an axiom that such an industry should not be allowed to pass into the hands of one or two controlling interests and when they do so, they should not be allowed to exploit the public by charging high rates.

Mr. Sami Vencatachelum Chetty (Madras : Indian Commerce) : They are even competing and cutting the rates in order to kill the other company.

Prof. N. G. Ranga : That is another danger. As soon as another enterprise enters the field, they pretend to be in love with the consumer, as my Honourable friend, Sir James Grigg, does, and they lower the prices. For what purpose ? Only to make it impossible for their competitors to ply their trade as against them and as opposed to them. Soon after they get rid of their competitors, they raise prices. They do not try to produce, as they ought to, maximum production and thus bring down the marginal cost of production according to the law of increasing returns. On the other hand, they try to get maximum profits,

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which is achieved only by cutting down production and raising the prices and thus exploiting the consumers as well as the public.

There is another danger arising from this state of affairs. Take the hand loom weaving industry. It employs a crore of people. It has not yet been able to get any kind of protection from this Government. This Government has been willing to give them only five lakhs of rupees per annum and nothing more. It is because they are not organised. It is because they are not big capitalists and have not formed themselves into joint stock companies and combines. But take the textile industry. My Honourable friends from Bombay, although they are only two or three in number to directly represent the Bombay cotton mill industry are more powerful than 40 or 50 of us and they get more support from this Government because they are an organised industry. That leads us on to the point that these organised industries can control the Government and its activities, can influence politicians and legislatures and persuade legislatures and manage to get whatever protection they want. They do not need protection but they want protection. They get whatever bounties they desire and whatever bonuses they desire. The political life of any particular country is in danger of being poisoned by the development of these trusts and combines. There are trusts and combines in the cement trade in which some of my friends are interested. In the constructional trade again, some of my friends are interested. Also some of my European friends are interested in tea, coffee and rubber plantations and trusts are being developed even in the sugar manufacturing industry in Punjab, Sind and the United Provinces. There is almost a monopoly in tea, coffee, tobacco and jute in this country. It is to prevent these monopolies from exploiting the public, not only the public but also their own shareholders that we should try to take the necessary steps to see that the State has got sufficient amount of control over their activities.

There is the question of nationalization. Some day or other we must try to nationalise as many industries as possible. We must nationalize as soon as possible at least the key industries, such as mining, steel, pig iron, armaments, power-producing industries and other industries. But if we are to nationalize them some day or other, sooner or later, sooner than later, it is certainly wrong on the part of anybody to suggest that joint stock companies should be allowed to develop their business and develop their vested interests in these industries and thus create their rights as against the State for compensation later on. It is a well-known fact that even in England economists, even though they be wholehearted socialists, have been obliged to realize the necessity for paying more than one hundred per cent. compensation for these companies for the supply of services regarding key industries because those companies have come to establish for themselves such a terrible control over the political life of the country. And why should we unnecessarily create that difficulty for ourselves here in this country by allowing more jointstock companies to develop their vested interests in those industries and those directions where nationalization should be established as soon as possible in the interest of the public, in the interest of the State and in the interest of everybody concerned. It is because of the importance of these trusts and their greed for money, and it is because of the importance of the jointstock companies and capitalists in the industries that ought to be nationalized

that we are having all this trouble in the international situation. If today there are commercial safeguards imposed upon us in this country, and if today we are prevented from passing any kind of legislation that we want in order to protect our interests, in order to assist our own industrialists, in order to bring about speedy industrialization, it is because of the commercial safeguards imposed upon us through that infamous Government of India Act! Sir, as my Honourable friend, Mr. Sri Prakasa, put it, the East Indian Company led the way and in its train so many European companies have come into this country. Now they try to escape from all responsibilities by calling themselves "European companies", but most of them are English companies. Now they have gained an awful control and hold over our whole economic life in various directions,—coffee, tea, rubber plantations, the jute industry, even a large portion of the textile industry in Madras and Bombay, the oil industry and several other industries, and I am afraid stealthily even in the steel industry,—and they are trying to get a control over the textile industry, also with the collusion of my Honourable friends from Bombay who have an interest in the matter. Sir, we cannot take any action against them because the safeguards come in our way, but at least we should try to see that our industrialists are not enabled to get into a liaison, to get into a compromise with the monopolists of other countries and thus try to exploit the consumers not only of this country but of all other countries.

It is known to everyone how these international wars are brought about by the competition that rages so wildly between these various trusts and between these powerful and big combines. In Germany and in Italy the Governments are completely at the beck and call of these trusts and combines, and it is quite likely that our Government also may come to be at the beck and call of our own industrialists. I must correct myself to some extent in this matter because I find that even today our Government is very much under the thumb of our industrialists and capitalists, aided as they are by the European capitalists, and especially the British capitalists. We must prevent that, Sir. If we are to help the consumers in this country, we must prevent the growth of these trusts. If we are to help the public, we must certainly try to take the earliest possible steps to prevent these trusts and combines from playing all their pranks upon the public and the State.

Even in the case of what is known as the interlocking of directorships, I am told that certain favourite children of these industries are able to get the directorships of not one or two but of twenty or thirty companies at a time and are able to draw large salaries and fat fees for themselves. They are even worse than those agrarian absentee landlords. They exploit not only the public but also the shareholders. All that they do is to lend their names—names that in any decent country cannot be considered worth anything at all—and yet in a country where joint stock companies are allowed to ply their business, are at a premium and they are thus able to earn huge sums of money for themselves. It is these sleeping partners in many of these companies who really are a danger to the joint stock companies and even to the system of capitalism with which our friends are so much in love. We must put an end to such a scheme, and it is suggested by various responsible people in the country that a maximum limit should be fixed for the number of companies of which individuals can be directors. Yet I find no provision at all for that in

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this Bill. And these directors also are mostly ignorant people. Anybody and everybody, any Tom, Dick and Harry, provided he has got a decent enough name and has an income, can become not only a director but a managing director, not of one company only but of many companies, he can gain any amount of control in the country. And even though they have not got much brains about him, and even though they have not cared to study anything at all, their names are flourished across the front pages of the Press, because there is so much money behind them, and the Government simply shivers in its shoes before them! Sir, we must put an end to this state of things also, and it is for that purpose that we should stipulate that anyone, before he is elected as a director, should qualify himself either by experience or by technical knowledge or business efficiency, and that the ownership of money alone and the possession of a big name should not be the passports for a man to these comfortable positions of directorships and managing directorships.

Then, Sir, there must be a provision, and it must be made now, if our co-operation is sought, for the State to be able to take over the ownership and the management of all those industries which concern themselves with the supply of the necessities of the country and with the public utilities, to acquire them, to purchase them and to run them. Without that, it would be impossible for us, it would be a losing business for us to allow these companies to come into existence at all.

Pandit Lakshmi Kanta Maitra : Is there to be no joint stock enterprise before these key industries are nationalised?

Prof. N. G. Ranga : No, Sir, there should be public companies, not joint stock companies as far as key industries and public utilities are concerned. This law should be allowed to come into existence on this condition that after a particular period, or whenever the State deems it necessary, it should be possible for the State to take over the control of these companies and manage them for the benefit of the public and utilise them for avoiding the exploitation of the public.

Pandit Lakshmi Kanta Maitra : How do you expect this Government to do that for you?

Prof. N. G. Ranga : Sir, it is only too true to say that this Government may not be willing to do any such thing. We made it perfectly clear that by taking over the Madras and Southern Mahratta Railway, Government will make a decent job of it. The Madras and Southern Mahratta Railway is making a profit and I am told by my friend over there that the Bengal North Western also has a profitable business and is sure to be a profitable business if the Government were to take it over. But the Government is so much interested in their British shareholders that they do not want to touch them at all, thanks to our Finance Member, Sir James Grigg, who is said to be a great financier. But he knows to be a financier only when this Government is losing and he forgets that he is a financier when this Government is likely to gain. In spite of all that, we are told that there are going to be two or three Indian Ministers on that side and there is going to be a Federal Assembly.

Mr. President (The Honourable Sir Abdur Rahim) : All these remarks have nothing to do with the Bill.

Prof. N. G. Ranga : This Federal Assembly is going to confer some more powers upon us and to help us to forward our own industries and our own interests. If that is so and if they really believe that it is going to be so, then let them make that particular provision now in this Bill in the hope and with the confidence that the future Federal Assembly will try to insist upon the future Government that is going to replace this particular Government very soon to take the necessary action in protecting the public interest so far as key industries and national industries are concerned.

Then, Sir, coming to a few smaller points, I find that provision is made for at least one-third of the directors to be elected by the general body of shareholders, for not more than one-third of the directors to be nominated by the managing agents and as for the remaining one-third opportunity may be taken by various interests involved to get their own men either nominated or elected and so on. But I do not find any provision whatsoever either for labour or other consumers. Consumers are certainly interested in the operations of these Joint Stock Companies. I am afraid in the transitional stage, before the Socialist State comes into existence, consumers will have to be represented by the State itself. So, as my friend Dr. Ziauddin Ahmad put it yesterday, in the transitional stage, let Government nominate on the advice of the mill-owners or the Joint Stock Companies and the workers interested in them at least one director in every company. But that won't go very far. There must be directors representing the interests of the workers who are interested in the operations of the company. By this I should not be understood to say that I am personally in favour of a mere co-partnership between workers and employers. Even in England the workers have refused to send in their representatives as directors because they thought it fit not to co-operate with this capitalist system in its transitional stage. They will rather wait until they are able to establish a full-fledged Socialist State. But, as things are here, even in their own interests, our capitalists and their protagonists, the Government of India, ought to be wise enough to come forward with the suggestion that they propose to create a place at least for one director elected by the workers employed by any particular Joint Stock Company. They have not done so and it is well for them at least now to come forward with such a suggestion even if they wish to save themselves for a little longer than they can possibly do so without it.

Then, Sir, I come to the big bugbear of this Bill about which so much has been talked and written in our Indian press, namely, the managing agency system. Sir, I know that my friends from Bombay and Ahmedabad are extremely anxious to have this managing agency for as long as possible because they only know what benefits they have been able to derive rightly or wrongly, legitimately or illegitimately, with the aid of this particular system.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : You mean to say what benefits we have been able to confer.

Prof. N. G. Ranga : Yes, Sir. We are asked : Look at Ahmedabad and the great palatial buildings there : look at the Malabar Hill and our own palatial buildings there : look at the mills : look at the chimneys

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and all the clouds of smoke which are coming out of them ! Does not all this show what a tremendous amount of contribution we have made towards the progress of this country, the industrialisation of the country and the civilization of the country ? Do you not realise that India today is one of the eight great important industrialised countries in the world and is recognised as such by the League of Nations on the application of this Government ? How could you have achieved all these things without our managing agency system ? This reminds me of an experience of mine. There were some nominated Indian Civil Service Indians—not Englishmen this time—and they were there soon after the war. One of them wrote a very bad essay. He went to his don, a terrible fellow at Oxford, and that man turned round and said after flinging this essay on his face in the presence of all the students : “ Do you not know that England is the best country in the world, Oxford is the best University in England and Balliol is the best college at Oxford and I, myself, am the best don at Balliol and so am the best don in the world and how dare you insult the best don in the whole world ” ? That seems to me the kind of logic that my friend seems to be anxious to display in this House. If they have made any contribution at all, it is in the shape of slums in Ahmedabad and Bombay ; it is in the shape of slums in all other countries ; it is in the shape of absenteeism of workers which is forced upon them because of the rotten condition of working ; it is in the shape of many an abortive strike of the workers because they have not been able even to strike against these people, so powerful these millowners have become that they are unable to stand even on their own legs. (An Honourable Member : “ Shame ” !) It is an unparliamentary word. So, we are told by you, Sir, and therefore I obey the ruling of the Chair and do not wish to use that word even in spite of the assistance of my friend. Sir, they have done something. There is a certain amount of progress in our textile industry and several other industries, but they have been paid amply for it.

An Honourable Member : How much ?

Prof. N. G. Ranga : It was made perfectly clear that my Honourable friends like Sir H. P. Mody and others in Bombay and Ahmedabad purchase cotton on their own account first of all and bide their time to sell it to the company when the prices have gone down and keep it to themselves when the prices go up with a view to selling it again at a profit. In this way they make money both ways. If it is thought that I am not quite fair to the managing agency system because I happen to be a socialist, I would only like you to hear my reading a few extracts from the Minutes of Dissent.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Why don't you try that experiment and make money ?

Prof. N. G. Ranga : I am not in that line. I will now read a few sentences from the Minute of Dissent sent in by some of our friends : “ In several cases, the existing managing agents, along with their predecessors in interest, have been in office for several decades.”

I think for several generations.

“ The emoluments earned by them have greatly exceeded the remuneration which the Managing Agents can hereafter possibly get under the restrictions imposed by this

Amending Act. The industries that are well established can now thrive without the driving force of the Managing Agents,”

according to them, not mine, for I do not believe that they have had any driving force at all. I would soon answer that point. The Minute of Dissent continues :

“ and on the whole it would work to the advantage of the community if they are relieved of these commitments and their energies are diverted to more fruitful channels so that the growth of new industries may be facilitated.”

Well, Sir, that is a sufficient condemnation of this particular managing agency system. New industries have not come into existence because of this system. This incubus of a managing agency system has drawn for itself all the vitals of our own industrial system.

Sir, here is another Minute of Dissent which is a more just and more pertinent one, written by my Honourable friend Sri Krishna Dutta Paliwal :

“ This is the most important clause of the Bill as it deals with the system of managing agencies which has rightly incurred a considerable amount of public displeasure of late. The system has been so grossly abused that the confidence of the investing public in the joint stock companies has been greatly shaken.”

--He himself is a Director of three companies,--

“ And thus the system has retarded the industrial advancement of the country which it claims to promote and which can be its sole justification. The case against this system has been thoroughly stated in various publications which are easily available to all who desire to have them. Therefore I need not go into it here. Suffice it to say that the system has not only been greatly abused but it has not even proved efficient in its working. Whatever its justification in the past,”

—Personally, I think there was none at all,—

“ I don't think there is any need to retain it now. In these days of surging tide of socialism, when even the capitalistic States are taking to the socialistic methods of production in many ways it ill behoves us to say that we can't do without the managing agency system for some time to come.”

The Honourable the Law Member said that he had come to know recently what a tremendous amount of contribution had been made towards the industrial development of our country through the managing agency system.

The Honourable Sir Nripendra Sircar (Law Member) : I do not think I said that.

Prof. N. G. Ranga : Then I stand corrected.

The Honourable Sir Nripendra Sircar : I knew that long before not recently.

Prof. N. G. Ranga : I am glad that the capitalists of the country have secured the services of a convinced champion of this managing agency system. I would only draw your attention to the facts that were detailed here in this House on the occasion when the Motor Vehicles Bill was being discussed. Here is a new industry that has come into existence. In spite of this Government and without the co-operation of my Honourable friends, the managing agents, it has grown in a phenomenal manner during the last ten years with the help of a few small people in various parts of India. Crores and crores of rupees are invested today in that industry. Lakhs and lakhs of people are employed in that industry and I am sure more people are employed in motor industry than are employed in the

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cotton textile industry of which my Honourable friend, Sir H. P. Mody, is the spokesman. It has become possible for this motor transport industry to come into existence in such a short space of time and establish for itself such a great place in this country, as to threaten the national railways and threaten even the British Government and force it to bring forward two Bills, two futile Bills and useless Bills, of course, and yet Bills which have to be sent for circulation because we could not swallow them readily as they wanted us to do. All that could have been achieved in this country in several other industries even if this managing system had not been here. If only this managing agency system had not been here.....

The Honourable Sir Nripendra Sircar : Why don't you start a company ?

Prof. N. G. Ranga : I would very much like to take advantage of the advice given by my Honourable friend, Sir Nripendra Sircar, since he has done so well in business, but personally I am opposed to this kind of business and therefore I do not propose to go into it because it is walking into the enemies parlour. I do not wish to go and hobnob with the class of people who live only by the exploitation of the masses as well as the shareholders.

Mr. M. S. Aney (Berar Representative) : What is the value of the share of this valuable industry ?

Prof. N. G. Ranga : What industry ?

Mr. N. M. Joshi (Nominated Non-Official) : The industry of gas making in this House.

Prof. N. G. Ranga : A special officer was appointed for drafting this measure in the hope that he will advise to the liking of the Government. Unluckily for the Government and quite unusual in the annals and practice of special officers, this particular special officer has produced a tolerably good report.

The Honourable Sir Nripendra Sircar : That was expected.

Prof. N. G. Ranga : I am glad that the Honourable the Law Member has at last expected the right thing at the right time and at the right place. The special officer said that within twelve months after the coming into force of this enactment into law, this managing agency system should go. The Government of India would not agree because it would not suit them. The managing agents are their bosom friends and how can the Government deal such a death blow to this incubus of managing agents. So the Government came forward with a Bill which goes against the report of the committee which was appointed some time ago and which recommended that this managing agency system should be abolished within five years after the law was passed and the Government have come forward with the provision that the managing agency system should be given a further lease of life for 20 years.

The Honourable Sir Nripendra Sircar : No, no.

Prof. N. G. Ranga : Then how many years ?

The Honourable Sir Nripendra Sircar : They suggested 25 years, but after 20 years they can be removed by a special resolution. We have

reduced it now. I am sure my Honourable friend has not read that report.

Prof. N. G. Ranga : I do confess that in spite of my industry I have not been able to read that report, but I am relying for my information upon one or two Members of this Select Committee of which my Honourable friend is the President. Well, it was 25. The Government of India says, "No, we have done better than our committee. We want to get rid of it in 20 years". The thing is that they do not want to get rid of it in 20 years. They give them 20 years' time and thereafter the shareholders may have a chance of having them or continuing them or getting rid of them. But there is a special officer and his report is a more recent one. Why have they dismissed it ? Is it not because of their affection for the managing agency system ? If my Honourable friend, the Law Member, has always been aware of the efficiency of this managing agency system and the services that it has rendered to our industries and so on, then certainly he should have put in a stronger and abler defence of it than he did the other day. I daresay he will do it later on when he comes to answer the speeches that will be made when this managing agency system will come up for discussion, and I hope I will have an opportunity of answering him again.

But, Sir, the gravamen of my charge is more against this Select Committee than even against this Government. The
1 P.M. Select Committee simply seems to have been persuaded by this Government which is interested in these people. I do not know when the Government has come into a compromise with the millowners and the managing agents, but certainly the Select Committee had no business to barter away the rights of their shareholders as well as of the public. The Select Committee knew only too well what havoc this managing agency system has done in this country. (Interruption by Babu Baijnath Joria.) My Honourable friend, Mr. Bajoria, is very impatient. I hope he is not himself a managing agent ; if he is one, I can only ask God to save us from such managing agents. (Laughter.) Sir, if the industrial system of this country has made such slow progress as it has done, if the industrial system of this country has not been able to stand on its own feet even in spite of the protection, the unconditional and one-sided protection that has been offered to them, and if the industrial system is not in a position to assure decent living conditions for their workers, it is only because of this managing agency system. The sooner it is got rid of the better it is, better not only for this country, not only for the public, but only for the workers, but also for the capitalists themselves. (Sir P. Mody : "Rubbish !") Yes, it is all rubbish ; the Czar was saying "it is all rubbish", the Russian nobles were saying "it is all rubbish". They were clanking their wine glasses and drinking one another's health when their palaces were being destroyed ; and my Honourable friend, Sir P. Mody, will also be doing the same thing when our chance comes to get rid of all this. (Laughter.) Therefore, Sir, I hope the House will realise the seriousness of the situation that is created by this managing agency system and will agree with me in condemning it outright and in giving it early notice as possible so that the country will be saved from it.

There is one other small matter and that is the question of compensation. My Honourable friend, the Law Member, himself has helped me with his argument that usually in the civil Courts in such circumstances,

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when the use for a particular system is considered to have evaporated, no compensation is offered. Then why is this compensation offered here? Is this managing agency system going to be terminated because of the will and pleasure of the shareholders? No. It is this Bill which is proposed to be passed that is going to give this particular right to the shareholders. Otherwise they would not have had a chance of getting rid of it in 20 years. And when this law is giving this particular right to the shareholders,—the shareholders who have been so much exploited all these years—why should there be any provision for compensating these people? If compensation has to be paid,—and I am afraid very many Members of this House are rather very much in love with this idea of compensation,—then I would only suggest for the benefit of the capitalists themselves, that the compensation paid should never exceed 50 per cent. of the salary,—only salary and not other emoluments,—that is liable to be paid to him. I consider that to be a wrong thing to do but even wrong things are liable to be done. I am anxious to get rid of it and would not pay more than 50 per cent. of the salary that would fall due to them. I do not consider that they deserve any payment but if any payment is to be made it must be the minimum possible. (Mr. B. Das : "Ten years?") You fix the number of years. I would leave that to my Honourable friend, Mr. B. Das, who rose yesterday as a champion of the managing agency system. Sir, it is rather a pity that one who is not a capitalist should espouse the cause of the capitalists, and one who has no chance of any day becoming a great capitalist should die out of his love for the capitalists; and that is the plight of my Honourable friend, Mr. B. Das. (Laughter.) There are some in England and in every other country who would only do everything to hang on to the apron-strings of Duchesses, and in our country too there are very many who would like to be taken as friends of the rich. And I hope my Honourable friend will soon get out of the Indian Merchants' Chamber or the Indian Merchants' Association so that he can go and keep excellent company with his excellent brother Swami in Orissa.

There are the workers. What is to happen to them? We are not told anything yet. If a company is going to be wound up, then whatever salary and whatever wages are in arrears are to be paid first of all, and then the rest of it should be distributed amongst the shareholders and creditors and all other people. (Mr. Husenbhai Abdullabhai Laljee : "That is the prevailing law.") And some conditions are made in order to improve their privileges in that regard. But I am not satisfied with that. Even in the present circumstances when the workers are not powerful, when Government is not for the workers, and when the political parties of the country have not made themselves thoroughly socialistic in their mentality, it is necessary that due provision should be made here. I am suggesting that one-twelfth of the salaries should be reserved for welfare schemes so that one month's salary may be set aside for the protection and benefit and uplift of the workers, in the course of one year. I learn that in the railways one month's salary is today being set aside for provident fund and 15 days' leave is granted to them with full pay and allowances. I want similar privileges to be extended to all the workers employed by all the joint stock companies and I want provident funds also to be organised compulsorily. Of course I would have no objec-

tion, subject to that proviso in this transitional stage, to allow workers to contribute a part of their weekly payments that should be made to the provident fund. But a provident fund must be organised; otherwise the workers cannot be properly protected. I see that my Honourable friend, Mr. Joshi, is not very much pleased with my suggestion that workers might pay some contribution. I stand corrected, because he knows much more about these things than I do and I hope he will give expression to the real needs of the workers and also the best manner in which their interests can be protected in these industries.

To conclude, Sir, I want steps also to be taken to prevent at least non-Britishers from having any more control than they have today over the economic system—I will refer my Honourable friend, the Law Member, to the report of the External Capital Committee: they have made very halting recommendations. It is a very moderate one—there were very many dissenting minutes.....

The Honourable Sir Nripendra Sircar : There is nothing in the Bill about giving any preference to British capitalists.....

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member is giving us more information than there is in the Bill.

Prof. N. G. Ranga : I bow to your ruling, Sir; but we make our speeches only to help the House with more information than my Honourable friend has thought fit to give us. I want certain steps to be taken to see that the apprentices are properly trained even in companies which come under the control of Europeans—which are under their control now or which may hereafter come under their control. I want steps also to be taken to see that a minimum number of directors are elected who are Indians and a certain amount of control is gained over their management by Indians as well as by the State—by the Indian shareholders as well as the workers. I know only too well that in the Assam tea plantations.....

The Honourable Sir Nripendra Sircar : I thought my Honourable friend said he was concluding.

Prof. N. G. Ranga : Yes, this is all in conclusion. (Laughter.) In the Assam tea plantations, they will not even allow doctors for the Indian workers to go into their plantations—they will not allow any canvassing agents for elections and they will not allow any right to be exercised by the workers there. These plantations are being worked under the Indian Companies Act and therefore every possible step should be taken, every possible avenue for reform should be explored by the State, by my Honourable friend, the Law Member, who in the committee stages has got a tremendous amount of patience. He should try and introduce as many salutary amendments as possible in this Bill and accept as many of my amendments and the amendments given notice of by my Honourable friend, Mr. Paliwal, and several others, and help the public in this country to save themselves from the exploitation that has been carried on and that is likely to be carried on by the managing agency system, and also by the boards of directors of these various joint stock companies that are going to be registered hereafter, and he should also constitute public companies to carry on business in public utilities and key industries.

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

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

Mr. Sushil Chandra Sen (Government of India : Nominated Official) : Sir, after the eloquent entertainment which we had at the hands of Prof. Ranga on the principles of Socialism as it should be translated into the Indian Companies Act today, I do not know whether dry questions of law, which I intend to submit before my friends, will attract much attention, but I hope, Sir, they will, in any event, form a detraction.

Sir, I was glad to find yesterday from the speech of my Honourable friend, Pandit Govind Ballabh Pant, that there is hardly any difference of opinion that the present Bill is undoubtedly a considerable advance on the existing provisions of the Act. I was also very glad to find, Sir, that it was recognised that we on this side of the House have at least tried genuinely to remove some of the existing abuses. Where we differ is, Sir, possibly as to the degree to which this Bill should go. It is, after all, a question of degree, and I think on the main principles both sides of the House are agreed.

Sir, with your permission, I shall deal with some of the specific suggestions which have been made by my friends on the opposite side, but before I do so, I crave the indulgence of the House to proceed to enumerate certain main principles which undoubtedly are well-known to my Honourable friends opposite. Sir, a joint stock company is, after all, nothing but a partnership in the glorified sense with a large number of partners, and it is governed by special rules intended to do away with the difficulties of management. In fact, Sir, the whole scheme of the Act is to have a centralised management. It is nothing but a convenient form of working a co-operative business enterprise as Sir Frederic Palmer put it. The normal feature of a company is that the business is carried on by persons chosen on behalf of the partners who for the purposes of the Act are called shareholders. And, lastly, Sir, the most important thing in a joint stock company is, as my Honourable friends are all aware, that every individual member of that corporation runs the risk of being held to be in a minority, and runs the risk of having to acquiesce in the will of the majority, so long as it does not amount to oppression or fraud on the minority. Sir, bearing these principles in mind, I will go on to discuss some of the suggestions which have been made by my Honourable friends opposite, and I think I shall be able to convince my friends that some of the suggestions which have been made undoubtedly in the interests of the individual shareholders can be easily left out for the present. Now, Sir, if we analyse the provisions of the Bill which are really based on a Report which I made some time ago when I was asked to go through the available materials and to make my recommendations as to the desirable amendments of the Act, I think it will be conceded that the main abuses for which remedies were required could be classified under five heads : firstly, the growth of mushroom companies and the checking of fraudulent companies ; secondly, the complaint that shareholders were ignored and kept in the dark by the people in charge of the management ; thirdly, the abuses by the directors ; fourthly, the abuses of the managing agency system ; and lastly, what I may call the non-disclosure of material information to the shareholders.....

Pandit Lakshmi Kanta Maitra : What is the second ?

Mr. Sushil Chandra Sen : The complaint that shareholders were ignored by those in charge of the management as to the affairs of the company.

It was really from that point of view that I made my Report, and for the purposes of my argument, Sir, I will shortly try to analyse the provisions in the Bill which have been adopted and which are intended to remedy these evils. Sir, on the first point, as my friends, who have all analysed the Bill by this time, will find there is firstly clause 52 of the Bill which refers to the stiffening of the provisions of section 137 regarding investigation into the affairs of a company. I think it will be admitted that the provisions of clause 52 are undoubtedly an improvement upon the old section and it undoubtedly gives more latitude for inquiries than it originally did under the Act. Then, Sir, we find the provisions of section 101 of the Act have been considerably altered. It was common knowledge that dishonest company promoters used for the purposes of their own convenience to fix a very nominal sum in the Articles of Association as minimum subscription which enabled them, as soon as the shares for that amount were subscribed, to begin their activities. Once a company commenced its business, there was nothing to prevent it from incurring liabilities, entering into contracts and otherwise acting as a full-fledged corporation. Nobody really looks into the details of the capital, nobody knows or inquires whether a company has started with adequate or with wholly under-capitalised share capital. That, Sir, you will find, has been considerably improved, and now the minimum subscription, although it has been left to the Directors, must provide for certain things which it is essentially necessary for a company to provide before it can legitimately embark on its career.

Then, Sir, we find that bankrupts and other undesirable persons have been prevented from having any hand in the management of the company, and that is to be found in clause 40, which is a new departure. We have in the amended section 130 (brought about by clause 64) provided what, according to me, was a most patent defect in the old legislation as regards the books of accounts. There was nothing in the old law to say what books a company was bound to keep, and that has been now provided in clause 64. Then you come to clause 76D in which the duty has been cast upon the auditors not only to certify the balance sheet and to make their report but also to make a report as to whether the company keeps proper books as provided in the Act. Then we come to the provisions which were badly needed regarding safety of the monies and securities which mushroom companies used to receive and which they used to fritter away without any compunction at all. I refer to section 282B in the Bill under which you will find that proper safeguards have been made for the purpose of preservation of these securities. Taking all these into account I think my Honourable friends opposite will agree with me that so far as the first abuse, if I may be permitted to call it so, was concerned, there has been a genuine attempt to remedy the evil and I have sincere hopes that if it is worked on the proper lines the remedy would soon prove adequate in regard to the abuses for which it was meant.

I now pass on to the second one, namely, the complaint of the shareholders that they were kept in the dark by those in charge of the manage-

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ment. When I examined the materials I came to the conclusion, much to my regret, that the directors did, in the majority of cases, keep the shareholders in the dark. To meet this, the provisions in the Bill which have been made may shortly be referred to as clauses 16, 35, 41, 44, where you will find that access to books giving information as to the lists of shareholders, the directors and managing agents, the contracts in which the directors are concerned, the resolutions passed at the meeting of shareholders, and other relevant matters have been provided for. These informations will now be easily within the access of the shareholders. Then we find that there is a provision for a compulsory report by the auditors and for a profit and loss account and there is a provision for the compulsory circulation of these documents amongst the shareholders, a provision which was, in my opinion, very badly needed. This has been provided for in clauses 65 and 66. Coupled with the provisions of clause 132 which make compulsory provisions for the holding of meetings, I think I can safely say that so far as the inner working of the company is concerned much more details will now be available to the shareholders than there used to be under the old Act.

Well, Sir, I will crave now your leave to dispose of one point which was made by my Honourable friend, Mr. Ananthasayanam Ayyangar, and that is about the auditors being made independent of the management. On first blush it seems a very reasonable proposal, but if you come to analyse it and if you come to see what is wrong with the present system, unless you start with the presumption that the management is, of necessity, a body of thieves and cheats and unless you also presume that the auditor is an impecunious person who depends for his living upon one single audit, I do not think there is any chance of the auditor being coerced or rather suborned into making any report which he does not like. The provisions of the law give him the right of access to all the books and documents. He is under an obligation under law to say whether he had access to them, whether he has got all the information. What, then, is there to prevent him from giving an honest opinion for the use of the shareholders? It may be said that the management will not elect him at the annual general meeting if he goes against them in his report. But may I remind my Honourable friend that it is not the directors who have the right of dismissing him from his post? Under the law it is the majority of the shareholders who have that right, and I cannot believe that if in the interests of the shareholders he makes a report, a genuine report pointing out the defects or the abuses in the management or in the accounts, the shareholders will be so foolhardy as to get rid of anybody who has striven to bring to light things which are undoubtedly in their interests to know. That is one aspect of the thing. The other aspect is, I do not know whether my Honourable friend, Mr. Ayyangar, has thought about it,—the only other alternative that has been suggested in the very numerous opinions that have been received is that a panel of auditors should be made by the Government to whom must be given the right of appointment of auditors from such a panel. The right of appointment would undoubtedly have to be given to the Government or rather the Governor General in Council, and I do not know whether my Honourable friend, Mr. Ayyangar, would like that.....

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I suggested a Board of Control or a Board of Trade.

Mr. Sushil Chandra Sen : I am obliged to my Honourable friend, but he knows that in this country there is no Board of Trade or any other board which can take its place.

Mr. M. Ananthasayanam Ayyangar : Or a Board of Accountancy.

Mr. Sushil Chandra Sen : Under the present system, the Board of Accountancy deals with the fixing of the qualifications and the grant of certificates. Possibly, by stretching it might even be asked to provide for the cancellation of a certificate of competency, but that is about all. How does my Honourable friend suggest that the Board of Accountancy could be asked to nominate persons to act as auditors? Which is the better course? To leave it to such a body, who are not aware of the needs and the problems arising in the company or to leave it to the shareholders who, as I have pointed out, it is most unexpected would be ever willing to give the go by to the services of a man who has striven to serve them by disclosing the abuses and defects of the management?

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : May I ask a question of my Honourable friend? Have Government examined the suggestion which I read in the evidence, that managing agents should be prohibited from canvassing by obtaining proxies and otherwise, for the appointment of a particular set of men as auditors?

Mr. Sushil Chandra Sen : I did look into that, but I am told that the Leader of the House will deal with this aspect of the question and I will accordingly not try to answer my Honourable friend. But let me assure my friend that there is a good answer to the suggestion. The suggestion is impracticable.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : May I ask one question of the Honourable Member? Is he satisfied personally that the auditors at present discharge their duties efficiently?

Mr. Sushil Chandra Sen : Yes. In the majority of cases.

An Honourable Member : What about the minority?

Mr. Sushil Chandra Sen : I will come to the question of minority. My Honourable friend cannot forget that in trying to put down the abuses in the minority of cases he may be doing the greatest injury to the majority.

I now come to the question of the third abuse, that is, the abuse of the directors. The provisions in the Bill which have striven to remedy the defects as they were noticed are these. Firstly, there is clause 37 which prevents a company from having a packed body of directors, clause 40 which provides for their removal by an extraordinary resolution, section 86-D, which prevents the giving of loans or guarantees to these directors. We then come to section 86-E which provides for restrictions on the holding of offices of profit under the company and clause 86-G which provides for the automatic vacating of the directors. Last but not the least is clause 44 which provides for the keeping of a register of contracts which are hit under the provisions of section 91-A.

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Now, Sir, with your leave, I will in this connection deal with one question which was touched by my Honourable friend, Mr. Pant. That is the question as to whether the provisions of clause 37 of the Bill are sufficient. He was candid enough to say that in his opinion the percentage of the directors who should be elected by the shareholders should be two thirds and not one third as it is. Now, if you analyse the matter, what are the provisions of clause 37. Clause 37 in the first place says that the managing agents' power of nomination of directors is limited to one third. It also provides that one third of the number of directors must be elected by the shareholders. I am for the moment not troubling about the mode of election, whether it is to be by a general meeting or by nomination by the shareholders or by different groups of shareholders. As my friends, the Honourable Mr. Pant and Mr. Satyamurti, know, the proportion was fixed after a good deal of discussions by the Select Committee and the conclusion that that one third should be left without being earmarked for any particular group was arrived at for the purpose mainly of enabling special directors to be appointed under certain Acts. This was explained by the Honourable the Leader of the House yesterday. Take it from this point of view, if there are directors who under the local statutes or under the particular arrangements with financiers like debenture holders, it is the only bloc from which they can come in but assume for the sake of argument that there is a company in which there is no provision for debenture holders to nominate them and no provisions by any Local Government or authority to nominate directors. How is this one third to be filled up? From where? Not from the managing agents because there is a rigid limitation as regards their rights of nomination. They cannot nominate more than one third in any event. Therefore by process of elimination, that one third must go to the shareholders. Therefore, in effect, except in those cases where by arrangements with debenture holders whose money the company employs in its business or under statutes by which local authorities are granted, the right to nominate directors, the remaining one third is also available for the election of shareholders. Thus in substance I submit that the shareholders only can fill up the remaining 1/3rd from the shareholders. In effect, I think that except in the few cases in which the company is by reason of its commitments or by reason of any statute bound to let in directors to represent certain interests, every company will have the opportunity of having two thirds of its total number filled up from the shareholders.

I will now come to what my Honourable friend, Pandit Pant, was candid enough to say was a revolutionary suggestion. I mean the suggestion for what has been stated by him as election of directors by the right of proportional representation. Sir, I wonder if the exact purport of this phrase has been realised but if I am not mistaken, what my Honourable friend, Pandit Pant, says is this. Under the present system, the election of directors is by the principle of majority. Any group of shareholders who contrive to get a majority, by any permutation or combination, can utilise the majority in electing the directors. Now Pandit Pant says this will enable one single shareholder or for the purpose of that a bloc of shareholders who have combined for the purpose to get all their nominees in to the exclusion of the minority and this he says is an unjustifiable hardship which has got to be remedied. The remedy suggested by him is this, that the minority must be provided for, i.e., they must be allowed to have

their own representatives on the Board in proportion to the capital held by them. But may I remind him that that is against the fundamental principles underlying joint stock companies where every shareholder or every group of shareholders who are in a minority stand the risk of having to acquiesce in the wishes of the majority so long as it does not amount to any oppression or fraud on them. That is the fundamental notion of a joint stock company.

An Honourable Member : That is a wrong notion. Shareholders suffer.

Mr. Sushil Chandra Sen : Sir, opinions differ and I think the least that can be said is that up till now the existing principle has not been objected to seriously in India or in England where it has been in vogue for a good long time. Now, let us look at the suggestion which has been made from the practical point of view. How is it going to be worked? Who is to determine the minority? How is it to be reckoned, because there are permutations and combinations, which cannot be found out until the result of the elections are out? What I mean is this. Supposing A, B, C and D are up for election as directors, you may have one group supporting A, you may have another group supporting B but there may be permutation and combinations, who would support C and D. There would thus be no standing minority which you can point to, which is being ignored. (*An Honourable Member :* "There is.") In my humble submission, so far as I have been able to follow it is impossible to determine any particular group which can be called a minority, unless it is a combine for the purpose of ousting or measuring its forces against another combine, all through.

Babu Baijnath Bajoria : Is the Honourable Member aware that the system of proportional representation was followed in the Reserve Bank election of Directors.

Mr. Sushil Chandra Sen : I am ; but we do not know how it will work. It has been in use for a very short time and it will be injudicious to act upon it as a precedent. Then again if you have got to divide the shareholders into groups of minority and provide for representation for each group, it may lead to the adoption of that principle which has been described by my Honourable friends opposite as a pernicious principle which may ultimately land you in making provision for different communities, on a communal basis.

Mr. S. Satyamurti : We would only thereby be following the Government.

Mr. Sushil Chandra Sen : Sir, I do not think even my friend, Mr. Satyamurti, want specific provisions to be made for specific minorities. (*Voices :* "No, no.") Well, then, Sir, I think we are on common ground. Then, again, Sir, my friend, if he follows up his suggestions logically, will have to provide for votes for every class of shareholders who contribute to the capital. Now it is well-known that there is a certain class of shareholders, namely, the preference shareholders who, under their own arrangement with the Company, are not entitled to any vote, and for good reasons. The preference shareholder runs no risk, he gets his dividend whether the company is making a profit or not ; if he does not get it in one year, it is cumulative, he gets it in another year ; and there is therefore good reason for depriving him of the right to interfere in the management when he takes no risk. Now what

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is to happen to those classes of shareholders? Should they, by the suggestions which my Honourable friend makes, be also entitled to votes?

Mr. S. Satyamurti : They get no votes, *ex hypothesi*.

Mr. Sushil Chandra Sen : But I thought the proportionate representation was to be calculated according to the proportion of the capital that you contribute. (*Voices : "No, no."*) It is quite possible that I am dense enough not to understand it but that is how it struck me and most of us.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions ; Non-Muhammadian Rural) : A man may sometimes not understand a thing without being dense.

Mr. Sushil Chandra Sen : The last point which struck me and which I think is also a point against this suggestion is that under the present law, supposing there are five persons seeking election, every individual shareholder has the option of exercising his vote five times. If my Honourable friend's suggestion is carried into effect, certainly that right of vote will be curtailed. If you want proportionate representation, the shareholder will not be allowed to vote in the case of all the candidates. That certainly is not justifiable. (*Interruptions.*) Sir, if I am mistaken as my Honourable friend, Mr. Pant, says—I will pause during the course of the amendments to hear as to what exactly my Honourable friend means. I will only deal with another suggestion in this connection of my Honourable friend, Pandit Govind Ballabh Pant, and that is the suggestion about the disclosure of the dealings of the directors with the shares of the company. Sir, this is not a new suggestion. It was examined along with the materials which were placed before me for examination and I had occasion to go into it, and if I may refer my Honourable friend to the report at pages 15 and 16, it will give my Honourable friends the reasons why any possible legislation on these lines has not been recommended by me. If I may recapitulate them, first of all, if there was any dishonest director who wanted to utilise the informations of the inner working of the company in order to dabble in shares, nothing would be easier for him than to resort to a nominee to carry on for him, and, no law could possibly prevent such a procedure, unless there was a bureau like the C. I. D. in every company to find out if any person who is operating on the Stock Exchange is a nominee or not, of any director.

Pandit Govind Ballabh Pant : Is there anything to prevent nominee from receiving a loan from the company for the benefit of the director and negotiating a promissory note in his own name?

Mr. Sushil Chandra Sen : Sir, I know some of my Honourable friends have put in an amendment which deals with the question of a direct or indirect loan to the director. That will be dealt with it at the proper moment. But that struck me as the principal objection to having a legislation of the nature suggested by my Honourable friends. The other thing which I think is rather reprehensible is this. Why should you presume that the directors, or even any one of them, are dishonest people, people who are oblivious of the trust which the shareholders have imposed in them?

Pandit Govind Ballabh Pant : Because you have said so in your report.

Mr. Sushil Chandra Sen : If my friend will turn to my report, he will find the answer to the suggestions which were made and the reasons which prompted me not to make any recommendations in that behalf. Then we come to the provisions of the Bill regarding managing agents. Sir, I will not purport to deal with the main question about the period of the managing agency. As the Honourable the Leader of the House intimated, he will go into this question at length, and from the facts and figures which he proposes to place before you, the House will be in a position to judge whether the provisions in the Bill putting the existing managing agents and the new managing agents on the same basis are justified or not.

Pandit Govind Ballabh Pant : What do you think?

Mr. Sushil Chandra Sen : Sir, my view on the materials which were then before me is set out in the report. However, I do not think I will be drawn into this controversy as regards whether my view has changed. Undoubtedly it has.

Pandit Govind Ballabh Pant : Why?

Mr. Sushil Chandra Sen : Because of the materials now available to me.

Mr. S. Satyamurti : What are they?

Mr. Sushil Chandra Sen : They will be found in the seventeen volumes of the opinions which are available to my Honourable friend.

Mr. S. Satyamurti : I have seen them.

Mr. Sushil Chandra Sen : But apart from that question, let us see if in the Bill an attempt has been made to tackle the question of such abuses as have been found to exist in the system of managing agencies. Sir, I would refer Honourable Members first to clause 48, which provides for disclosure of the managing agent, his contract and his remuneration in the prospectus. I am beginning from the first stage, the formation of the company. Then, Sir, in clause 41 we have provided for the disclosures of the constitution of the managing agents, the changes, and the dates. In clause 41, by section 87-A, the much-abused clause, we have certainly put a limitation upon the unlimited periods for which managing agents used to be appointed in former times. In clause 87-B we have provided for the removal of the managing agent for fraud and other offences. Then, Sir, in clause 67 full disclosure of the remuneration which the managing agent gets has been made available to the shareholders; and in clause 87-C, there is the limitation about the remuneration of managing agents, certainly of those who will be appointed hereafter, *viz.*, that they will be appointed on a remuneration which must be calculated on the basis of a percentage of the profits. Sir, these are matters which I think even the most cynical of all critics will say is a considerable advance upon what the law has been up to now. Sir, the last point on which I would like to touch is about the balance sheet and what further disclosures have been made in the interests of the shareholders. Provisions have been made so as to disclose much more information than used to be disclosed under the old legislation. I refer to clauses 65, 66, 67 and 68 and I also refer to clause 69 which provides a very rigid penalty in the event of the proper provisions not being observed.

Sir, these are the main features of the Act. But there are undoubtedly a large number of minor alterations, minor in the sense that they are not matters involving any principle but they are certainly improvements which were required as a result of the experience obtained during the last 23

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years that the old Act was in existence. The cumulative effect of these minor alterations is also very considerable and I think my Honourable friends opposite will also find that as a result of the introduction of these minor alterations, as I call them, the general tenor of the Act has been considerably modified and modified for the benefit of the investors and the shareholders. Sir, I do not want to talk about the banking sections beyond saying that two of the much-needed reforms in the case of the small indigenous banking companies, namely, the keeping of reserves and cash reserves, has been provided for in the statute. Sir, I can say with some amount of experience of small banks in the province from which I come and I had occasion to deal with one hundred if not more of these banks which were on the verge of insolvency, and the main reasons, when investigated, were that these banks, which were very flourishing and which used to declare dividends ranging from 50 per cent. to 25 per cent. in days gone by, had no system of keeping reserves or cash reserves with the result that, when the rainy days came, they came almost to the verge of bankruptcy. These provisions, coupled with the provision of something in the nature of a moratorium which is in the discretion of the Courts to grant in proper cases, affords remedies which were much needed. Lastly, Sir, I come to section 277, over which a good deal of controversy has been raised. I find in the speech which my honourable and esteemed friend, Pandit Pant, delivered yesterday that he wanted the principle of reciprocity to be followed. That is natural. He wants the foreign companies to observe the same law as is provided for companies in our own country and he especially referred to the provisions of the English statute, section 374. What was pointed out that section 374 of the English Act should be incorporated *en bloc* in the provisions of the Indian statute. But, Sir, that would be unworkable for these reasons. Form F, in our Act which our companies have got to comply with, is not to be found in England. There is no such form there. There are certain sections which provide for disclosures on certain matters with regard to the accounts. Most of them were tried to be incorporated in the Form "H" which was provided in the Bill. Besides that, it has been rightly pointed out by some of the largest companies doing business in India like the Lloyds Bank, the National City Bank of New York and the Standard Vacuum Oil Company who have extensive branches in India, that the form of the balance-sheet which they have got to fill in their own country is entirely different. It contains informations which are not of the slightest importance to the Indian customers. It has also been rightly pointed out and I have no doubt my Honourable friends have gone into their representations that it will be well-nigh impossible from the point of view of labour, money and trouble to try and comply with these forms for their entire business. It was for this reason that the provisions in section 277, as they now appear, had to be re-drafted. But if my Honourable friends can offer any suggestions to the Leader of the House which can meet with their objections and at the same time keep in view the spirit which my Honourable friend, Pandit Pant, strives for, I have no doubt that they will be considered on the floor of the House. That is practically all that I have got to say on the question of this Bill. Sir, I would make an appeal to my Honourable friends opposite before I resume my seat. I would ask them to take stock dispassionately of what has been done in the Bill. Are they not satisfied that there is a considerable advance on the law as it stood before? Are

they not satisfied that a genuine attempt has been made to tackle with the problems which confronted those in charge of the legislation? I quite admit that there may be individual cases which have not been provided for in the Act, but I think my friends will agree that we should not try to legislate for individual cases lest we might injure the interests of the majority. Let us tighten the provisions but let us not strangle the institution. That is the point of view from which they should look at this piece of legislation. Let us not squabble about trivial points but I agree that with regard to major points we must all unite and try to find out the best that we can. With these remarks I commend the Bill, subject to any reasonable suggestions, to my Honourable friends opposite. (Loud Applause.)

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division : Muhammadan Rural) : Sir, it will be agreed by all that this amendment of the Act has come in right time and it will also be agreed that the labours, that have been spent by the Government Benches and especially by the Leader of the House and his eminent assistant who has just addressed the House, have been real, and that they have done their best. From the opinions that we have had and which have been circulated to us, I am sure we may safely say that an honest and hard attempt has been made to meet the difficulties and to avoid as many frauds as could possibly be done.

Now, Sir, there is no doubt that in our country limited liability companies are increasing and I, for my part, welcome that move. Not only that, but I do believe that all Indians ought to welcome that. It is in the interests of the country, it is in the interests of the investors and it is in the interests of all those who are engaged in industries. The great need of this country is to industrialise as soon as possible. We were once industrial people, but we are now almost an agriculturist people. We import everything, and all our raw produce is being sent out and brought back again, and the only solution for our safety now is to industrialise as fast as possible. Every country is attempting to industrialise, and every country is trying its level best to stop the imports from outside. If we are in this position, I wish to ask one simple question whether the trotting out of the theory of the consumers' interests does not cover also the interests of the agriculturists and labouring classes? Who are, after all, interested in the industries? Agriculturists, because of the raw produce they are interested in. Labour certainly are interested and, above all, the greatest consumers are the agriculturists and the labouring classes.

Now, Sir, recently we have been trying our best to industrialise, but it is also a fact that for the last 60 or 70 years we have attempted to industrialise and that attempt has been due to, what my Honourable friends would call, the managing agency system, and nothing else. I ask in all earnestness the Honourable Members of the House to point out to this House a single important industry which has been developed in this country without the aid of the managing agency system. The textile industry has been developed by the managing agency system. The jute industry has been developed by the managing agency system, the coal industry and almost all the important industries. Therefore, it is certain that up to now they have done some service certainly to themselves and also to the country. I am not a managing agent of any limited concern, and I am not even a director of any textile company. I know very well,

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and I sympathise fully with many here, that there are and there have been managing agents who have not acted as they ought to have. Above all, we cannot forget that it is due to the managing agency in the first instance putting in their moneys that the public come forward to contribute their mite. As the Honourable the Leader of the House pointed out there has always been the prospectus and everybody wishes to invest and before doing so the investor has to look into the prospectus. I am very sorry that my Honourable friend, Mr. Sri Prakasa, said the other day that he lost over Rs. 40,000 in one instance. But, in all fairness, I ask him and I ask everybody that if he were to invest Rs. 5,000 in any business, would he not take care to enquire into the soundness of the concern, and if he chooses to be careless, surely the whole system ought not to be condemned for that. When I say this, let me tell you frankly that we do need, and this Bill is providing for that long felt need of improvements in our managing agency system. I give credit to the Bombay Shareholders Association which came into existence about eight years ago. I wish there were such associations in all parts of the country. I do wish that shareholders do take interest in their own affairs, and, above all, as my Honourable friend, the previous speaker, has said, you must concede that, in any business and in any undertaking, the majority voice must prevail.

I do not wish to go into details of what my Honourable friends on this side of the House want about auditors. I am not going to be a party to any business of that kind, and, in the industrial affairs of the country, to make separate interests and thereby bring in all sorts of representation of interests is not good, because, after all, we have to remember that even though we will do our level best to industrialise ourselves, there is going to be keen competition, and that competition is at our very doors, and unless and until unity prevails in all the interests, you are not going to be successful in your enterprise.

Sir, it has been said on the floor of the House and a lot outside as well with regard to the textile industry of my City. The textile industry in my City has been there for over sixty years or more. I ask in all earnestness whether a single prosecution of any importance has taken place in any law Court with regard to mismanagement of that textile industry in Bombay. Is there any instance brought forward in Ahmedabad? I congratulate the Leader of the House in acknowledging the advantages of the managing agency system in Ahmedabad. I say, Sir, that the same thing existed in Bombay for a number of years, and even now there are concerns of which everybody could be proud. It has been said by my Honourable friend representing socialist views that the Bombay mill-owners had brought in slums to the City. I remember very well my very old father saying that, before Bombay had mill industry, the population was only five to six lakhs, whereas the present population is 12½ lakhs. The municipal revenues were then only 80 lakhs, whereas now they are 3.75 lakhs. At that time, there was no free and compulsory education; whereas, at present, we are spending 42 lakhs on that branch. It is also a fact that we have a number of *chawls*, and I do admit that a lot of improvement is necessary. But it must be conceded that if the mill industry in Bombay has come to trouble, it is not due to the managing agency system.

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

We have had no doubt strikes. I do not deny that. Labour has the right to strike. But the result of all that is—I am open to correction by my Honourable friend, Mr. Joshi,—that the millowners of Bombay pay their labour the highest that any employer of labour pays in any part of India.

Mr. N. M. Joshi : No, it is not true. Ahmedabad pays the highest.

Mr. Husenbhai Abdullabhai Laljee : There is none or very little difference between the wages paid in Bombay and those paid in Ahmedabad.

I also wish to point out another thing. There was a great world depression. Even Great Britain, the master of industries,—what was her condition? Even if Great Britain could not withstand the world depression, how do you expect Bombay to face it? Is that fair, therefore, to blame managing agents? I, as a shareholder, have bitterly suffered. I have got shares which I purchased in ordinary times, not during speculation, for three lakhs, and they are now worth not more than Rs. 300. I do not blame the managing agency system for this great fall in the value of my shares. It is due to world depression and also to some extent to the political movement that we had in Bombay during 1930 and 1931.

Pandit Lakshmi Kanta Maitra : Do you attribute that to the Civil Disobedience Movement?

Mr. Husenbhai Abdullabhai Laljee : I do not attribute solely to the political movement. The world causes also contributed to that. But the political movement also was one of the causes for the fall in the price of shares. I will tell my Honourable friends from Bengal that now that the Bengalis are developing the textile industry unless and until they have a good managing agency system, they will not get any benefit or profit out of the industry. The banks in this country will not lend to the mills alone. It is a fact. The managing agents who are solvent, who are supposed to be solvent (Laughter)—I do not say that everybody is solvent—please remember that the banks will not advance a farthing unless and until you get a managing agent to give personal security. Without money, you cannot develop the industry. I know eminent scientists, brilliant economists who all want to float companies. They are competent to do so, but neither you nor I will give a single pie and take a single share of that company unless and until some multi-millionaire or one known to be multi-millionaire comes forward as the managing agent of that concern or a director of that concern. These are facts between ourselves which we must admit. I ask in all earnestness another question. Is there a single industry which has been floated by an individual without a managing agent or an eminent person on the board? We have that mentality there. The facts are there, and, furthermore, the conservative banking system is there. Sir, one of the greatest managing agents company in Bombay, owning 13 mills, came to trouble a few years ago. (Prof. N. G. Ranga : "Why?") I am coming to the reason. It is not the managing agency. That firm was in existence for 65 years and paid crores of rupees as dividends. And why did they fail? At the time they had one mill, at the time they had six mills, they were giving a dividend of 12 per cent. Unfortunately for them they went in for more mills. At that time, there was a crisis in the mill industry of other countries and they thought the information they gathered would be of help to them. Being rich they took up another six mills in the interests of the country, in the interests

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of the working classes and in their own interests. All that they were worth they put in these concerns. The world depression went on, they could not help it. A few banks which used to lend them 20, 30, 40 lakhs or a crore at a time all of a sudden demanded four crores, and three and two crores, and nobody came forward to help them. They lost all their four crores of rupees and their 13 mills. The name of that company I am quite prepared to disclose, and they were Currimbhoy Ibrahim and Co. It was not their fault, and the blame could not be due to the managing agency system against whom, I am sorry to see, a general allegation has been made all over. I may point out one thing more. It is not only the managing agents upon whom the shareholders subscribe; it is also the board of directors. It is well known in the share bazar, it is well known in certain circles. You do not find anybody buying these shares and the poor shareholders, when they find that a large number of shares have been subscribed, go in for it. I do blame many of the directors, and I do feel that even in the present Bill sufficient provision has not been made with regard to the responsibilities of directors. I welcome the proposal that the shareholders should have two-thirds directors to appoint, but remember that it must be that the majority will rule, and specially in concerns of an industrial nature. Sir, some of my friends have said that the managing agents have been taking away all the profits. I am speaking subject to correction by my Honourable friend, Sir Homi Mody, but in the course of the last 10 or 12 years I believe most, if not all the mills in Bombay, have changed their Articles of Association and put down their commission on the profit basis. Not only that, but that industry and many other industries are likely to fail if the people of the country will not think that there is need for capital and there is need for labour, and that the interest of capital is not the interest of the people. It is on these grounds that it is you who are responsible for not getting the help from Government that we are entitled to. My friends here made speeches from which you can see very well that there are only two alternatives; either not have any industry, or, if you have industries, nationalise everything. But I do believe that none of those gentlemen who preached that sincerely believed that. We do want industries to flourish and it is in the interest of the country, of capitalists and of labour and of agriculturists and of one and all to do all we can in the best way so as not to be obstructive in that development. It is only that point on which I feel duty bound and feel sincerely that I should draw the attention of my Honourable friends. I quite agree with many of the remarks that my Honourable friend, Mr. Pant, made that a lot of improvements are necessary. A good deal of improvements have been proposed in this Bill, and I do feel that, when we come to the clauses, we shall certainly look into the merits. But, after all is said and done, I do hope and trust that my Honourable friends will admit that the managing agency system is not so bad as has been described. With regard to the managing agency, I wish to draw the attention of this House to one important question, and that is this. You may do away with it, but a managing agency in most cases is a firm. I know that in most cases it does happen that a son succeeds his father, and for that reason I do not like that system entirely. But if it were a firm in which those who have been working in the interests of the firm, those who

have been working in the mills, those who have been working in the factories, are included from time to time as partners, and if these people succeed in the firm as partners, it is that experienced management which we require. If it is a firm, it will always carry that weight with the banking world that it deserves. I do feel that up to now a large number of industrial concerns have not the public money, but group money either of the managing agents or of the directors. Therefore, gain, unless and until the public come forward with a majority of subscribed capital into the affairs, you cannot insist upon having a managing director, because he must have money. Who is going to lend to one individual, and how is the managing director going to guarantee bank? It would not work; and, therefore, if you have firms, and in the firms if you take partners who have been working in the concern, and if the shareholders take pretty good care to see that in the constitution of the managing agents in their general meetings they make rules by which every one of the partners of the firm should be such persons who have got experience of the working of the firm, I am sure the managing agency system will not be unsuccessful. We have instances in India of many good English firms and European firms in which the partners have not been members of the family, but persons who have risen from the lowest ranks and have become the greatest men. Take, for instance, Messrs. Mackinnon Mackenzie and Co. My old father said that Mr. James Mackay, when he first came to Bombay, came as an employee on Rs. 350 a month; and, afterwards, he rose to be no less a person than Lord Inchcape, the Managing Director of the P. & O. and the B. I. Steam Navigation Company, one of the largest combines in shipping and holding a large number of coal, jute and other interests. Therefore, my appeal is that we ought to consider the position in that way, and we ought to make our move in that direction if we really wish that our country should industrialise as soon as possible.

Seth Govind Das (Central Provinces Hindi Divisions: Non-Muhamadan): Sir, I also rise to make a few remarks on this Bill. The Honourable Mr. Sen, in his praise of this Bill, entirely forgot the great omissions which are there. When he said that the present Bill is an improvement on the existing Companies Act, I agree with him. But if he thinks that only individual instances or amendments or improvements are left, I do not see.

At the very outset, I want to mention that, as far as the present Bill is, there is very little that is objectionable in it: but, Sir, it does not go far enough. When this Bill deals with the entire law relating to companies, it should have gone still further into many details into which it has not gone. All the industries in any country cannot be dealt with in one and the same Bill. My Honourable friend, Mr. Ranga, was referring to key industries and to public utility industries, and I also want to mention that this Bill is entirely silent as far as these industries are concerned. When this Bill was dealing with the whole question, it should have dealt with matters relating to these industries as well. There is no denying the fact that every country has key industries and every country has public utility industries, and it is really surprising that this Bill is absolutely silent as far as these industries go.....

The Honourable Sir Nripendra Sircar: It is silent about every industry.

Seth Govind Das : It is ; but it should not have been. There are two kinds of industries—one, ordinary industries, and the other specific industries, that is key industries as well as public utility industries ; and this Bill should have gone into this question. Fortunately in our country today no vested interests are created in most of the key industries and most of the public utility industries, and this was the most opportune time when this Bill should have proposed some legislation as far as the key industries and public utility industries are concerned. Let it not be said that we are advocating any novel principle. The key industries and public utility industries have been dealt with in a different way in many countries, like France, Germany, Italy, Japan and others. This is necessary both for the national development as well as in the interests of the consumers. This can be done if proper amendments are introduced in this Bill in defining the industries and adding schedules, and I hope my friend, Prof. Ranga, is thinking of giving notices of certain amendments to that effect.

As far as the clauses in the present Bill go, it seems that, the main object of this Bill has been to control the managing agencies and the promoters of various companies in this country. Much has been said here in favour of managing agencies and against them. Everything in this world has got both sides, good and bad : there is nothing which can be entirely praised or anything which can be totally condemned. My Honourable friend, Mr. Husenbhai Laljee, when he was just speaking, was saying that the managing agency is praiseworthy in 99 out of 100 cases : at least, that was the effect his speech produced on me. I am not entirely in favour of condemning the system ; but at the same time, I want to point out that it cannot be said that there are not evils and great evils in this system. Though this system does not exist anywhere else in the world, except in India, yet in this country too it was first introduced by the foreign exploiters. Long before the year 1882 when there were no indigenous joint stock companies, our foreign exploiters were trading in this country with their head offices in foreign lands and their agents who were looking after their business in this country were called managing agents. This was the case when the tea and jute industries were being usurped by the foreigners. Later on, our own capitalists also began to work in the same way. I do not deny that our industrial organisation has been pushed up much by the managing agents like Sir Jamshedjee Tata and others like him, whose names will be written in golden letters in the industrial history of our land ; but at the same time, I cannot deny the other fact as well which has come into light in recent years, that evils and great evils have cropped up into this system. When my Honourable friend, Mr. Husenbhai Laljee, was praising this system, I think he entirely forgot what has been pointed out about this system by so many industrial experts. In this respect, Sir, I shall here read a passage from the report of the Banking Enquiry Committee. At page 279 of the Majority Report, it is said :

“ Although the Managing Agency system is reported to have done a great deal for the industrial development of Bombay, it is admitted that it is not by any means a perfect arrangement but has many serious drawbacks. . . . ”

Mr. Husenbhai Abdullabhai Laljee : I never said no.

Seth Govind Das :

“ There have been cases where the Managing Agents have, besides managing their own mills, traded and speculated and the resulting weakness in their position has

reacted on the financial position of the mills themselves and led to the banks withdrawing cash credits even when the mills were intrinsically sound, merely because the Managing Agents had become weak. Further, although it is true that in times of crisis such as Bombay has been going through, Managing Agents have incurred extensive losses as a direct result of financing the Mills under their control, there have been a few cases in which these Agents have turned their loans to the mills into debentures, with the result that the concerns have passed into their hands and the shareholders have lost all their capital invested in the undertaking. It has also been pointed out that this Managing Agency system works well when everything goes on smoothly and when the industries are prosperous. During these periods of prosperity if more money is required by the industrial concerns, the Managing Agents may very often continue to supply the money themselves to a considerable degree. Later on, however, when conditions alter and the industry or the particular concern comes up against bad times and the Managing Agents find themselves compelled to find more money to support the industry, it is found that they are not able in all cases to cope with the requirements.”

Mr. Husenbhai Abdullabhai Laljee : Quite right.

Seth Govind Das : At any rate, the speech which the Honourable Member made did not point out the defects of this system ; on the other hand, it gave me the impression that he was entirely praising it.

Mr. Husenbhai Abdullabhai Laljee : But I do want improvements.

Seth Govind Das : Now, Sir, the improvements which have been suggested in the present Bill are, according to some opinions, adequate, while those improvements, according to others, are not at all adequate, I am one of those,—I may say here that I am also a managing agent of certain concerns,—who think that the improvements which are suggested in the present Bill are not adequate enough. In my opinion, Sir, if the managing agency system wants to exist, it should of its own accord invite these improvements, because, Sir, what the people want at present is not the total abolition of this system, though I admit some might advocate it,—but what the majority of the people want is that shareholders should have larger control on managing agency, and if any managing agency is doing its work properly, it certainly cannot have any grudge or objection to the shareholders exercising larger control over it.

Sir, it is proposed that the time for a managing agency should be curtailed. It is proposed that 20 years should be given to managing agents who come into existence after this Act is passed. For the managing agencies which are already in existence the Honourable the Deputy Leader of my Party is going to move an amendment which I think should be acceptable to the House. The people who are interested in the managing agency system should themselves come forward and say that even if a lesser time is given they have no objection, because if their work is really good, I am absolutely certain that, in spite of their contract, they will be given more time and their contracts will be renewed.

Another point raised referred to the appointment of Directors. It is said that one-third of the Directors should be appointed by shareholders, one-third by the managing agents and one-third by debenture holders, preference shareholders and others. In my opinion, the managing agents should not have any objection even if all the Directors are appointed by the shareholders. If one or two persons on behalf of the managing agency are on the Board, and if the managing agents are doing really good work for the benefit of the shareholders, I cannot understand what objection any managing agency can possibly have even if all the Directors are appointed by the shareholders.

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[Seth Govind Das.]

Similarly, Sir, a lot is being said about disclosing certain facts to shareholders. If the work of the managing agents is clean and above suspicion, I cannot understand what objection can they possibly have to disclose what the shareholders want to know. After all shareholders are masters and managing agents are their servants. When the servants are to keep the whole power in their own hands and work as masters, and not as servants, then the trouble always crops up. My Honourable friend, Mr. Sri Prakasa, whispered just now, that the managing agency system has become just like the bureaucratic Government of this country. I mostly agree with him.

I have read certain opinions on the present Bill, and I find in some of them that people think that this legislation is premature. In my opinion, Sir, it is not so. It was in 1929 that the last Companies Amendment Act was enacted in England. A demand for reform of our company law has been going on for a very long time. When Sir C. P. Ramaswami Aiyar was Commerce Member for a short period, I think it was in 1932—an assurance was given by the Government that they would introduce some kind of legislation to improve the company law of this land. Sir Joseph Bhore when he was Commerce Member was engaged in other things and so he could not introduce this legislation, and it is fortunate that this piece of legislation has after all been introduced in this House.

Before I sit down I want to make one or two more points clear. It is somewhat supervising, Sir, that we find discrimination even in the present Bill. In clause 5 we find it is stated, that, "Except with the previous consent in writing of the Governor General in Council, no company shall be registered by a name which contains any of the following words....." and in these words there are—"the Bank of Bengal, the Bank of Madras and the Bank of Bombay". Now, these three banks are not in existence at present. I would like to ask the Honourable the Law Member what is the reason of prohibiting any concern from using any of these names if it wants.

The Honourable Sir Nripendra Sircar : The objection is this. If somebody starts a concern under the name of the Bank of Bengal today, people may be misled and may take it for a continuation of the old Bank of Bengal.

Seth Govind Das : I think people are wise enough, and I don't think they will be misled.

The Honourable Sir Nripendra Sircar : Yet it is said shareholders are fools ; they cannot protect themselves.

Seth Govind Das : I cannot agree with you in this respect.

The Honourable Sir Nripendra Sircar : I am glad.

Seth Govind Das : We know, Sir, to whom permission for using the other prohibited words will be given by the Governor General as the Government of India is constituted today, and, therefore, I want that this clause of the Bill should be deleted. Now, there is under clause, clause 109, section 277 of the existing Act, in which it is said that certain companies which are incor-

ported outside India and which are doing business in this country will be exempt from filing the balance sheet accounts, etc., in the way in which Indian companies are required to do. I cannot understand this discrimination. If the foreign concerns are carrying on their business in this country, in my opinion, they should be asked to file the same kind of balance sheets and keep their account books in the same way as the companies of this land are required to do, and I propose that there should be an improvement in this respect also.

Mr. M. Ananthasayanam Ayyangar : What about the control ?

Mr. Husenbhai Abdullahai Laljee : What about the large deposits they take from the people.

Seth Govind Das : I agree with the Honourable Members and therefore I propose that there should not be any discrimination. Every legislation is bound to leave certain loopholes and these loopholes are taken advantage of by the undesirables. When the Honourable Mr. Sen was speaking, it was pointed out that we should have some sort of separate department which should be created to look after the working of the joint stock companies.

The Honourable Sir Nripendra Sircar : I am glad to see your faith in the Government. (Laughter.)

Seth Govind Das : I do not mean that it should be an entirely Government body. It should be a non-official body at the same time ; it should have representatives from the non-official institutions as well. I never meant it should be a Government body and I do not know how the Honourable the Law Member can come to the conclusion that I have entire faith in the Government.

The Honourable Sir Nripendra Sircar : You have some faith. (Laughter.)

Seth Govind Das : There should be some control over the working of the joint stock companies of this land. In conclusion I want to add one more thing. My Deputy Leader, Pandit Govind Ballabh Pant, had suggested a revolutionary change, according to him, in the election of Directors. The Honourable Mr. Sen has said, how will the minority be represented on the Board of Directors even if they are elected by the single non-transferable vote. Now, there is no question of majority or minority. The question is this. Supposing there are 100 votes and 51 of them make a list of Directors and wish that only those Directors should be elected, 49 will not be in a position to send a single representative on the Board.

The Honourable Sir Nripendra Sircar : Quite right.

Seth Govind Das : It is not right and I differ from the Honourable the Law Member when he says that it is right. The opinion of 49 should not be ignored. There are many shareholders on behalf of the managing agents ; at the time of the general meeting, at the time of elections many shares are transferred and many votes are created, you know all these things. The opinion of 49 should not be ignored at all.

The Honourable Sir Nripendra Sircar : But your 49 may be divided into nine groups. Then let us have ten directors.

Seth Govind Das : Even if 49 are divided into nine groups, and there is election by the single non-transferable vote they are bound to send some directors. The candidates who will get the minimum number of votes, which are required for election, will be elected. I think it was the wisest and most appropriate suggestion that was made by my Honourable friend, the Deputy Leader of my Party.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Suppose it is 50-50, what is your answer ?

Seth Govind Das : If there are 50 on one side and 50 on the other side and if there is proportional representation, half will be sent by 50 and half will be sent by another 50, there won't be any difficulty at all. So far as the debenture holders and holders of preference shares are concerned, the Deputy Leader of my Party never meant that these Directors should also be elected by the single non-transferable vote because their numbers would be automatically fixed and debenture holders and preference share holders will send them on the Board. With these remarks, I resume my seat and I hope that the Honourable the Law Member will consider the suggestions that I have made.

The Honourable Sir Nripendra Sircar : May I get information from my Honourable friend ? He made the point that he is surprised that this Bill does not distinguish between key industries and other industries and that in France and Germany it is done. I have not read the French or German law, but may I know if in any country the company law provides different provisions for different industries ? I am not talking of other laws, tariff laws, protection laws and so on.

Seth Govind Das : We are going to have here this reformed law relating to all companies after a long time. My point is this that in other countries they introduce different legislations at different times to improve their company law. But here this reformed law dealing with the entire company law has come after a long time, and we do not know for how many more years we shall have to wait if we do not add all these provisions in this very law, which in my opinion can be done.

The Honourable Sir Nripendra Sircar : Nowhere does the company law provide for this.

Mr. Sami Vencatachalam Chetty : I have much pleasure in taking part in this debate. I welcome this Bill as an embodiment of the greatest measure of agreement between conflicting views in regard to the question of joint stock companies. If I may not be misunderstood as indulging in flattery, I am bound to say that under the guidance of the Honourable the Law Member almost all the suggestions which have been raised by the Honourable speakers who have spoken previous to me have been raised in the Select Committee and had been disposed of in the most satisfactory manner excepting one or two points of which notice of amendment has been given by the Deputy Leader of my Party. I must also say that I have come across no other person who, knowing so much of the subject, yet had the willingness, patience and courtesy to hear all sides and all points of view on even the most trivial matters as the Honourable the Law Member. (Hear, hear.) He was ably assisted by my Honourable friend, Mr. Sen, who brought all the knowledge which he had collected on this subject for the edification of the Committee and for clarifying many difficult and important questions in connection with this Bill.

So far as I have heard the speeches of Honourable Members, it does not appear to me that it is the case of any section of this House, excepting perhaps my Honourable friend, Prof. Ranga, that the system of managing agency must be totally abolished. Sir, those commissions and enquiries and those students who studied this subject of managing agency have not condemned the managing agency system entirely. They have no doubt stated the drawbacks and abuses of that system and I do not think even the Bombay Shareholders' Association, to whose indefatigable exertions we owe so much knowledge of the abuses of the managing agency system, would themselves desire the total abolition of the managing agency system. I think any person who has closely observed the progress of industrial, commercial and joint stock undertakings in this country cannot but come to the one conclusion, namely, that while the managing agency system has revealed some abuses which have got to be eliminated that system ought to be encouraged with these abuses eliminated in order that our industrial and joint stock undertakings may further improve. My Honourable friends, Pandit Govind Ballabh Pant, Mr. Satyamurti and Mr. Paliwal who have appended a dissenting minute to the report of the Select Committee are also of the opinion that until the State takes a direct concern in matters of this sort, it must be left to the private agencies like the managing agency system to cultivate the growth of joint stock companies in this country.

Pandit Sri Krishna Dutta Paliwal (Meerut Division : Non-Muhammadan Rural) : Not I.

Mr. Sami Vencatachalam Chetty : I beg your pardon. I believe that in so far as the abuses of the managing agency system have been revealed, a genuine attempt has been made in the amendments to this Bill to avoid those abuses, and in the course of the consideration of those proposals, other facts and other loopholes by which the managing agents might perhaps escape the provisions of the law were also taken into consideration and I think due provision has been made to rectify these defects. I think one Honourable Member mildly suggested that instead of an amending Bill of such a wide nature it would have been better if a comprehensive Bill had been ushered in by the Government. Whatever might be the technical objection that may hereafter be raised by one side or another for moving amendments in respect of clauses which have not been put in this amending Bill, I must say that so far as the proceedings of the Select Committee are concerned, the Honourable Chairman of that Committee allowed certain amendments which do not deal directly with the amending clauses.

Mr. M. S. Aney : On a point of order. Is the Honourable Member in order in referring to the proceedings of the Select Committee ?

Mr. President (The Honourable Sir Abdur Rahim) : He cannot discuss the proceedings of the Select Committee.

Mr. Sami Vencatachalam Chetty : So far as I could gather from the long criticism of my Honourable friend, Prof. Ranga, on this Bill, it seems to me that he would substitute for the managing agency system what he considers to be a system of commercial undertakings based on socialistic principles. For some time past I am also trying to know what really socialism means and so far as I could see, what my Honourable friend has been pleading for does not seem to me to be socialism but State

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 capitalism. What he would ask is that public utility undertakings and joint stock undertakings should be undertaken by the Government. I do not know whether he wants this Government to undertake them or he would wait till our Government comes into existence. If he desires that it should be immediately undertaken by this Government, I would request him to learn from the experience which we are now having in regard to the State management of railways. They have now become State capitalised. Day in and day out we are criticising that administration and quite justifiably. I do not think that undertakings of this sort can ever be worked by a State satisfactorily. (An Honourable Member: "They are being worked.") I can certainly agree with my Honourable friend, Prof. Ranga, if he wants that the shareholders who really contribute to the funds of these companies should have direct and more intimate touch with the management of the affairs of the company. If that is the point, then I entirely agree but unfortunately our experience is that our shareholders are too lethargic or too indifferent or too neglectful to take any interest in the management of these companies. Till we are able to educate, as perhaps Bombay is doing, by organising shareholders' associations, till we are able to infuse better spirit into the hearts of these public investors, it would appear to me that to entrust the management of these institutions to the class of shareholders we have, will be disastrous to the companies themselves and to their own funds. The agitation against the managing agency system started somewhere about 1921. That was partly due to the greediness of some managing agents taking more than they justifiably deserve. It is true also that this besetting sin is confined more or less to the Bombay Presidency. Madras can neither boast of so many joint stock companies nor feel ashamed of so many defaults as have been committed by the Bombay managing agents. (An Honourable Member: "Question.") Let me at once assure this House that I hold no brief for the managing agents but I must say that taking, on an average, the results of the management by the managing agents, there have not been numerous cases to warrant the total abolition of the managing agency system, inclusive of Bombay. Well, a reference has been made to the boom period. Sir, everybody has suffered owing to the economic depression that followed the boom. But I must correct one or two statements made by one or two Honourable Members that the depression was due to the political activities in the country. Sir, my own opinion is that during the political activities the Bombay mills profited more than ever. (Hear, hear.) (An Honourable Member: "Question.") In fact, Sir, they really utilised the political movement for their own betterment (Hear, hear), and, no sooner than the political activity subsided, they turned against the political movement which gave them their bread. (An Honourable Member: "They concluded the Mody-Lees Pact.") Sir, apart from that, I was referring to the large profits earned by the managing agents during the boom period. True, they have earned large profits legitimately apart from other sources. Now, simultaneously with the large profits, I think that the shareholders also gained correspondingly. The values of shares of Rs. 10 and Rs. 100 increased to Rs. 150 and Rs. 1,000. I do not think that that will be denied. So, whenever there were large profits, both managing agents and the shareholders earned large profits. (Hear, hear.) But undoubtedly, abuses, such as entering into contracts for the purpose of selling goods to the very company which they manage, or transferring

the purchase of goods at the most profitable time to the company, the diversion of funds by means of the creation of a subsidiary company, not accounting for certain large sums of money because they are not required to do so by law, indulging in *Benami* transactions, have all come in in the rapid wake of the large profits of the boom period: and I think it is these abuses that have led to the agitation that has been carried on against the managing system. Sir, every one of these abuses seems to have been met in this Bill by suitable amendments. But it would be betraying an utter lack of a sense of proportion if, on the score of revealed abuses, instead of rectifying abuses, we should ask for the total abolition of the managing agency system. Sir, in this Bill, I think, we have gained a very important point in respect of the provision we made for exercising the same provisions of law in respect of subsidiary companies as in the case of the principal companies. We have also, I think, made suitable provision for the proper preparation of the profit and loss account. It might be said that there are still some more matters upon which fuller information can be given in the profit and loss account. While it must be admitted that there might be some more points of information which may be necessary for shareholders in order to exactly assess the solvency of companies, it must also be recognized that there are insuperable difficulties in giving that information unasked-for: and I think a provision has been made that even that information should be supplied on the requisition of the shareholders if they so desire. Otherwise trade secrets or things which ought not to be known to competing companies might have to be divulged, to the detriment of the interests of the shareholders. Now, there is one other point upon which there seems to be a possibility of doubt. That is with regard to the managing agents taking up other businesses. At present, managing agents can take up any business which may also be of a conflicting or competitive nature with the company which they manage. It is, however, recognized that these managing agents should not be allowed to undertake companies which will be in direct competition with the original company which they are managing. Sir, a small phrase has been introduced in order to avoid this abuse, that is, that the managing agents ought not to undertake a business of the same nature. Now, those who wanted that this abuse should be eliminated have agreed to that phrase, thinking that by the use of that phrase the abuse will be entirely eliminated, but I think those who disagree or those who want that the managing agents must be permitted to have other undertakings, also seem to be of the opinion that this phrase will not affect their right to undertake other undertakings. Well, I think, here my Honourable friend the Law Member was not quite frank in the Select Committee. He did not help us really by elucidating what that phrase would really mean in respect of this abuse. Now, Sir, with regard to the two important amendments of which notice has been given by my Honourable Deputy Leader, Pandit Govind Ballabh Pant, and others, viz., that, with regard to the existing managing agents, the term of their continuance must be limited to a period which is less than that provided in the Bill, Sir, much has been made of the fact that the Honourable Member, Mr. Sen, in his original recommendation wanted that even the existing managing systems must be terminated after a period of one year from the commencement of this Act. Well, Sir, I do not know what made by Honourable friend make that somewhat radical recommendation. But it seems to me that if that amendment had been incorporated in this Bill and if that came up for

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discussion before this House, many Honourable Members who are now supporting Mr. Sen's original recommendation would have opposed it on this ground. Now, Sir, what would have happened if within one year of the commencement of this Act managing agents had to terminate their contract with the companies? Apart from the sanctity of contracts, which may be used for and against them as occasion suited, there is the danger that the companies would go to ruin on account of the threatened termination of the managing agency at the end of one or two or three years. The managing agents would so manage the business as to destroy the credit of the company within that particular period and make the shareholders suffer before the threatened termination of this contract. I am glad that that calamity has been averted. But on that ground it would not be desirable that the old managing agents should continue to enjoy the benefits of the existing law while their new competitors in the field will be subject to greater restrictions. Therefore, wherever it is a case of dissatisfaction, it must be open to the shareholders to have an opportunity of revising or renewing or terminating the managing agent's agreement after a certain reasonable time being given. From that point of view I welcome the notice of the amendment which has been given.

Now, with regard to the other point, namely, proportional representation, I am afraid the Government have not appreciated the importance and the value of that amendment. Difficulties have been trotted out which are merely theoretical. These difficulties have been met by other bodies, not only in the non-commercial field but also in the commercial field. For instance, as has been pointed out, the Reserve Bank Act makes a provision for a representation of that sort. Sir, the point that is to be gained by giving proportional representation is this. The discontented minority or the minority which has not properly understood the affairs of the company will have a reasonable opportunity of getting itself acquainted with the affairs of the company in order that its dissatisfaction may be silenced. Apart from that, there is another ground why proportional representation should be given. It is on account of territories. Now, Sir, Bombay is the centre of industrial activity and Bombay floats a company the shares of which are open to all Indians all over the country. Unless it be the intention that the participation in the profits must be confined purely and solely to Bombay, Bombay should welcome the co-operation and assistance and finance of other provinces also. Sir, if that be so, what is the incentive province if they are not to be in contact and in touch with the affairs of the company. Sir, denial of proportional representation would confine the choice of the directors and other important officers in the hands of the majority of shareholders who must naturally belong to the province in which that undertaking is floated.

Sir Cowasji Jehangir : Are you in favour of proportional representation ?

Mr. Sami Vencatachelam Chetty : Yes. I would, therefore, suggest that in order that all provinces might participate and evince as much interest as the forward industrial provinces of this country, you must give them a chance. By means of giving proportional representation, it will ensure provincial representation also. But if it could be managed by

giving provincial representation the proportional representation also, then it is quite a different matter.

Sir Cowasji Jehangir : What do you mean by provincial representation ?

Mr. Sami Vencatachelam Chetty : I mean provincial representation of provinces which finance these undertakings.

Sir Cowasji Jehangir : And whose shareholders may live outside the place ?

Mr. Sami Vencatachelam Chetty : I will not be so unreasonable as that. Any question may be reduced to absurdity by putting very hard cases against it. But if it is conceded that every Indian who wants to evince interest in these undertakings should have opportunities to come into contact with them, then I suppose some reasonable adjustment should be possible. With these words I have great pleasure in supporting this motion.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, I congratulate Mr. Sen on the very careful and illuminating report that he has submitted, and I also congratulate the Select Committee which has taken so much pains to meet all points of view as far as possible. It appears from the discussions in this Assembly as well as from the general experience that this Company law is a very complicated affair. This law has to deal with many parties and if one has to satisfy one party the other party to a certain extent loses a certain advantage and I must congratulate the Select Committee that it has succeeded in bringing out an Act which, though it may not satisfy all the parties, will be able to satisfy most of the parties. After making these observations I come to the managing agents. Under the present conditions of India, the industries are in a very nascent state and the capital is so shy that we will be retarding the industrial progress if not killing it altogether if we abolish the managing agency system altogether. Sir, many abuses have been mentioned against the managing agency but it is on account of the managing agency system throughout India that we now can see some industrial movement in the country. I, therefore, appeal to the Assembly not to go to the length of abolishing the managing agency system altogether but try to impose further checks against the fraud of the managing agency system. I think sufficient checks have been provided in the Bill as it has emerged from the Select Committee and if we go further than this I am afraid we will be killing the industry altogether. If the managing agency system is to continue, then the provisions which have been made to guard against the attorney of the managing agents are quite satisfactory.

Then, Sir, I wish to refer to some minor points in this matter. I find that for a long time there was a crying grievance in the country that only the High Courts have jurisdiction over matters that concern the Companies Act. That jurisdiction has been given by the Act of 1913 to High Courts and to High Courts alone. Now, Sir, in the districts there are many Joint Stock Companies with a small capital and for any objection that is to be taken, one has to go to the capital of the province and make an application to the High Court. That involves a large expenditure. We, the people of Bengal, know it very well what is meant by carrying

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on the litigation in the original side of the High Court. If small companies are to carry on their litigation through an attorney, I am afraid it is this litigation which will ruin the company and not the managing agency system. This is a crying evil for a long time and I find that this point has not been taken up either in Mr. Sen's report or in the report of the Select Committee. I find in section 3 of the former Act that there is a proviso which has given the power to the Local Government to empower any District Judge to exercise the jurisdiction under the Act. I would appeal to the Honourable the Leader of the House to consider this point whether there could be any objection to conferring jurisdiction on District Judges under the present Act. Nowadays District Judges are well versed in civil administration and so I think it is high time that the proviso under this section is withdrawn and power is given straightaway to District Judges to try cases arising out of the Act. While the Local Government is empowered to give jurisdiction to District Judges, why should not the Government of India or this Assembly straightaway give that power to District Judges. I hope this House will consider that point very carefully. The absence of such jurisdiction in District Judges is greatly felt by all companies, small or big. The companies that are situate in mufassil have to run to the capital of the Province to have their cases tried there by the High Courts. Sometimes the subject matter of the case might be a trivial one, there might be no objection to the case from the opposite party, but yet the company has to take their case to the High Court. There is no reason why jurisdiction should not be given to District Judges.

There is another point that I wish to refer. I find that in case of transfer, if a transferor makes an application "that I have transferred the share to such and such a person", notice is to be given to the transferee. But if a transferee applies for a transfer, no notice need be given to the transferor. I think, Sir, it should be the reverse. When a transferee makes an application, there is a chance of fraud, there is a chance of forgery, there is a chance of misrepresentation. I therefore think that if a transferee makes an application, there should be notice given to the transferor so that if he accepts it, there is no difficulty and if there is a dispute between the parties, the matter will be referred to a Court. But here it is said that one who transfers, if he says that he has transferred to somebody else, notice is to be given to the person who will get the benefit. Here the transferor having made an application saying that "I have gifted the property to such and such a person", then such a person is the beneficiary. No notice need be given. If notice is to be omitted at all, it should be omitted only towards the transferee. But I think notice should be given to transferor and transferee in case of transfer of shares. In case a person says that he has purchased a thing from "A" property worth Rs. 50,000, it is common sense that that man "A" should be informed about that. I hope this point will be considered by the House and the section amended accordingly. I have also given an amendment on that point. I find that nobody has touched the point.

There is another point which I wish to refer now. There is a crying evil in the managing agents securing the greatest controlling power in a concern by buying the largest number of shares. If a business begins to flourish, the managing agent being in the know of things, buys the shares

by and by, to the extent of even 75 per cent. of the total number of shares and thus the managing agent is able to secure absolute controlling power and he can do anything with the company because he has a majority under his control. That is the case with directors also. I have known many cases in which directors and managers control the greatest number of shares.

The Honourable Sir Nripendra Sircar : What is the remedy you suggest ?

Mr. Suryya Kumar Som : I suggest there should be a provision in the Act prohibiting the managing agent from acquiring more than a certain percentage of the shares of the company, say not more than 25 per cent. There is another point about which I am not satisfied with the explanation given by Mr. Sen, that is as to the position of the auditors. It is a curious arrangement that still continues in the country. Auditors are appointed by the companies whose accounts he has to check. Generally the auditor will be absolutely dependent on the favours of that company, he depends for his remuneration on that particular company which has appointed him as the auditor. He dare not point out the defects of the company because he will in that case lose his remuneration thereby but he will also lose the chance of being appointed auditors by other companies. The other companies will come to know that such and such an auditor acted against the wishes of the company which appointed him as the auditor and in this way he would lose in his profession. He will not be selected by any other company to audit the accounts. My suggestion is this. I understand that auditors are registered in the books of the Government of India. My suggestion is that a certain authority should be constituted, as in the case of the civil Court commissioners. The civil Court commissioners are appointed not by the Courts in the mufassil, either by the munsifs or the sub-judge but generally the District Judge selects the civil Court commissioners. If a report goes from a mufassil Court that a commissioner is wanted for such and such a case, the District Judge sends the man. The parties do not know, nor the munsif as to who the commissioner will be. I suggest there must be some provision made to select auditors as in the case of the civil Court commissioners. There must be an authority composed of officials and non-officials who will select the auditors. Even if the shareholders should select the auditor, there are difficulties. The auditor must be an independent man. He must not be afraid of displeasing either the managing agent or the directors or the shareholders. He must be thoroughly independent. There are many things in which the shareholders' interests are against the managing agents. And there are many things in which the managing agents are interested which is against the shareholders. So my suggestion is that there should be an independent body for selection of an auditor for a company to whom the company will apply for an auditor to audit their accounts every year.

Then, I think there can be a provision about the qualification of the Registrars of joint stock companies. You will find that if the Registrars had done half their duty much of the mischief about these companies in the provinces would disappear. At present it is not necessary that the Registrar should be a lawyer ; it is neither necessary that he should be learned in the Companies Act ; it is not even necessary that he should know about companies or business. A man with no such knowledge is now made the Registrar and there lies all the difficulty. I will therefore

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appeal to the Leader of the House to consider if any provision can be made in the Bill as regards the qualifications of a Registrar.

These, Sir, are all the observations I have to make and I wholeheartedly support the present Bill as has been amended by the Select Committee, in spite of its defects. I ask the House not to throw out this Bill, because a better Bill than this it will be impossible to produce by any one at present or in the near future. If there are any defects we can go into them in detail and correct them. But we should not throw this Bill out, because we cannot produce a better one in a few years.

Babu Baijnath Bajoria : Sir, I feel it my duty to congratulate the Government of India on their undertaking a thorough overhaul of the Indian Companies Act of 1913. I think this is the best and the most important piece of legislation which has been placed before this House since I became a Member here. This overhauling was long overdue and various mercantile bodies in all parts of the country have been crying for this overhauling, because the present Act has many shortcomings and does lend itself to abuse, sometimes gross abuse, by those in charge of the management of companies. The abuse in some cases has been so much that a certain section of the public has even lost confidence in the efficacy of the system of management by managing agents. Sir, I am not one of those, I have not lost confidence in the managing agency system because I find defects. In spite of the abuses to which this system has lent itself, it must still be admitted, and I think nobody in this House will deny it, that the present industrial development of this country has been mainly, and I shall say entirely, due to the enterprise and resourcefulness of the managing agents. But for the managing agents we would not have reached the present stage of industrial development in this country and I will be the last person to see this system die out. Sir, it is well-known that there is a lack of capital in India for the purpose of industrial development of our country and one of the main reasons is that capital is very shy and the investing public is very much afraid that the money which they invest in the public companies may be lost. The industrial development of a country always depends upon the proper and honest utilisation of capital invested by individuals in public companies who for some reason or other cannot themselves engage in commerce and industry. Sir, it is the duty of Government and of this House to see that the interests of the investing public or the shareholders should be protected first and foremost and that their money may not be misused by the managing agents. Sir, once these misuses of public money are restricted considerably,—though I know that they cannot be altogether eliminated,—then the confidence of the public will be restored. If the confidence of the public is restored, there will be no lack of capital forthcoming for the industrial development and industrial development will proceed apace. Sir, as I have already said, there have been misuses by the managing agents and others in charge of the management of companies. But in spite of this I shall say that the managing agency system has proved and has behaved on the whole fairly well. These few cases have spoilt the fair name of the managing agency system and I think honest managing agents will themselves like that some restriction is placed so that unscrupulous managing agents may not spoil the fair name of the managing agency system.

Mr. K. Ahmed : What about the People's Bank in the Punjab and the Bengal National Bank ?

Babu Baijnath Bajoria : There was no managing agency in the Bengal National Bank.

Mr. K. Ahmed : Then, who misappropriated all that money ?

Babu Baijnath Bajoria : For the proper success of a public company it is absolutely necessary that the shareholders, managing agents, directors and the auditors should all properly discharge their respective duties. The shareholders invest their money mainly on the credit of the managing agents and look mainly to them for the safety of their money and their investments and for a decent return on their investments. If we do not have a sound and solvent managing agent then you can never expect the investing public to invest their money. It is the duty of the shareholders to take interest in the affairs of the company and to see that the company is managed properly and also to see how the company is faring. If they find that there is anything wrong in the management it is also up to them to bring it to the notice of the managing agents and the directors. But I regret that the shareholders in this country generally take absolutely no interest in the affairs of the company. Some suggestions have been made by my Honourable friends, Mr. Sri Prakasa and Prof. Ranga, to create interest in the shareholders. Mr. Sri Prakasa suggested that shareholders should be sent to jail if they do not attend meetings of the company. I do not think Mr. Sri Prakasa was serious when he made this suggestion, in spite of his assurance that he was quite serious.

Another suggestion is from Prof. Ranga : that is a very good suggestion. He says that all the shareholders must be given travelling allowance so that they may be able to attend the meetings of the company. But he was very miserly : he only wanted to give them third class travelling allowance. That is beneath the rank and dignity of the shareholders.....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member much more to say ?

Babu Baijnath Bajoria : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now adjourn till tomorrow.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 10th September, 1936.

LEGISLATIVE ASSEMBLY.

Thursday, 10th September, 1936.

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

QUESTIONS AND ANSWERS.

EXAMINATION BY AN EXPERT OF THE FINANCIAL POSITION OF THE RAILWAYS.

267. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether they have come to any conclusion as regards the examination by an expert of the financial position of the Railways ;
- (b) whether they have considered the question of the importance of experts from countries other than Britain ; and
- (c) what their conclusion is ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to the reply I gave to Mr. Ananthasayanam Ayyangar's question No. 84 on the 2nd September, 1936.

Mr. S. Satyamurti : Have they since received any kind of recommendation, with regard to the examination of the financial position of the Railways from any authority or Committee ?

The Honourable Sir Muhammad Zafrullah Khan : Recommendation from whom ?

Mr. S. Satyamurti : From any authority or Committee, with regard to the examination of the financial position of the Railways ?

The Honourable Sir Muhammad Zafrullah Khan : It is a very wide question. If the Honourable Member means any kind of suggestion from anywhere, I should require notice.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, is there any question under consideration by the Honourable Member, as regards the importation of experts from countries other than Britain ?

The Honourable Sir Muhammad Zafrullah Khan : The whole question is under consideration, but I have no specific proposal of that kind under consideration just now.

Mr. S. Satyamurti : At what stage, does this consideration stand ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know how to divide into stages the consideration of a question ; it is still under consideration, and no final decision has been arrived at.

Mr. S. Satyamurti : Is it anywhere near the stage of final decision ?

The Honourable Sir Muhammad Zafrullah Khan : I hope so.

†268*.

APPOINTMENT OF A COMMITTEE TO EXAMINE THE WORKING OF THE OTTAWA TRADE AGREEMENT.

269. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the question and answer in the House of Commons on the 14th May, 1936 to the effect that the Under Secretary was not in a position to make a statement about the proposal of the Government to appoint a Committee to examine the working of the Ottawa Agreement ; and

(b) whether the Government of India have been consulted ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) No, Sir.

Mr. S. Satyamurti : Was this answer given by the Under-Secretary of State without reference to the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, the answer was given without any reference to the Government of India. It did not commit the Government of India to any course of action.

Mr. S. Satyamurti : Since the answer, has there been any communication or correspondence between the Government of India and His Majesty's Government, with regard to a Committee to examine the working of the Ottawa Agreement ?

The Honourable Sir Muhammad Zafrullah Khan : I believe the Committee referred to in that question was the Committee which I proposed the House should set up for examination of these matters, and the question was directed towards eliciting whether, in spite of the decision of this House, the Government of India would set up a Committee. As the Honourable Member is fully aware, there was no such intention, and so no Committee was set up.

CONSULTATION WITH GOVERNMENTS CONCERNED IN THE OTTAWA TRADE AGREEMENTS *re* THEIR CONTINUATION.

270. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the question and answer in the House of Commons on the 19th with regard to the invitations to the Governments of the countries concerned in the Ottawa Agreement with a view to continuing those agreements in the same or another form ;

(b) whether they have ascertained from the United Kingdom Government whether they propose to proceed by way of discussions with individual Governments ; and

(c) if so, whether they have been approached ?

† This question was not put by the questioner.

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) No, Sir.

(c) Does not arise.

Mr. S. Satyamurti : What does this answer " No " mean ? Does it mean that they have ascertained from the United Kingdom Government, whether they propose to proceed by way of discussions with individual Governments, or they have not ascertained ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India were not concerned to find out how the United Kingdom Government proposed to proceed with regard to the Dominion Governments in this matter, and therefore they did not try to ascertain anything of the sort.

Mr. S. Satyamurti : May I know whether, so far as my friend's information goes, the Government of the United Kingdom have no proposals for dealing with this Ottawa business, apart from dealing with India just now ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information.

Mr. S. Satyamurti : Will he find out whether, in dealing with Great Britain over the Ottawa negotiations, the other Dominions are being consulted, or the matter is being dealt with mainly between the United Kingdom Government and the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : Does the Honourable Member mean simultaneously, the United Kingdom Government consulting the Dominion Governments ?

Mr. S. Satyamurti : I am asking whether in the negotiations between India and the United Kingdom, the Dominions come into the picture at all, and if so, to what extent ?

The Honourable Sir Muhammad Zafrullah Khan : So far as I am aware, No.

DISCUSSION OF THE REPORT OF SIR OTTO NEIMEYER IN THE LEGISLATIVE ASSEMBLY.

271. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they will give a day for the discussion of the Order in Council relating to the Neimeyer report ; and

(b) if not, why not ?

The Honourable Sir James Grigg : (a) No.

(b) I do not think that any useful purpose will be served by such a discussion.

Mr. S. Satyamurti : May I know whether my Honourable friend considers that no useful purpose would be served by discussing it, when the Assembly has had no opportunity at all of discussing this Report or the Order in Council ?

The Honourable Sir James Grigg : I am aware of the circumstances, but Parliament has taken its decision. That is the reason why I say that

no useful purpose will be served by discussing it here ; it will be like flogging a dead horse.

Mr. S. Satyamurti : May I know whether the Government has any intention of taking public opinion into account, with regard to the soundness and the workability of these proposals ?

The Honourable Sir James Grigg : I don't think public opinion as to the soundness of the proposals at the moment is very relevant. The future course of events will show whether they are sound or not, and unfortunately it is not public opinion, but I who have to cope with that in the immediate future.

Mr. S. Satyamurti : May I know if the Government of India are aware that the certificate required by the Government of India Act as to the financial solvency of the Federation is given on the basis of Sir Otto Neimeyer's Report or the Order in Council thereon ?

The Honourable Sir James Grigg : That is a question to which I would not like to give an answer off hand, but the immediate purpose of Sir Otto Neimeyer's Report was to see whether provincial autonomy could properly be started, and that is the only respect in which it is relevant in this connection.

Mr. S. Satyamurti : May I know, if the Government, therefore, contemplate a further inquiry with regard to the other requisites under the Government of India Act, namely, the financial solvency of the Federation, before it can start ?

The Honourable Sir James Grigg : I think, if my memory serves me correctly, the Joint Select Committee and the Government of India Act did not contemplate any further inquiry. It contemplated that Parliament would take its decisions on a recommendation by His Majesty's Government taking all the facts and circumstances into account, but I have no doubt one of the circumstances which will have to be taken into account is the extent to which the estimates on which the Report of Sir Otto Neimeyer's Report is based turn out to be justified.

Mr. S. Satyamurti : May I know whether the Government of India expect to be consulted by His Majesty's Government, before they recommend to Parliament, that Federation may start because they are satisfied as to its financial solvency ?

The Honourable Sir James Grigg : I should imagine so.

Mr. S. Satyamurti : May I know whether they will consult this House or public opinion, as to the soundness of the proposals ?

The Honourable Sir James Grigg : I think that is looking too far ahead at present.

Mr. S. Satyamurti : When is the Federation expected to come ?

The Honourable Sir James Grigg : I have nothing to add to what has already appeared on the subject.

POLICY OF RECRUITMENT TO THE DEHRA DUN INDIAN MILITARY ACADEMY.

272. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether any attempt has been made to improve the policy of recruitment to the Dehra Dun Indian Military Academy ;

(b) if so, what those steps are ; and

(c) if not, when such step will be taken ?

Mr. G. R. F. Tottenham : (a), (b) and (c). Government do not admit that the policy stands in need of improvement, so far as the open examination for the Indian Military Academy is concerned, but as the Honourable Member is aware the whole matter is under consideration. In order to provide increased educational facilities for Indian Army cadets, the course at the Kitchener College, Nowgong, has just been extended to two years. After undergoing this course the educational qualifications of Army nominees to the Indian Military Academy should reach a higher standard.

Mr. S. Satyamurti : With regard to the recruits outside the army, may I know if the Government of India are satisfied that they are getting the right type of cadets for the Dehra Dun Academy ?

Mr. G. R. F. Tottenham : Yes, Sir.

Mr. S. Satyamurti : May I know, therefore, this Committee, which is now sitting and which, I think, is going to meet again this Session here, is concerned only with the recruits from the army, and not outside the army ?

Mr. G. R. F. Tottenham : The conference which is now sitting is concerned with clearing certain doubts in the minds of Honourable Members as to whether the quality of the candidates for the open examination is good enough or not.

Mr. S. Satyamurti : But Government have no such doubts, I suppose ?

Mr. G. R. F. Tottenham : Government themselves, as I have already stated, are satisfied with the quality of the cadets recruited through the open examination.

Mr. S. Satyamurti : Has this improvement in the quality of cadets from the army been taken in hand ?

Mr. G. R. F. Tottenham : Yes, Sir, as I have just explained, we have started this new idea in order to improve the qualifications of those coming from the army.

Mr. S. Satyamurti : Is this idea being given effect to ?

Mr. G. R. F. Tottenham : It has just been started ; the results of it will not be seen until the first batch of cadets have completed their course, and that will not be possible for another year or so.

Mr. S. Satyamurti : What is the general nature of these changes ? I merely want to know what are the general changes made in the training of these army cadets which the Government hope will result in the improvement of their quality ?

Mr. G. R. F. Tottenham : I can give the Honourable Member information in detail, if he wishes ; but the general idea is that instead of selecting candidates for the Indian Army cadetships direct from the units, which means selecting candidates on the recommendation of a number of different Commanding Officers, we are going to have a sort of preliminary selection and send the likely candidates to the Nowgong College, and

then after giving them an intensive course there, have an Interview and Selection Board, which will finally select cadets from the number under instruction at the Kitchener College.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

273. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether new rules with regard to the recruitment to the Indian Civil Service by nomination have already been put into effect ;
- (b) if so, the number of candidates to be recruited ;
- (c) whether any minimum qualifications will be prescribed ; and
- (d) if so, what they are ?

The Honourable Sir Henry Craik : (a), (c) and (d). I would refer the Honourable Member to the Press Communiqué issued by the India Office on the 11th May, 1936, a copy of which is in the Library.

(b) Since 1930-31 the deficiency in recruitment has been 79 Europeans and 13 Indians. It is proposed to make up this deficiency gradually and not all in one year.

Mr. S. Satyamurti : What are the minimum qualifications with respect to Indians ?

The Honourable Sir Henry Craik : I am not sure that that has been settled yet.

Mr. S. Satyamurti : May I know whether there are to be any minimum qualifications at all ?

The Honourable Sir Henry Craik : Yes, sure to be.

Mr. S. Satyamurti : May I know whether this Indian shortage will be made up by selection, or by selection *plus* any kind of *viva voce* or any other test ?

The Honourable Sir Henry Craik : I do not think that has been settled yet. I think that is still the subject of correspondence.

Mr. S. Satyamurti : May I know over how many years Government expect to spread this filling up of the shortage in recruitment, both European and Indian ?

The Honourable Sir Henry Craik : The existing shortage ?

Mr. S. Satyamurti : Yes.

The Honourable Sir Henry Craik : Well, that is largely a matter of guess work ; we hope to do so in about four years, possibly less.

Mr. S. Satyamurti : Will Government consider that we ought not to have too many of them at a time and see that they are spread over a fairly large number of years, so that Gresham's law may not operate ?

The Honourable Sir Henry Craik : Will the Honourable Member kindly repeat the question ?

Mr. S. Satyamurti : I am asking whether the Government will bear in mind that this recruitment by selection should be spread over a long number of years, and not be concentrated in one or two years ?

The Honourable Sir Henry Craik : No. On the contrary, we want to fill up the shortages as quickly as possible because the shortage is causing the most grave administrative inconvenience.

Mr. S. Satyamurti : But do not Government expect to get more by competition ?

The Honourable Sir Henry Craik : If we get more by competition we shall take less by selection obviously.

+274*.

SIMLA EXODUS.

275. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a message published in the *Hindu* of the 15th May ;
- (b) whether there is any proposal to give up Simla exodus altogether ; and
- (c) whether there is any proposal of shortening the stay at Simla ?

The Honourable Sir Henry Craik : (a) Yes.

(b) and (c). No.

Mr. S. Satyamurti : May I know whether that means that there is no proposal at all to give up the Simla exodus ?

The Honourable Sir Henry Craik : What I mean is that the matter is not under consideration at present.

Mr. S. Satyamurti : Is there any proposal to expand the accommodation in Simla ?

The Honourable Sir Henry Craik : Office accommodation ?

Mr. S. Satyamurti : Yes.

The Honourable Sir Henry Craik : Not that I am aware of.

Mr. S. Satyamurti : Is there any proposal to expand the Legislature accommodation in Simla ?

The Honourable Sir Henry Craik : That seems to me to be a matter for the new Legislature to decide.

Mr. S. Satyamurti : May I take it, therefore, that, till the new Legislature meets and decides the question, there is no proposal to increase either the office or the Legislature accommodation in Simla ?

The Honourable Sir Henry Craik : I cannot say for certain about office accommodation, but I do not think that there is any idea of increasing the Legislature accommodation at present.

Mr. S. Satyamurti : Have Government taken engineering opinion, and are they satisfied that there is not much scope for expansion of accommodation in Simla now ?

The Honourable Sir Henry Craik : As my Honourable colleague (The Honourable Sir Frank Noyce) says, that point is now under investigation.

+ This question was not put by the questioner.

Mr. S. Satyamurti : For what purpose ? With a view to extending accommodation ?

The Honourable Sir Henry Craik : To see whether extended accommodation is likely to be necessary.

Mr. S. Satyamurti : Is it consistent with their desire not to extend the accommodation, to investigate whether it is possible to get extended accommodation ?

Mr. President (The Honourable Sir Abdur Rahim) : That is all argument. Next question.

APPOINTMENT OF TRADE COMMISSIONERS IN FOREIGN COUNTRIES.

276. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they have decided to appoint a Trade Commissioner in East Africa ; and

(b) whether they propose to appoint Trade Commissioners in other countries, especially the United States ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) Yes ; in Japan.

Mr. S. Satyamurti : Are they the only two countries, East Africa and Japan ?

The Honourable Sir Muhammad Zafrullah Khan : The only countries with regard to which a decision has been taken that Trade Commissioners should be appointed in them.

Mr. S. Satyamurti : When are they going to be appointed ?

The Honourable Sir Muhammad Zafrullah Khan : Shortly.

Mr. S. Satyamurti : Are there any other countries for which the Government are considering the question of appointing Trade Commissioners ?

The Honourable Sir Muhammad Zafrullah Khan : Various countries are considered at various times. Suggestions come in and one has to look into them.

Pandit Lakshmi Kanta Maitra : Are Indians going to be appointed as Trade Commissioners ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot say so definitely at present, but it has been pressed upon me repeatedly from various quarters of the House that the desirability of appointing Indians may be kept in view and it shall be kept in view.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

277. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to the resolution passed by the Committee of the United Provinces Liberal Association, asking for the release of Srijiut. Subhash Chandra Bose, published in the *Hindu*, dated the 27th May, 1936 ; and

(b) whether they propose to take any action thereon ?

The Honourable Sir Henry Craik : (a) I have seen the Press report regarding the resolution to which the Honourable Member refers.

(b) No.

Mr. S. Satyamurti : May I know if even the Liberal Association cannot get a better hearing, at the hands of the Government than the Congress ?

The Honourable Sir Henry Craik : That is a matter of argument.

Mr. S. Satyamurti : I am simply asking this. There are two associations in this country, the Congress and the Liberal Association. The Congress is considered to be unfriendly, but the Liberal Association is considered to be friendly to Government, and I am simply asking.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think that can be allowed. Next question.

COMMUNIQUE ISSUED BY THE ROYAL CONSUL GENERAL FOR ITALY ABOUT THE SUPPLY OF DUM DUM BULLETS TO ETHIOPIAN TROOPS.

278. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a communiqué issued by the Royal Consul-General for Italy in Calcutta that Dum Dum bullets were supplied by Great Britain to Ethiopian troops ;

(b) whether they propose to investigate the matter ; and

(c) if not, why not ?

Sir Aubrey Metcalfe : (a) Yes.

(b) No. The allegation concerning the supply of Dum Dum bullets to Ethiopian troops has more than once been officially denied by His Majesty's Government, and the Honourable Member's attention is invited to the statement made by the Secretary of State for Foreign Affairs in the House of Commons on the 18th May, 1936, a copy of which is laid on the table.

(c) Because the allegation has already been investigated and refuted and is in any case not a matter with which the Government of India are concerned.

EXTRACT FROM HOUSE OF COMMONS DEBATES, MAY 18, 1936.

Mr. Eden's Statement.

Mr. Eden : I am grateful to the House for giving me an opportunity to deal with the allegations, which have been made by the Italian Government and press concerning the supply of "dum-dum" or explosive ammunition to the Abyssinian forces. Although the House will recall that these allegations have more than once been officially denied, certain recent happenings make it necessary for me, in the interests of British industry and of the good name of this country, to make, with the consent of the House, a very full statement.

In order that the whole position may be clearly understood, I must first remind the House that in Abyssinia cartridges of all kinds have long been used by the inhabitants in the same way as currency is used in some countries. Arms and ammunitions are, in fact, the dearest possessions of the Abyssinian warrior. Abyssinia is also a country where big game is hunted, and has therefore been visited by numbers of persons interested in that form of sport. These big game hunters have naturally

carried with them supplies of the soft-nosed rifle ammunition which alone possesses the stopping power required to deal effectively with certain species of big game. Ammunition of this type has undoubtedly been left behind by the hunters and has circulated among the natives; other supplies may, long previous to the outbreak of hostilities, have found their way across the frontiers from neighbouring territories where big game is hunted, and this relatively modern sporting ammunition has gone to swell the countless rounds of ammunition of various types circulating throughout the country.

When Abyssinia mobilised to meet the Italian invader, the many thousands of tribesmen who responded brought with them such arms and ammunition as they possessed. Because of the grave shortage of military supplies, it was only possible for the Abyssinian Government to rearm a portion of their levies with modern arms and ammunition. Consequently, in the fighting that has taken place, use may no doubt have been made by the Abyssinian soldiery of all manner of antiquated rifles, shot guns, etc., some of which, if the Italian statements about the injuries received by their troops are accurate, may well have been loaded with soft-nosed cartridges of sporting character, old-fashioned leaden bullets, slugs, or, in fact, anything their owners could find.

I have gone into these details because, in the course of the campaign, it is reported that the Italians have captured, among other cartridges, specimens of soft-nosed ammunition manufactured in the United Kingdom. Allegations were made in Italian quarters that these British-made cartridges had been supplied since the opening of hostilities by British firms to the Abyssinian Government for military purposes; and the Italian Government, in complaining to the League of Nations on the use of illegal ammunition by the Abyssinians, furnished evidence clearly intended to give this impression. As a result, a careful investigation was made by the appropriate authorities of His Majesty's Government, and on the 4th February a communication was addressed to the League of Nations showing the baselessness of the Italian allegations. This communication was circulated to all States members, and was published. It not only showed conclusively that the British-made cartridges illustrated in the Italian evidence had been manufactured in some cases over twenty years ago, but it also mentioned that a telegraphed Abyssinian order for military cartridges which had specified that half of these should be in clips of five had been distorted by the Italian authorities to read "half of which to be clipped."

For a time Italian allegations regarding the supply of dum-dum ammunition from this country died down, only to be revived a few weeks ago. Before proceeding to explain how this came about, I wish to emphasise two points. The first is that, naturally, neither His Majesty's Government, nor British industry, are responsible for the fact that for years past all manner of cartridges have freely circulated from hand to hand in Abyssinia. The second is that, apart from any other consideration, the strict control exercised by His Majesty's Government over all exports of arms and ammunition from this country calls for each and every consignment, even of the smallest size to be covered by an export licence; and no such licence has been granted or would ever be granted in respect of ammunition which was to be exported to a foreign Government for military purposes, and which fell within the prohibitions of the Hague Convention.

On the 12th April, however, the *Messaggero* newspaper in Rome, after repeating old charges already refuted, published photographs of certain soft-nosed cartridges made in this country, and of a letter from the firm of George Bate of Birmingham, addressed on the 19th February last to the Abyssinian Minister in London, accompanied by photographs of packages addressed to the Abyssinian Legation, and marked "Material to be supplied for Abyssinia." It will interest the House to learn how this letter and these packages came into Italian possession.

On the 19th February last an individual styling himself Colonel Pedro Lopez called on the managing director of Messrs. Bate and intimated that he represented the Abyssinian Government. After producing a letter of introduction from the Bank of Egypt, itself a forgery, and after mentioning the possibility of appointing Messrs. George Bate as buying agents to the Abyssinian Government, this person stated that the Abyssinian Legation wished to secure samples of cartridges of British manufacture, which should include dum-dum ammunition. On being told that ammunition in the latter category was not used in civilised warfare, the so-called Colonel Lopez replied that Abyssinia was swarming with leopards, which it was no use shooting with solid bullets. After some further conversation the managing director of Messrs. George

Bate agreed to supply him with certain samples of ammunition, which included thirty rounds of 7.9 mm. soft-nosed sporting cartridges. These were packed in a box, and before this was sealed Lopez asked that something should be enclosed in writing to prove that the cartridges were of British manufacture. As the letter which was prepared did not satisfy his requirements, Lopez dictated there and then a communication from Messrs. Bate to the Abyssinian Minister in London guaranteeing that the samples were of British manufacture. This was enclosed in an envelope and packed with the cartridges inside the box. Lopez then took possession of the parcel, and it was next heard of when the letter which he had just dictated was published in the Italian press. I have ascertained that neither the package nor the letter was ever delivered to the Abyssinian Minister, nor had Lopez been entrusted by the latter with the mission of securing samples of cartridges. I should mention here that Lopez is known to have approached unsuccessfully several other firms in the United Kingdom.

Lopez is well known to the authorities in this country under a number of aliases. At different times he has been known as Burnstein, Henry Lawrence, Singleton, Radbill, etc., and on more than one occasion complaints have been made to the Foreign Office by diplomatists accredited to His Majesty's Court concerning the approaches which have been made to them by this individual. In October, 1935, Lopez wrote to the Foreign Office, stating that he thought his services might be of use to His Majesty's Government. In the letter he mentioned that he had already had three conferences with the Italian military attaché at the latter's express invitation. I will not weary the House with a detailed resume of the many contacts and meetings which Lopez is known to have had with representatives of the Italian Embassy. It is only necessary to say that his relations with that Embassy have continued, and that he is known to have had contacts with members of the Italian military attaché's staff within the last three weeks.

His activities in this connexion appeared to His Majesty's Government of so mischievous a nature that it was decided that a friendly warning should be addressed to the Italian Embassy on the subject. This action was taken in the first week of March. The Ambassador was warned orally on my instructions by a high official of the Foreign Office that I was aware of the fact that the Italian Embassy were in touch with a notorious purveyor of false information and forged documents, named Henry Lawrence, Lopez, etc. A description of this individual and of his activities over a number of years was furnished, and, in view of the complaints made by various foreign missions in London, it was suggested that if the Italian Embassy cared to refer to certain of their foreign colleagues, the latter would be able to confirm the foregoing information. It was further stated that it had come to the knowledge of His Majesty's Government that, posing as a purchaser of arms for the Abyssinian Government, Lopez was making enquiries about the alleged supply of dum-dum ammunition from this country, and that he was apparently attempting to persuade the Italian authorities that such ammunition was being exported with official connivance from the United Kingdom. In conclusion, it was suggested that the continued employment of a man of this disreputable type would not be conducive to the maintenance of good relations between Italy and the United Kingdom.

The Ambassador replied that he himself was quite unaware of the existence of the individual in question. He would look into the matter. His Excellency expressed his most grateful thanks for the information, which he regarded as likely to prove of great benefit to Anglo-Italian relations. Subsequent, however, to this warning, Italian propaganda on the subject of the alleged supply of dum-dum ammunition by British firms was revived through the publication in the Italian press of the letter which Lopez had himself dictated to the Secretary of the managing director of Messrs. George Bate and Co. of Birmingham. On the 31st March Lopez, under another alias, namely, Mezler, called upon the Abyssinian Minister. He offered, in return for concessions in that country, to supply the Abyssinian Government with large quantities of arms and ammunition, and he asked for a letter from the Minister authorising Colonel Gustave Mezler to buy these goods, adding that he would be prepared to obtain the necessary permits. He induced the Abyssinian Minister to sign a paper containing a long list of required ammunition. The Minister has stated that among the many items listed he omitted to notice one for 3 million soft-nosed cartridges; and it must be obvious that he did not notice it, for, apart from everything else, he knows that no export licence for the export of these rounds could ever have been obtained from the Board of Trade. Their purchase, therefore, would have

been utterly useless, and, in fact, no application for a licence for any of the munitions in this list was ever made, but the paper signed by the Abyssinian Minister was later published in the *Messaggero*.

It is with the greatest regret that I have felt it necessary, in the course of this explanation to the House, to deal very frankly with what can only be described as an attempt to fabricate evidence that the Abyssinian forces are being supplied with illegal ammunition by interests in this country. That I decided to take this unprecedented step is due to the necessity of protecting the good name, not only of British industry, but of His Majesty's Government. Indeed, I regard it as essential that all the facts should be known, not only here, but also abroad, in order that there should be no misapprehension concerning the very careful steps taken by His Majesty's Government to control, not only the quantity, but the types of arms and munitions exported from the United Kingdom.

I may add that a note which the Italian Government had addressed to the League of Nations a week ago renewing their charges against this country and reproducing the letter from Bate and Co. and the Abyssinian Minister's paper has now been cancelled. Copies of this communication were, however, circulated informally to the foreign delegations in Geneva during the recent meeting of the Council; and it is also on this account, and because of the publicity which has ensued, that I have found it necessary, without any desire to excite controversy or criticism, to make a full statement of all the facts.

Mr. A. Henderson : May I ask the Right Honourable gentleman whether the papers in this case will be sent to the Director of Public Prosecutions with a view to the necessary action being taken, and secondly, does not this episode rather prove the suggestion that foreign Embassies are using their diplomatic immunity in order to.....

Sir Assheton Pownall : What is the nationality of the so-called Colonel Lopez ?

Earl Winterton : If he is a foreigner, why is he allowed to remain here ?

Mr. Eden : He is not a foreigner.

Sir W. Brass : Will the Right Honourable gentleman make representations to the Italian Government, and ask them whether they will accept the explanation which he has made in the House this afternoon ?

Mr. Eden : I think my statement stands fully for itself. If I may say so, it might well be left as it is.

Mr. Attlee : Will the Right Honourable gentleman repeat the answer which he gave to the noble Lord the Member for Horsham (Earl Winterton), which was inaudible on this side of the House, and also give an answer to my Honourable friend the Member for Kingswinford (Mr. A. Henderson) ?

Mr. Eden : I had every intention of giving an answer to the Honourable Member for Kingswinford. The facts in my statement which relate to the deception of the Birmingham firm and the consequent publication in the *Messaggero* were carefully considered by the Director of Public Prosecutions, who came to the conclusion that, although a minor contravention of the summary provisions of the Firearms Act, 1920, might have come in question, such facts would not afford a satisfactory basis for a prosecution for an indictable offence. As to nationality, the person concerned is a British subject, although of Polish origin.

Miss Rathbone : Will the Right Honourable gentleman consider whether the publication of the report of the Committee of Jurists would not throw light on the mendacity of Italy in regard to Abyssinian atrocities ? Would it not be fair to Abyssinia to have that published ?

Mr. Johnston : Will the Right Honourable gentleman not avail himself of the present opportunity to refute the allegation frequently made in the Italian press that the publication of the allegations as to these dum-dum bullets was prohibited in the British press at the instance of His Majesty's Government ?

Mr. Eden : Of course there is no word of truth in such an allegation.

Mr. Johnston : Why did the Right Honourable gentleman not take previous opportunities of saying that His Majesty's Government had not exercised any pressure upon the British press in this matter ?

Mr. Eden : I think the traditions of our country are well enough known to make that unnecessary.

Mr. Thorne : Is there no power in this country to expel an inhuman brute like this ?

Mr. A. Henderson : The Right Honourable gentleman has not answered my second question. Does he not consider that the military attaché, to whom he referred in his own answer, is unsuitable to carry out his functions in this country ?

Mr. Eden : What I have said to the House I have said with regret, in order to make clear the position of His Majesty's Government and the good name of British firms. I hope the House will not draw further deductions from it.

Mr. E. J. Williams : May I ask the Right Honourable gentleman whether the recital of this case is not concrete evidence that the private production of arms should be prohibited ?

Mr. S. Satyamurti : May I know why Government did not give publicity to this denial of the Secretary of State for Foreign Affairs in the House of Commons, in view of this communiqué having been broadcasted in this country ?

Sir Aubrey Metcalfe : The statement made by the Secretary of State was very fully printed in the press in this country, and if anybody had taken the trouble to read it there was no necessity for the Government to do more publicity in the matter.

Mr. S. Satyamurti : Do Government accept this position that they do not do any publicity with regard to those matters that are widely published in the press ?

Sir Aubrey Metcalfe : It is not necessary for them to do further publicity when the thing has been published in the press. What more publicity can they do ?

Mr. S. Satyamurti : May I know whether the Government of India do not do any publicity for any of their acts or intentions, apart from such publicity as they get in the press in the normal course of things ?

Mr. President (The Honourable Sir Abdur Rahim) : That is a very general question. Next question, please.

ANTI-INDIAN PROPAGANDA ABROAD.

279. **Mr. S. Satyamurti* : Will Government be pleased to state :

- (a) whether their attention has been drawn to the question and answer in the House of Commons, relating to *anti-Indian* propaganda abroad ;
- (b) whether the matter has been brought to the notice of the League of Nations ; and
- (c) if not, why not ?

The Honourable Sir Henry Craik : (a) I have seen the question and answer to which the Honourable Member refers.

(b) and (c). I would refer the Honourable the Member to the statement which I recently laid on the table in fulfilment of the undertaking given by me on the 16th April last in replying to Mr. Ananthasayanam Ayyangar's question No. 1650.

Mr. S. Satyamurti : Has a representation been made to the League of Nations ?

The Honourable Sir Henry Craik : That is explained in the statement here.

Mr. S. Satyamurti : Has it been made ?

The Honourable Sir Henry Craik : It is explained in that statement :

"It has been agreed that no useful purpose would be served by bringing the matter to the notice of the League. In view of the business before that body, there is no prospect at present of getting this matter considered by it, and, even if this were later found possible, the probability is that considerable time would be taken in evolving a formula for the acceptance of foreign powers which may quite conceivably never prove effective in stopping misrepresentation or the production of films, etc., which offend the sentiments of people of this country. It is not therefore proposed to pursue the matter."

Mr. S. Satyamurti : May I know whether, if Government do not propose to bring it to the notice of the League of Nations, they are considering any other steps by way of directly approaching the Governments concerned, where this anti-Indian propaganda is being carried on ?

The Honourable Sir Henry Craik : If the Honourable Member will read the statement that I laid on the table, I have explained there what steps will be taken.

Mr. S. Satyamurti : Have Government heard from any Government to whom they have sent communications, protesting against the anti-Indian propaganda ?

The Honourable Sir Henry Craik : I cannot say. Those protests will have to be made through diplomatic channels and the replies, if any, will take some time.

Mr. S. Satyamurti : Will Government get replies some time or other ?

The Honourable Sir Henry Craik : Yes.

Prof. N. G. Ranga : Is there any truth or substance in the allegation usually made that as far as America is concerned the anti-Indian propaganda is being carried on with British assistance and connivance ?

The Honourable Sir Henry Craik : So far as I am aware, there is no truth whatever in it.

MR. BINDER'S ENQUIRY IN ZANZIBAR.

†280. ***Mr. S. Satyamurti :** I shall only ask for answer to part (c).

Sir Girja Shankar Bajpai : (c) The report has not yet been received.

Mr. S. Satyamurti : Will the report be placed on the table of the House ?

Sir Girja Shankar Bajpai : It all depends. If the report is received in a confidential state and the House is still sitting, I fail to see how it can be placed on the table.

†280. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) what the latest position is with regard to Mr. Binder's enquiry in Zanzibar ;

(b) whether they are following the enquiry ; and

(c) whether the report will be placed before the Assembly for discussion ?

SIGNING OF ANY INDO-JAPANESE TRADE AGREEMENT IN ENGLAND.

281. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether their attention has been drawn to a statement by the Consul-General of Japan in India published in the *Indian Express*, dated the 21st May, 1936, regarding signing of any Indo-Japanese trade agreement in England ;

(b) the reasons why any agreements arrived at here should go to England ; and

(c) whether agreements cannot be concluded here ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes Sir.

(b) and (c). The Honourable Member is referred to Sir Joseph Bhoré's speech in this House on the Adjournment Motion by Mr. B. Das on the 25th January, 1934.

Mr. S. Satyamurti : May I know, in the case of this agreement, whether it will be signed in India or in England ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will refer to the speech to which I have invited his attention, he will find there the whole constitutional position explained.

Mr. S. Satyamurti : May I know whether there has been any change since then, and whether it is now proposed to sign the treaty in India ?

The Honourable Sir Muhammad Zafrullah Khan : There has been no change in the constitutional position since then.

Mr. S. Satyamurti : Will the Government represent to His Majesty's Government the need and the propriety of signing it in India, and not signing it in England ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a question of need or propriety. Under the present arrangements all treaties on behalf of India must be signed by somebody representing His Majesty's Government and therefore it will be useless to make a representation which could not possibly be given effect to.

Mr. S. Satyamurti : Will the Government of India ask His Majesty's Government to send down that representative to Delhi, so that the agreement may be signed in Delhi ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : There is no reason why they should.

Mr. S. Satyamurti : Is it not undignified for a country like India to send its treaty to be signed 6,000 miles away ?

The Honourable Sir Muhammad Zafrullah Khan : If that is the constitutional position, I do not see how India's dignity will be added to or subtracted from by the treaty being signed in London.

Mr. S. Satyamurti : Is the constitutional position unchangeable ?

The Honourable Sir Muhammad Zafrullah Khan : I hope not. In course of time it may change.

Mr. N. M. Joshi : May I know if it is not a fact that the Treaty of Versailles was signed by representatives of India and not by the British Government, that the Treaty of Washington was signed by the representatives of India and that the Locarno Pact was signed by the representatives of India and not by the representatives of the British Government ?

The Honourable Sir Muhammad Zafrullah Khan : I presume so.

Mr. N. M. Joshi : If that is so, why should not representatives of India be allowed to sign this treaty ?

The Honourable Sir Muhammad Zafrullah Khan : This is a treaty between India on the one side and a foreign country on the other. Those were treaties where the representatives of His Majesty's Government were present and along with them in the delegation was included a representative of India.

Prof. N. G. Ranga : Is it not a fact that the Governor General in India is the representative of His Majesty ?

The Honourable Sir Muhammad Zafrullah Khan : That does not arise.

Prof. N. G. Ranga : May I know why he could not sign it ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot give information on that point.

Dr. N. B. Khare : Has the constitutional position changed after signing the treaty of Versailles ?

The Honourable Sir Muhammad Zafrullah Khan : The constitutional position is still the same.

RECOMMENDATIONS OF THE COMMITTEE ON CONSERVATION OF COAL.

282. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they propose to consult those vitally interested in the coal industry in order to ascertain from them how far they would be in a position to implement the recommendations of the Committee on conservation of coal ; and

(b) at what stage the conservation remains ?

The Honourable Sir Frank Noyce : (a) The Government of India made an official reference to the interests concerned on 17th June last, and I have also had the advantage of informal consultations with the leading organizations. I do not doubt that it will be an important part of the Committee's duties to consider how far any recommendations which appear to them to be desirable can be carried out in practice and that they will take steps to ascertain the views of the organizations concerned on this point.

(b) I presume that the Honourable Member wishes to know the stage reached in the discussions on the conservation question. As I have already stated, the position is that we have consulted the interests concerned and are considering the personnel and terms of reference to the Committee which will examine this question.

Mr. S. Satyamurti : Do Government expect to bring up any legislation on this matter ?

The Honourable Sir Frank Noyce : I really cannot anticipate the recommendations of the committee, but if the Honourable Member wants my own personal view, I should think that legislation will probably be necessary.

DEVELOPMENT OF NUTRITIONAL RESEARCH IN INDIA.

283. ***Mr. S. Satyamurti :** With reference to Mr. R. A. Butler's statement in the House of Commons, regarding the development of nutritional research in this country, will Government be pleased to state :

- (a) the steps that are taken in the country ;
- (b) the extent and nature of the research ; and
- (c) the results thereof ?

Sir Girja Shankar Bajpai : (a) to (c). I would refer the Honourable Member to the reply given by me to his question No. 210 in the current Session.

CONSERVATION OF COAL.

284. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article in the *Hindu* of the 14th May, 1936 ;
- (b) whether they propose to take steps to see that so valuable a commodity as coal is not wasted and that in national interests it is conserved for the benefit of the nation's industries ; and
- (c) if not, why not ?

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

(c) Does not arise.

Mr. S. Satyamurti : May I take it that this problem referred to in (b) is connected with the inquiry which my Honourable friend contemplated in answer to question No. 282 ?

The Honourable Sir Frank Noyce : Yes, it is.

ENQUIRY INTO THE WORKING OF THE CLOVE GROWERS' ASSOCIATION IN ZANZIBAR AND RESERVATION OF KENYA HIGHLANDS FOR EUROPEANS.

285. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 21st May, 1936, regarding the presence of an Indian representative to assist the enquiry that is being conducted in Zanzibar into the working of the Clove Growers' Association ;
- (b) what the position is with regard to the reservation of Highlands for Europeans in Kenya ; and

(c) whether they will investigate other matters mentioned in the article and do the needful ?

Sir Girja Shankar Bajpai : (a) and (c). I would refer the Honourable Member to answers to previous questions on this subject during the Session.

(b) The Honourable Member's attention is invited to the reply given by me on the 1st September, 1936, to part (a) of his starred question No. 42.

Mr. S. Satyamurti : Have Government considered, or will they consider that the Highlands in Kenya can never be developed by Europeans alone, and will they represent to His Majesty's Government that, in the interests of the Colony itself, this reservation should be stopped, or at least not extended, and the lands should be thrown open for development by Indians and Natives ?

Sir Girja Shankar Bajpai : I must point out to my Honourable friend that the Government of India discussed with His Majesty's Government in 1923 this question that the lands in Kenya cannot be developed by Europeans alone.

CONSULTATION OF COMMERCIAL AND INDUSTRIAL OPINIONS AFTER GIVING NOTICE OF TERMINATION OF THE OTTAWA TRADE AGREEMENT.

286. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether, after the Resolution of the Assembly, asking them to give notice of termination of the Ottawa Agreement, they have consulted commercial and industrial opinions in the country ;

(b) if so, what the opinions are ;

(c) whether they have called for the views of the Local Governments ; and

(d) if so, what their views are ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (c). Yes.

(b) and (d). Government are not prepared at this stage to disclose the nature of the opinions received.

Mr. S. Satyamurti : May I take that it Government have received opinions both from commercial and industrial bodies as well as Local Governments ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Mr. S. Satyamurti : May I know whether they propose to lay it on the table, some time later ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot give a reply to that question at this stage.

Mr. S. Satyamurti : May I know the reason why the opinions of public bodies on a subject of first class importance are not placed on the table of the House ?

The Honourable Sir Muhammad Zafrullah Khan : For one thing, it might be prejudicial to the negotiations that are now pending and therefore it would not be desirable to disclose them.

Prof. N. G. Ranga : What is the procedure followed in consulting the commercial and industrial opinion in connection with this matter—is it by simply expecting them to write to the Government of India or the Government of India sends any communication to them asking for their opinions.

The Honourable Sir Muhammad Zafrullah Khan : The Government of India invited them.

Prof. N. G. Ranga : In that case, what steps have the Government of India taken to ascertain the opinion of peasants in this country ?

The Honourable Sir Muhammad Zafrullah Khan : Local Governments are expected to send in their opinions in regard to the effect of the agreement on the interests of the peasants in their provinces.

Prof. N. G. Ranga : In view of the fact that the Local Governments were not merely expected to send their opinions as to the effect that the termination of this Pact would have or might have, but the Government of India went out of their way to refer the matter to these commercial and industrial organisations in the country, may I know why the Government of India failed to consider the advisability of ascertaining the opinions of peasants' associations in the country ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is in error in assuming that the Local Governments were not expected to express their opinions from the point of view of commercial and industrial interests also.

Prof. N. G. Ranga : May I know, Sir.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot argue the point.

(Cries of " Order, order " from Official Benches.)

Prof. N. G. Ranga : It is not such an easy thing to shout " Order, order ". I am trying to argue the matter with the President.

Mr. President (The Honourable Sir Abdur Rahim) : Next question. The Chair cannot allow any more questions.

ADEQUATE SUPPLY OF FODDER AND GRAZING GROUNDS FOR CATTLE AND IMPROVEMENT OF LIVESTOCK IN A SCIENTIFIC MANNER.

287. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they propose to address the Local Governments on the question of cattle-breeding and improving livestock in a scientific manner ;

(b) whether they propose to examine the question of adequate supply of fodder and grazing grounds for cattle ; and

(c) whether they propose to give facilities to villagers for rearing cattle ?

Sir Girja Shankar Bajpai : (a) Provincial Governors have already been addressed on the subject.

(b) and (c). Reference on the subject has already been made to Local Governments and the possibility of further action is being examined.

Mr. S. Satyamurti : May I know if Government are aware, in spite of their campaign for stud bulls and other things, that the real reason why the breed of cattle is going down is lack of adequate supply of fodder and of grazing grounds ?

Sir Girja Shankar Bajpai : It is because allegations have been made to this effect and there is some substance in them that I have stated in reply to parts (b) and (c) of the question that the Local Governments have been addressed on the subject of improving the fodder supply.

Mr. S. Satyamurti : Have the Local Governments been addressed on this specific question, of so administering their forests and forest laws, as to provide an adequate supply of grazing ground for cattle consistently with the conservation of forests ?

Sir Girja Shankar Bajpai : In regard to that, I may inform my Honourable friend that the matter has been investigated and there is a difference of opinion as to whether such defects as arise from the grazing system are due to what my Honourable friend would consider to be a limitation of the area or the fact that there is not a scientific use made of such land as is available for purposes of grazing.

Mr. S. Satyamurti : Are Government addressing themselves to the question of a more scientific and more economic use of such fodder as is available in this country ?

Sir Girja Shankar Bajpai : Well, Sir, I may inform my Honourable friend that only recently we have addressed Local Governments on the subject of agreeing to the appointment of a committee which is to investigate into this matter.

Mr. S. Satyamurti : With reference to the answer to clause (c) of the question, may I know whether Government have any proposals by way of addressing Local Governments on this question, and giving reasonable facilities to villagers in rearing cattle of the right type ?

Sir Girja Shankar Bajpai : That is really the object of providing stud bulls.

Mr. S. Satyamurti : Stud bulls can only "produce" calves : who is going to feed the calves ? Are Government taking any steps to increase the capacity of the people of the villages to keep and maintain these calves produced by these stud bulls ?

Sir Girja Shankar Bajpai : In so far as it is possible, through the development of grazing to assist the rearing of cattle, as I have already stated, Sir, that point is under examination.

Mr. S. Satyamurti : Are Government considering the question of food for men and cattle, because men must live to bring up cattle, and cattle must have something to eat ?

Sir Girja Shankar Bajpai : I think my Honourable friend must limit himself either to the feeding of men or to the feeding of cattle in this particular question.

Mr. S. Satyamurti : What are cattle wanted for, except for men ? Are Government addressing themselves to the proper feeding for cattle and men, whom cattle is to serve ?

Sir Girja Shankar Bajpai : I have already informed my Honourable friend of what Government intend doing in regard to the feeding of cattle. As regards the feeding of men, if I remember correctly, my Honourable friend has a separate question, and I shall be happy to answer that question when it comes up.

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NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

288. ***Mr. S. Satyamurti :** With reference to the new rules for the recruitment to the Indian Civil Service in Britain by means of nomination, will Government be pleased to state :

(a) whether they propose to fix any age limit ;

(b) if so, what ; and

(c) if not, why not ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the Press Communiqué issued by the India Office on the 11th May, 1936, a copy of which is in the Library.

REPORT OF THE WHEELER COMMITTEE.

289. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they are consulting the Local Governments on the Wheeler Committee's Report ; and

(b) if so, what the recommendations of the Local Governments are ?

The Honourable Sir Henry Craik : (a) No.

(b) Does not arise.

Mr. S. Satyamurti : May I know why Government do not propose to consult Local Governments on this matter ?

The Honourable Sir Henry Craik : Because I do not think any necessity arises. The Wheeler Committee itself consulted Local Governments and recorded their views. There is no necessity for any further consultation.

Mr. S. Satyamurti : May I know whether, in respect of future recruitment to the Central Secretariat, an expression of the views of Local Governments is not wanted ?

The Honourable Sir Henry Craik : Of course it is wanted, but their views are already on record.

Mr. S. Satyamurti : May I know whether, before Government make up their minds which of the recommendations of this Committee they are going to accept and which to reject with or without modifications, they would like to have the opinions of the Local Governments ?

† Portions marked [* * * *] were ordered to be expunged by order of the Assembly on the 14th September, 1936.

The Honourable Sir Henry Craik : They already have the opinions of the Local Governments.

Mr. S. Satyamurti : May I take it that they are going to accept all the recommendations of the Wheeler Committee and therefore they do not propose to invite further views from the Local Governments ?

The Honourable Sir Henry Craik : I did not say. All I have said is that the Wheeler Committee itself obtained the views of Local Governments on all the relevant and important points.

CONCLUSIONS ARRIVED AT BY THE TRANSPORT ADVISORY COUNCIL.

290. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) the nature of the agenda for the Transport Advisory Council ;
- (b) the conclusions arrived at by the Council ; and
- (c) the action taken or proposed to be taken thereon ?

The Honourable Sir Frank Noyce : (a) The Agenda for the second meeting of the Transport Advisory Council held in July last related mainly to :

- (i) the early institution of closer control over motor transport so as to secure the comfort and convenience of the travelling public, place motor transport itself on a healthy basis and avoid or eliminate wasteful competition with railways ; and
- (ii) the tightening up of control over expenditure from the Road Fund with a view to giving priority to schemes that open up areas inadequately served by railways and roads or provide new access to railways.

(b) A copy of the Concise Statement of Policy embodying the various measures recommended by the Council in July last has been placed in the Library.

(c) A Bill to amend the Indian Motor Vehicles Act was debated in this Assembly last week and is being circulated for eliciting public opinion thereon. The Assembly will also be asked to amend the Resolution on Road Development during the present Session.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I request my friend to place a copy of the Concise Statement of Policy on the table of the House, so that Honourable Members may have a copy each ?

The Honourable Sir Frank Noyce : I have no objection whatever to that, Sir, but it is rather lengthy.

Sardar Mangal Singh : May I know whether the Government of India intend to take the representative of the motor unions on the Advisory Council ?

The Honourable Sir Frank Noyce : I have already explained the Government's position very fully on that point in my speech at the close of the discussion on the Motor Vehicles (Amendment) Bill last week and I have nothing to add.

Mr. S. Satyamurti : May I know, if on this Transport Advisory Council, the users of the road, apart from the rail-road, were represented ?

The Honourable Sir Frank Noyce : They were represented, if I may say so, very ably, by the representatives of the Local Governments.

Mr. S. Satyamurti : That is, the Ministers ?

The Honourable Sir Frank Noyce : Yes.

Mr. S. Satyamurti : May I know whether the owners and users of motor transport, as such, were represented on this Council ?

The Honourable Sir Frank Noyce : No, Sir. As explained very fully last week, this Transport Advisory Council is a purely official body.

Mr. S. Satyamurti : May I know whether, before Government place their Resolution before this House for discussion, they propose to consult the representatives of the motor transport, either sellers or owners or users ?

The Honourable Sir Frank Noyce : No, Sir. As I explained to the House, we already have the views of the Indian Road and Transport Development Association.

INVITATION TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY TO VISIT ANDAMANS.

291. ***Mr. S. Satyamurti :** Will Government be pleased to state :

- (a) whether they propose to invite Members of this House to visit Andamans ; and
- (b) if so, whom and when ?

The Honourable Sir Henry Craik : (a) Yes.

(b) Sir Yamin Khan and Raizada Hansraj have accepted an invitation to visit the Andamans next month.

Mr. S. Satyamurti : What is the purpose of these Honourable Members' visit to the Andamans ?

The Honourable Sir Henry Craik : As far as I remember, I stated in reply to a question in this House that I was considering the question of appointing a non-official board of visitors, and when that was found to be impracticable because we could not obtain the personnel for such a board of visitors, in response to a suggestion I was asked if I would agree to some Members of the Assembly visiting the Andamans, and this invitation has been extended in pursuance of that suggestion.

Mr. S. Satyamurti : Will the Honourable gentlemen be allowed to meet the prisoners by themselves, to get their impressions of their life in the Andamans, and submit a report to this House ?

The Honourable Sir Henry Craik : There is no question of a report to this House.

Mr. S. Satyamurti : Will these Honourable Members be allowed to have free talks with the prisoners there, especially political prisoners, so that they may form an independent impression of the life led by these convicts in the Andamans ?

The Honourable Sir Henry Craik : The interviews with prisoners will have to be subject to the ordinary rules.

Mr. S. Satyamurti : May I know that the ordinary rules contemplate that Sir Yamin Khan and Lala Hans Raj will be followed all the time by Jail Superintendents, and that they cannot have independent talks with these prisoners ?

The Honourable Sir Henry Craik : The Honourable Member is now referring to prisoners in the Cellular Jail. They are, of course, a very small proportion of the total number of convicts in the Andamans. So far as I am aware, the Interview Rules allow that authorised visitors may speak to prisoners out of hearing of the prison officers.

Mr. S. Satyamurti : Will these be followed in this case also ?

The Honourable Sir Henry Craik : The ordinary rules will be followed.

Mr. M. Asaf Ali : May I know if Sir Yamin Khan has had any experience of jail life, either as an inmate or otherwise ?

The Honourable Sir Henry Craik : That question had better be addressed to the Honourable Member himself.

Prof. N. G. Ranga : May I know if the Leaders of different parties were consulted before these two Honourable Members were selected ?

The Honourable Sir Henry Craik : No.

Prof. N. G. Ranga : Why not ?

The Honourable Sir Henry Craik : Because I did not see any necessity for it.

Mr. C. N. Muthranga Mudaliar : May I know, Sir, if, besides these two gentlemen, any other non-official who is not a Member of this Assembly is going to visit the Andamans ?

The Honourable Sir Henry Craik : No, Sir, not so far as I am aware.

Pandit Lakshmi Kanta Maitra : May I know if these two gentlemen will be given full facilities for studying the conditions of prison life in the Andamans ?

The Honourable Sir Henry Craik : They will be given full opportunities of observing what is going on, and they will be shown everything that they want to see. We have nothing to conceal from them.

Mr. Sri Prakasa : Will facilities be given to these gentlemen to spend some nights and days as prisoners themselves in the Andamans, so that they may know the exact situation ?

The Honourable Sir Henry Craik : If they so desire, I will see that that is done. (Laughter.)

Mr. M. Ananthasayanam Ayyangar : Will the Honourable Member be pleased to allow my friend, Mr. Mohanlal Saksena, to go at his own expense to the Andamans ?

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

FIVE-YEAR PROGRAMME OF BROADCASTING.

292. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) what their conclusions are with regard to the five-year programme of broadcasting ;

(b) whether they propose to allow leaders to broadcast for political propaganda ; and

(c) if not, why not ?

The Honourable Sir Frank Noyce : (a) The attention of the Honourable Member is invited to the reply given by me on the 9th September, 1936, to parts (a) and (b) of Mr. M. Ananthasayanam Ayyangar's starred question No. 223.

(b) No.

(c) The reasons were fully explained by the Honourable Mr. A. G. Clow in the debate in this House on the 25th September, 1935, in connection with the voting of the supplementary demand for expenditure on the development of broadcasting during 1935-36.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, do Government propose to reconsider the position, in view of what is being done in Great Britain ?

The Honourable Sir Frank Noyce : No, Sir. What is being done in Great Britain was taken very fully into consideration before Mr. Clow gave the reply to which I have referred.

Mr. S. Satyamurti : Will Government ascertain public opinion in the matter, and see how it reacts to this proposal, before they finally reject it ?

The Honourable Sir Frank Noyce : No, Sir.

Mr. S. Satyamurti : Why not, Sir ?

The Honourable Sir Frank Noyce : Because they consider that the case made out by Mr. Clow in this House last year is unanswerable. I was not here at the time, but, as far as I can gather, it met with the approval of all sections of the House.

Mr. S. Satyamurti : Were Local Governments consulted in this matter, and do the Government of India agree with the proposal of the Local Governments not to allow political propaganda by Leaders of Parties ?

The Honourable Sir Frank Noyce : No, Sir. To the best of my recollection Local Governments have not been consulted in this matter.

Mr. S. Satyamurti : May I narrow down the question, and ask if the Government of India will allow political propaganda at election times ?

The Honourable Sir Frank Noyce : I have stated Government's position in this matter. Government do not propose to reconsider it, and I have, therefore, nothing to add.

ARTICLE ENTITLED "ADMINISTRATION OF THE ANDAMANS" PUBLISHED IN THE *Madras Mail*.

293. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to an article entitled "Administration of the Andamans", in the *Madras Mail*, dated the 28th May, 1936 ;
- (b) whether the allegations and facts stated therein are correct ;
- (c) whether they propose to take steps to make Andamans not a financial liability but an asset ; and
- (d) if not, why not ?

The Honourable Sir Henry Craik : (a) and (b). It is not usual to notice the articles of anonymous contributors to newspapers, but I am glad of this opportunity of stating that many of the statements made in this article are incorrect.

(c) and (d). It is not possible at present to run the Andamans Administration at a profit : but the nett cost of it has been greatly reduced in recent years.

Mr. S. Satyamurti : Will Government consider the question of making the loss less and less year after year, and making it at least a self-supporting proposition ?

The Honourable Sir Henry Craik : That is our constant aim, but it depends very much on the possibility of developing the forests, which is the principal asset and that, in turn, depends on the state of the timber market.

ARTICLE ENTITLED "THE NEIMEYER ORDER-IN-COUNCIL" PUBLISHED IN THE *Hindu*.

294. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "The Neimeyer Order-in-Council" in the *Hindu*, dated the 28th May, 1936 ;
- (b) whether they have examined all the points contained therein ; and
- (c) what their conclusions thereon are ?

The Honourable Sir James Grigg : I would refer the Honourable Member to my previous answers on this subject.

ARTICLE ENTITLED "SECONDARY EDUCATION IN INDIA" PUBLISHED IN THE *Hindu*.

295. *Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether their attention has been drawn to a leading article entitled "Secondary Education in India" in the *Hindu*, dated the 12th May, 1936 ;

(b) whether they have examined the suggestions contained therein ; and

(c) what their conclusions thereon are ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the resolution of the Central Advisory Board of Education on unemployment and educational reconstruction, a copy of which I lay on the table. The resolution was forwarded to Local Governments, and with regard to sub-paragraph (6) of the resolution they were asked whether expert advice in organising the scheme of reconstruction recommended by the Board was desired. Practically all Local Governments have asked for such assistance and the Government of India are trying to secure it.

RESOLUTION PASSED AT THE FIRST MEETING OF THE CENTRAL ADVISORY BOARD OF EDUCATION HELD IN NEW DELHI ON DECEMBER 19 AND 20, 1935.

(i) *Unemployment and educational reconstruction.*

(1) While conscious of the great debt which is due to the education hitherto provided in India and of the part played by universities in promoting higher study and research and in training men and women for the service of India, the Board is of opinion that the following considerations, among others, necessitate a new attitude towards educational problems :

- (a) the increasing desire among educationists and others to bring about changes in the educational system in view of the altered conditions of life ;
- (b) the growing volume of unemployment among the educated classes ;
- (c) the emphasis laid on a purely literary form of instruction in schools ;
- (d) the inadvisability of too frequent examinations ;
- (e) the large number of ' over-age ' pupils in the senior classes of high schools ;
- (f) the increasing number of students in universities, who are unable to benefit by university instruction and, in consequence, the difficulty in making satisfactory provision for the better qualified students and for research ;
- (g) the need of developing training of a more practical type than at present and of making provision for such training, especially for those with little or no literary bent, and of adjusting it to the scheme of general education ;
- (h) the advisability of developing a suitable scheme of rural education, by which boys and girls in rural areas shall be given such training as would develop in them a capacity and desire for the work of rural reconstruction ;

(2) The Board is of opinion that radical readjustment of the present system of education in schools should be made in such a way as not only to prepare pupils for professional and university courses, but also to enable them, at the completion of appropriate stages, to be diverted to occupations or to separate vocational institutions.

(3) These stages should be :

- (a) The primary stage, which should aim at providing at least a minimum of general education and training and will ensure permanent literacy.
- (b) The lower secondary stage, which will provide a self-contained course of general education and will constitute a suitable foundation either for higher education or for specialised practical courses.

In rural areas, the courses at this stage should be attuned to rural requirements.

Some form of manual training at this stage should be provided, which would aim at the development of practical aptitudes, and be made compulsory.

(c) *The higher secondary stage*, in which would be included institutions with varying length of courses ;

(i) preparing students for admission to universities in arts and science ;

(ii) for the training of teachers in rural areas ;

(iii) for agricultural training ;

(iv) for clerical training ; and

(v) for training in selected technical subjects which should be chosen in consultation with employers.

Where separate institutions are not possible for the diversified courses, some of them might be incorporated in a higher secondary course of enlarged scope which would permit a choice of alternative groups of subjects and would end in leaving certificates.

(4) At the end of the lower secondary school course there should be the first public examination.

(5) Candidates desirous of joining the subordinate clerical services of Government and of local bodies should pass such qualifying examinations as might be prescribed by proper authority and should not be more than 19 years of age at the date of their examination.

The certificates granted to pupils completing other specialised courses should receive Government recognition.

(6) Expert advice would be of value in organising the scheme of reconstruction outlined above ; and also for suggesting methods of training masters who would assist pupils and parents in the selection, by the pupils, of courses of study with due regard to their aptitudes.

(7) Each province should organise Employment Bureaux for the purpose of advising students and of eliciting support and guidance of employers interested in the problem.

(8) Every local Government should actively explore the possibility of finding new avenues of employment and occupation.

Mr. S. Satyamurti : Are Government considering the question of so reforming secondary education as not to make all secondary students tend towards the university, whether they are willing or unwilling and whether they are fit or unfit ?

Sir Girja Shankar Bajpai : The main object of the reconstruction is to provide alternatives to university education.

Mr. S. Satyamurti : Do Government propose to lay down any All-India policy, leaving it to Local Governments to fill in the details, or do they propose to leave it entirely to Local Governments ?

Sir Girja Shankar Bajpai : In so far as a general policy for the whole of India can be laid down, my Honourable friend, when he peruses this resolution, will find that it has been laid down not by way of direction but by way of suggestion to Local Governments.

Mr. S. Satyamurti : Are Government considering the question of advising the universities to confine entrance only to Matriculates, and leaving the Government to run the Secondary School Leaving Certificates for purposes other than Matriculation ?

Sir Girja Shankar Bajpai : That particular point, namely, the conditions on which admission will be conducted to universities, was

not, as far as I remember, discussed by the Central Advisory Board of Education nor did the very distinguished representatives of the Board suggest that they should be. Ordinarily, their idea was to leave it to the universities to decide that in the light of any scheme of reconstruction of secondary education that may be arrived at as a result of the consultation with these experts.

Prof. N. G. Ranga : Have Government considered the advisability of suggesting to the Local Governments to introduce vernacular education in secondary schools and also to introduce, as far as possible, agricultural and other vocational training ?

Sir Girja Shankar Bajpai : In so far as the vernacularization part of my Honourable friend's question is concerned, I gather that in most provinces stress is being laid more and more on the use of the vernacular as a medium of instruction in schools. The other part of my Honourable friend's question, namely, to what extent agriculture should be introduced as a subject in the schools for vocational instruction, is a matter which will be examined in consultation with the experts.

CHANGES TO BE INTRODUCED IN THE CENTRAL GOVERNMENT FROM THE 1ST APRIL, 1937.

296. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) the nature of changes in the Central Government to be introduced from the 1st April, 1937 ;

(b) what the functions of the Government of India then will be ; and

(c) what the probable distribution of Government property which used to be held in the name of the King, will be ?

The Honourable Sir Nripendra Sircar : (a), (b) and (c). It is impossible in answer to a question to give the full constitutional picture which the Honourable Member appears to desire. For a picture of the structure of the Central Government after the 1st April, I refer the Honourable Member to Part XIII and Schedule IX of the Act. He will find an enumeration of the Legislative functions of the Centre in Parts I and III of Schedule VII. The executive functions of the Centre are described in Part XIII. The distribution of property will be governed by the provisions of sections 172 and 173 of the Act.

I may be allowed to add, Sir, that if I am asked about changes on any specific matters instead of this general question covering the whole situation, I shall try my best to answer them. I am not suggesting formal notice, but communication may be made by letter.

Mr. S. Satyamurti : May I know, Sir, if my Honourable friend can answer without notice, what are the intentions of the Government with regard to the interregnum after the 1st of April, 1937, and before the coming into existence of the Federation, whatever the date may be, with regard to the Legislature at the Centre ?

The Honourable Sir Nripendra Sircar : I will prefer to get a little time and shall be glad if my Honourable friend will write to me in the matter. I want to consult the Reforms Department before giving an answer.

[10TH SEPT. 1936.]

Mr. President (The Honourable Sir Abdur Rahim) : The answer will be given in the House ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

CAMPAIGN OF FIGHT AGAINST MALARIA SCOURGE.

297. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether they are considering any campaign of fight against malaria scourge ; and

(b) if so, what their conclusions are ?

Sir Girja Shankar Bajpai : (a) and (b). Anti-malaria operations are a matter for the provinces but the Government of India have recently placed a sum of Rs. 10 lakhs at the disposal of the Indian Research Fund Association to be used mainly for the prevention and treatment of malaria in rural areas. The manner in which this grant may be most usefully expended is at present under enquiry. As regards directly administered areas special anti-malarial measures have been started on an intensive scale in Delhi.

Mr. S. Satyamurti : May I know what is the total incidence of deaths by malaria for the latest year for which figures are available ?

Sir Girja Shankar Bajpai : I have answered questions on that subject before. It is rather difficult to give figures for deaths from malaria alone because in the system of classification adopted by the great majority of provinces the heading is just "Fever", not necessarily malaria, but I shall try and give such information to my Honourable friend as is readily available in the Report of the Public Health Commissioner.

Mr. S. Satyamurti : Will Government consider the advisability of an All-India policy to fight this All-India scourge, and press it on Local Governments ?

Sir Girja Shankar Bajpai : Sir, there have been different questions on the subject asked at different times in relation to quinine which is the one item connected with the treatment of malaria over which the Government have any control and I have explained the position of the Government of India in regard to that matter and I do not think that I can add anything now.

Mr. S. Satyamurti : Do the Government of India now accept the policy of having a reserve of quinine, as against the possible epidemic of an All-India scourge of this magnitude ?

Sir Girja Shankar Bajpai : We have not merely accepted it but we have taken action in the matter. We have now a reserve of quinine to the extent of 1,50,000 lbs. to meet a national emergency.

Mr. S. Satyamurti : Are Government satisfied that this is adequate ?

Sir Girja Shankar Bajpai : Our experts say that that is adequate.

Mr. S. Satyamurti : Will Government take steps to promote the free distribution of quinine to the poor people in the villages who cannot afford to pay even the small price that is charged for it now ?

Sir Girja Shankar Bajpai : My Honourable friend is aware that last year the Government of India gave 45,000 lbs. of quinine to the Provinces for free distribution. They cannot do anything more.

Mr. D. K. Lahiri Chaudhury : I want to know whether the Government of India are consulting the League of Nations scheme against malaria ?

Sir Girja Shankar Bajpai : There is no League of Nations scheme which is universally applicable. The Government of India invited a Commission from the League of Nations some years ago to visit this country and make recommendations and the report of that Commission has been considered by the Government of India as well as by the Local Governments.

Prof. N. G. Ranga : Will Government consider the advisability of making an annual grant to Provincial Governments to enable them to fight this malaria scourge for some years to come ?

Sir Girja Shankar Bajpai : My Honourable friend, the Finance Member, is pretty certain to point out that that is a matter which must depend upon the financial position of the Government of India, and that we cannot make any commitments at this stage.

Mr. S. Satyamurti : Not even for malaria scourge ?

(No answer.)

ABSENCE OF A PLATFORM AT THE RANIPET RAILWAY STATION, MADRAS AND SOUTHERN MAHRATTA RAILWAY.

298. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether their attention has been drawn to the representations made to the Madras and Southern Mahratta Railway to put up a platform for Ranipet Railway Station ; and

(b) whether they propose to invite the attention of the Madras and Southern Mahratta Railway authorities to the great inconvenience experienced by the people for want of a platform at the Ranipet Railway Station ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information other than that furnished by the Honourable Member.

(b) I am prepared to send a copy of the question to the Railway Administration if the Honourable Member so desires, but would point out that the Railway Administration, assisted by the Local Advisory Committee, is in the best position to judge of the relative importance of the various stations requiring platforms.

Mr. S. Satyamurti : In view of the parlous state of railway finance and the need for attracting third class passengers, will the Government of India be good enough to consider the suggestions more favourably, and press upon the railway administration to provide these amenities ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India will not take upon themselves the responsibility of declaring which stations require platforms in advance of other stations.

The Government can only send down the suggestion to the Agent for his consideration and I have no doubt that the Agent will spend such funds as he may have for this purpose to the best advantage by selecting stations which require most urgently to be provided with platforms.

Mr. S. Satyamurti : May I take it that the Government of India have no part or lot in this matter, and that they do not lay down general conditions or anything like that ?

The Honourable Sir Muhammad Zafrullah Khan : Government cannot be expected to lay down general conditions with regard to the provision of platforms at each individual station.

LOANS TAKEN BY THE INDIAN STATES FROM THE BRITISH GOVERNMENT.

299. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) the exact amount of loans which the Indian States had taken from the British Government ;

(b) the amount of loan taken by the Bahawalpur State from the British Government ;

(c) whether these debts are being regularly re-paid ; and

(d) what steps they are taking to recover the money ?

The Honourable Sir James Grigg : Before answering this question I just want to mention that I notice a reference to 'British Government', I assume the Honourable Member means the Government of India.

Mr. S. Satyamurti : I did not notice that myself. I made a mistake, naturally because they are identical. I meant only the Government of India.

The Honourable Sir James Grigg : (a) The amount outstanding on the 31st March, 1935, was about 13 crores.

(b) About 12 crores.

(c) and (d). Repayments are being made regularly according to the terms prescribed by Government.

Mr. S. Satyamurti : May I know why these loans are given by the Government of India to Indian States ?

The Honourable Sir James Grigg : That question would require a long answer. It depends upon the circumstances of each individual case. In the case of the Bahawalpur loan, it was lent to them to enable them to participate in the Sutlej Valley Irrigation project.

Mr. S. Satyamurti : Is it part of the policy of the Government of India to advance loans to Indian States ?

The Honourable Sir James Grigg : I cannot describe it as a policy. But Indian States do borrow from the Government of India for various purposes. Whether the Government of India lends or not depends upon the purpose for which the loan is required and upon the security that is available for the loan.

Mr. S. Satyamurti : May I know how the Government of India manage to raise large sums of money from the poor tax-payers of British India, and advance the moneys as loans to the Indian States ?

The Honourable Sir James Grigg : These loans are not advanced out of the taxes, but out of the super-abundance of the rich investors of British India.

Mr. S. Satyamurti : That is to say by raising Government loans ?

The Honourable Sir James Grigg : Yes, Sir.

Mr. S. Satyamurti : Who ultimately pays for these loans ? The poor tax-payers of British India ?

The Honourable Sir James Grigg : Not unless there are defaults.

Mr. S. Satyamurti : How long has this loan been pending with the Bahawalpur State ? Twelve years ?

The Honourable Sir James Grigg : I do not know the exact period, but it is quite a long time.

Mr. S. Satyamurti : How much interest has been collected on this loan ?

The Honourable Sir James Grigg : I cannot answer that without notice.

Mr. S. Satyamurti : What is the rate of interest ?

The Honourable Sir James Grigg : The rate of interest varied with each instalment of the loan that was advanced.

Mr. S. Satyamurti : What is the maximum rate and what is the minimum rate ?

The Honourable Sir James Grigg : The maximum rate of interest was something over six per cent. to the best of my recollection.

Mr. S. Satyamurti : How much has been paid towards the capital ?

The Honourable Sir James Grigg : I shall want notice of that. As a matter of fact the terms of repayment provide for a series of annuities in which no attempt has been made to distinguish between interest and capital. It is sufficient to pay off the capital debt within a certain term of years.

Mr. S. Satyamurti : May I take it, therefore, that the interest up-to-date has been written off ?

The Honourable Sir James Grigg : You may not.

Mr. S. Satyamurti : What is the rate of interest now being paid ?

The Honourable Sir James Grigg : There is no particular rate of interest because payment is made by a series of annuities.

Mr. S. Satyamurti : Will Government take proper steps, hereafter to safeguard the payment of interest on any loans that may be advanced to Indian States ?

The Honourable Sir James Grigg : While I cannot pledge my successors, I am bound to say that I shall be very chary about making advances to that extent again.

Seth Govind Das : What is the minimum rate of interest on which these loans are advanced ?

The Honourable Sir James Grigg : I cannot say without notice.

Mr. N. V. Gadgil : What is the security for this loan ?

The Honourable Sir James Grigg : The revenues from the Sutlej Valley project in so far as it is situate in Bahawalpur State.

Prof. N. G. Ranga : What was the security for the loan advanced to the Alwar State ?

The Honourable Sir James Grigg : I want notice of that. But I imagine the revenues of the Alwar State.

Mr. Sri Prakasa : In view of the fact that the Bharatpur State repudiated many of the debts taken by them, how are Government assuring themselves that the debts incurred by other States will not also be similarly repudiated ?

The Honourable Sir James Grigg : As far as I remember, an Administrator was put in charge of the Bharatpur State.

Pandit Lakshmi Kanta Maitra : Have any such loans been advanced in recent years to Indian States ?

The Honourable Sir James Grigg : One or two.

Mr. S. Satyamurti : Since the Honourable Member became the Finance Member of the Government of India ?

The Honourable Sir James Grigg : Yes ; one.

Mr. S. Satyamurti : Why ?

The Honourable Sir James Grigg : I want notice.

STEPS TAKEN TO IMPROVE THE PLIGHT OF HANDLOOM WEAVERS.

300. ***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether they have taken any steps to improve the plight of the handloom weavers ; and

(b) if not, why not ?

The Honourable Sir Frank Noyce : (a) The Government of India are making grants amounting to Rs. 5 lakhs a year for a period of five years to Local Governments for the development of the handloom industry. The money is being spent by Local Governments on various approved schemes. Particulars will be found in Bulletins of Indian Industries and Labour, Nos. 52 and 56, copies of which are in the Library of the House.

(b) Does not arise.

Mr. S. Satyamurti : Are Government considering any steps, by way of friendly and gentle pressure upon the Indian mills, so that they may leave a certain portion of the market, free for the consumption of the products of handloom weavers ?

The Honourable Sir Frank Noyce : No, Sir. I understand that conversations of that kind took place between certain Honourable

Members of this House and the representatives of the mill industry which have proved infructuous.

Mr. S. Satyamurti : Do Government realise that, in certain parts of the Madras Presidency to my knowledge and in certain other parts of India, the plight of handloom weavers is very wretched, and will Government take some steps to improve their lot ?

The Honourable Sir Frank Noyce : I have explained the steps that the Government of India have already taken. If the Honourable Member will put forward any other suggestions, I should be glad to consider them.

Mr. S. Satyamurti : Apart from that, will Government consider the possibility of organizing the sales of handloom products, as also finding a bigger market for their products ?

The Honourable Sir Frank Noyce : That is exactly what the grant is being spent upon. That is exactly what the Local Governments are doing with it.

Mr. S. Satyamurti : Will Government consider the advisability of readjusting their protection policy in such a manner, as to give the minimum necessary protection to handloom weavers who deserve it even better than the rich capitalists ?

The Honourable Sir Muhammad Zafrullah Khan : Protection against whom ?

Mr. S. Satyamurti : Against first of all the Japanese *ghadas*, which are really most in competition with the handloom products, and secondly against mill products of a certain count ?

The Honourable Sir Muhammad Zafrullah Khan : So far as Japanese products are concerned, the Honourable Member is aware that negotiations are now going on with the Japanese Government for a fresh protocol and the question naturally will form part of those negotiations. So far as internal competition is concerned, I am not aware that there are any provisions under which Government can give the handloom weavers any protection against internal competition.

Mr. S. Satyamurti : Have Government examined this question of giving protection against internal competition to the extent necessary ?

The Honourable Sir Muhammad Zafrullah Khan : On several occasions, it has been brought to our notice.

Prof. N. G. Ranga : In view of the fact that the conversations which some of us representing the handloom weavers had with the representatives of the mill industry have proved infructuous, will the Government of India be pleased to use their good offices and bring across a common table the representatives of these two interests and try to effect some arrangement between these two sections in the hope that the handloom weavers may have to suffer less than they are doing at present ?

The Honourable Sir Muhammad Zafrullah Khan : That really is not asking for information.

MOTIONS FOR ADJOURNMENT.

MURDER OF MAIL GUARD GOLAM SATTAR ON A CALCUTTA SIRAJGANJ TRAIN
BETWEEN RANAGHAT AND CHUADANGA.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion of adjournment from Mr. Lahiri

12 NOON.

Chaudhury who wants to discuss a definite matter of urgent public importance, namely, the brutal murder of mail guard Golam Sattar working E-47 section Calcutta Sirajganj train on the 7th night between Ranaghat and Chuadanga. Is that a matter of public importance for which the Government of India are responsible ?

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : Yes, Sir. Both the Railways and the Postal Departments are under the control of the Government of India, and I certainly make them responsible. This is not the only case of murder that has occurred in Bengal. There have been a number of murders in the mail vans. I am closely associated with the Postal Union and I can say that up till now the Government of India have taken no steps to protect these men who work at night in the mail vans. It is high time for them to take action.

Mr. President (The Honourable Sir Abdur Rahim) : This is clearly not a matter which is covered by the rules and it is, therefore, disallowed.

EXTENSION BY THE GOVERNMENT OF BENGAL OF THE PROVISIONS OF CHAPTERS
II AND III OF THE BENGAL PUBLIC SECURITY ACT, 1932, TO THE TOWN
OF CALCUTTA AND THE DISTRICTS OF 24-PARGANAS AND HOWRAH.

Mr. President (The Honourable Sir Abdur Rahim) : The next notice is from Mr. Mohan Lal Saksena who wants to move the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, namely, extension by the Bengal Government of the provisions of Chapters II and III of the Bengal Public Security Act, 1932, to the town of Calcutta and the Districts of 24-Parganas and Howrah. This Act confers on the Commissioner of Police, Calcutta, and the District Magistrate certain powers which they do not at present possess. Is there any objection to this motion ?

The Honourable Sir Nripendra Sircar (Leader of the House) : Yes, Sir. This matter was notified in the Calcutta Gazette of the 3rd September last, and I have got the Gazette here with me. Then, it was widely discussed in the press, and I have got some of them here. The *Amrita Bazar Patrika* of the 4th September contains a very long article referring to this Gazette notification and mentioning its objects and contents. This paper reached Simla on the 6th September. Then, in the *Hindustan Times* of September 4, we had a paragraph on this subject. The headline is :

“ Public Security, Bengal Act enforced in Calcutta and Suburbs ” :

“ A notification in today's Gazette announces that certain important sections of the Bengal Public Security Act, 1932, will be enforced in Calcutta and suburbs and the district of 24-Parganas with effect from September 3.”

So I submit that the Honourable Member should have given notice on the very next day.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Sir, the communiqué was published in the *Hindustan Times* yesterday only. The Calcutta Gazette published it on the 3rd September and the *Hindustan Times* had a paragraph on the 4th September.

Mr. President (The Honourable Sir Abdur Rahim) : Why was not notice given immediately afterwards ? That is the argument.

Mr. Mohan Lal Saksena : In the *Hindustan Times* of the 4th, there was only a paragraph, but it did not contain the full information. You have ruled, Sir, that on adjournment motions we must give certain definite particulars, and those particulars were not available till yesterday. As a matter of fact, I had received a telegram also, but that also did not contain the full particulars.

The Honourable Sir Nripendra Sircar : The article in the *Amrita Bazar Patrika* gives the whole text of the notification with the date and everything.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : When was that received here ?

The Honourable Sir Nripendra Sircar : That paper was here on the 6th. I remember reading it three or four days ago.

Mr. Mohan Lal Saksena : The details we got only yesterday, and, immediately after that, I gave notice.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, you have ruled, and if I may say very respectfully, quite rightly, that we cannot move an adjournment motion, without satisfying ourselves as to the details of the subject-matter of the motion. My friend received a telegram and consulted me about it, but there were no details and the communiqué also was not received here until yesterday when it came out in the *Hindustan Times*, which is the paper which we all get here and read. I want you to look at it humanly, and not expect us to read all the newspapers in the world, and thus rule out an adjournment motion. It is not as if we want to take you after a long time. It is only a question of a few hours.

Mr. President (The Honourable Sir Abdur Rahim) : It is a matter of seven days, and the practice is quite clear.

The Honourable Sir Nripendra Sircar : The copy of the *Amrita Bazar Patrika* came here on the 6th.

Mr. S. Satyamurti : But that did not contain the communiqué itself. Your ruling was, Sir, that we must not rush to the House, as soon as an article happens to be published in some newspaper or other. This article in the *Patrika* no doubt refers to the Government communiqué, but it does not give the actual extension of the Act, as it is given here. We want to make out a case against Government, and we must know what the exact provisions of the notification are. Moreover, we thought that, as we had adjournment motions practically every day, we can move it now, as there can be only one on each day.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot start a new practice now.

Mr. S. Satyamurti : The practice is that, as soon as we get definite news, we should come before the House. It is a very important matter and it ought not to be ruled out on a plea like this. After all I am surprised at Government objecting to this.

Mr. President (The Honourable Sir Abdur Rahim) : If it were a question of a day or two, I would not mind, but here there has been much more delay, and I must, therefore, rule that it is not an urgent matter according to the accepted interpretation of the rule. The motion is, therefore, disallowed.

SITUATION IN PALESTINE.

Mr. President (The Honourable Sir Abdur Rahim) : I have also received notice of a motion of adjournment from Maulvi Syed Murtuza Sahib who wishes to discuss a definite matter of urgent public importance, namely, the omission of the Government of India to bring to the notice of His Majesty's Government the strong Indian feeling about the situation in Palestine which has resulted in the declaration of martial law and the despatch of fresh troops to Palestine. Is there any objection to this motion?

The Honourable Sir Nripendra Sircar : Yes, Sir. The notice complains of omission on the part of the Government of India. As a matter of fact, there has been no omission.

Mr. S. Satyamurti : That is going into the merits.

The Honourable Sir Nripendra Sircar : But he must make out some grounds.

Mr. President (The Honourable Sir Abdur Rahim) : It means a declaration, I think.

The Honourable Sir Nripendra Sircar : There has been no declaration of martial law : on the other hand, the communiqué states that it is hoped that there will be no declaration of martial law.

Mr. S. Satyamurti : That is a matter of fact, which we can discuss when the motion comes on.

The Honourable Sir Nripendra Sircar : I submit that a course of conduct like omission is not a definite matter within the rules.....

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muhammadan) : Why not ?

The Honourable Sir Nripendra Sircar : If I may address the Chair without interruption from my Honourable friend : when he gets into the Chair, I shall answer why : at present I ignore him. If the question is, when did our failure take place, at what date, this has been going on for weeks and months. If it is a question on merits, then, Sir, at all times we have got to keep the British Government informed, that is on the merits : but this attitude of negation which is continuing for months, why does it become suddenly urgent and a specific matter of importance today ? I submit, Sir, that this ought to be disallowed.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member got to say anything on the point of order ?

Maulvi Syed Murtuza Sahib Bahadur (South Madras : Muhammadan) : Sir, a declaration has already been made : military officers have been sent and a whole division is to be despatched to Palestine : and if such an important matter cannot be discussed now, the result would be injurious.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member got to say anything in reply to the point of order taken by the Leader of the House ?

Some Honourable Members : He has not followed it at all ! !

Maulvi Syed Murtuza Sahib Bahadur : We wish to condemn the failure on the part of the Government in not having communicated the intense feeling in India against the attitude taken by the British Government regarding the Palestine question.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any proof that martial law has been declared ?

Maulvi Syed Murtuza Sahib Bahadur : It has appeared in the press.

Mr. President (The Honourable Sir Abdur Rahim) : Government deny that.

Maulvi Syed Murtuza Sahib Bahadur : It was declared on the 8th, and we got the information just yesterday.

Mr. President (The Honourable Sir Abdur Rahim) : Have you got anything to show that martial law has been declared ?

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : As far as I understand, some newspapers have said that His Majesty's Government have issued a communiqué threatening to declare martial law, and troops have already been despatched to Palestine.

Mr. President (The Honourable Sir Abdur Rahim) : What has the Honourable Member to say as regards the " omission of the Government of India " ? Is that a definite and urgent matter within the rules ?

Mr. M. A. Jinnah : I am not in charge of this motion : I only made a statement of fact as it has appeared in the newspapers.

Mr. President (The Honourable Sir Abdur Rahim) : I want to know if the Honourable Member wishes to say anything about it.

Mr. S. Satyamurti : An act of omission is defined in the Indian Penal Code : an omission may be an offence, as much as an act.

Mr. President (The Honourable Sir Abdur Rahim) : There can be no doubt that this is a matter of public importance : but the question I have been asked to consider by the Leader of the House on the point of order is whether the alleged omission of the Government of India to bring to the notice of His Majesty's Government the feeling regarding the situation in Palestine is a definite and urgent matter : and the further point that has been raised on behalf of the Government is, there has been no declaration of martial law, and in fact what the communiqué of the British Government says is that it is to be hoped that there will be no necessity to declare martial law in Palestine. As regards the first question, I am unable to hold in the facts of the case that it is a definite urgent matter which the Government should be called upon to answer. As

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regards the second point, I take it that there has been no declaration of martial law yet ; and on these two grounds the motion fails. I, therefore, hold that the motion is out of order.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion on the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, last evening, when the House adjourned, I was discussing the previous suggestion of my friend, Prof. Ranga—I am sorry I do not see him in his seat just now—that travelling allowance should be given to every shareholder to attend meetings of the company. I would have gladly accepted this proposal of my Honourable friend, as it would have enabled me to travel throughout the length and breadth of this country at companies' cost, by buying a few shares in companies situated in Madras, Bombay, Lahore, Karachi and Calcutta. But I may tell my Honourable friend that there could not be an easier method of driving a nail into the coffin of the company than if my Honourable friend's suggestions were to be accepted. So I shall leave this suggestion to my Honourable friend alone. Indeed the whole tenor of his speech yesterday was not to speak about the promotion and development of industry in this country, but to apply the principles of Communism and Socialism in our industries. I am dead against Communism and Socialism, terrorism or any other "isms" being introduced in our industries.....

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : And Marwarism !

Babu Baijnath Bajoria : We are already having the evils of these "isms" in our country as a whole, and I would like that these evils should be eradicated from the body politic of our country. I must apologise for having drifted a bit from my point. I was dealing with the fact that the shareholders should take interest in the affairs of the company. Shareholders are suffering from certain disadvantages : they are not united : they are not concerted in their activities : they do not have the intelligence possessed by the directors and the managing agents. When their interests clash with the interests of the managing agents, certainly it becomes a very unequal contest. Shareholders are completely at the mercy of the managing agents : they have to remain satisfied with whatever dividends are paid to them on their investments. The managing agents, on the other hand, take the lion's share of the profits and give the shareholders only the crumbs. With your kind permission, Sir, I will read how the dividends have been distributed in the last 12 years in one company. It is a well-known company in Calcutta, named Keshoram Cotton Mills. It had 60 lakhs of ordinary share capital, and 20 lakhs of preference capital. The company was in such a bad plight that out of 60 lakhs of the ordinary capital, 45 lakhs had to be wiped off in a reduction of capital scheme. During these 12 years, from 1924 to 1936, the ordinary shareholders have got dividends of only Rs. 4,12,500, and the preference shareholders have got

only Rs. 14,50,000 and some dividends are still due to the preference shareholders. The total amounts distributed by way of dividends came to Rs. 18,62,500, whereas the Managing Agents have got Rs. 15,32,828 during these years. Sir, another thing is this. Though this Company has been for several years and still is in such a bad way, the managing agents have doubled their commission from 1 per cent. to 2 per cent. on gross sales. This is one example. Now, I shall give the House another example and that relates to the Birla Jute Manufacturing Co. Here again, Sir, you will find that the ordinary share capital and the preference share capital altogether comes to about 48 lakhs. Here the dividends which have been distributed between the shareholders, preference and ordinary, have come to Rs. 43,75,000, in spite of the fact that the Jute Mills have done very well during the past ten years, though they have not done so well during the last 2 or 3 years, but before that, the jute mills had done very well, and the managing agents got Rs. 29,36,000 during this period. My idea in giving these figures to the House is to show how disproportionate is the distribution of profits between the shareholders and the managing agents. Sir, we have to bear all these facts in mind when we frame this legislation, and I think it is our primary duty as legislators to protect the interests of the shareholders first and foremost, because, after all, it is their capital which is at stake in the company.

My Honourable friend, Mr. Sri Prakasa, said that there are two classes of managing agents, firstly, those who promote a company only for their own benefit, and, secondly, those who promote a company only for the benefit of the community and the country. I would like to point out, Sir, that most of the managing agents who promote companies have both these objects in view, namely, to serve themselves and to serve the society and the country.....

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : I don't deny that.

Babu Baijnath Bajoria : Thank you. But, Sir, there is another class of managing agents who promote companies with ulterior motives to secure personal gains and to dupe the public. Unfortunately, there have recently sprung up many mushroom companies started with such base motives, and it is to check the formation and growth of such mushroom companies that we are here to enact this piece of legislation.

Sir, I now come to the question of the duty of the Directors of a Company. It is the duty of the Directors to control and guide the managing agents in the general management of the company. In matters of general policy and broad finance, it is the Directors who should be supreme, but unfortunately the present day Directors are merely puppets in the hands of the managing agents as they owe their position as Directors to the managing agents. Sir, it is absolutely necessary that we must have a Board of Directors which shall not be unduly under the influence of the managing agents and which shall be in a position to dictate to the managing agents at least on questions of general policy and questions of broad finance. Sir, it is not uncommon that we see in the Articles of Association of Companies such rules and regulations provided so that the powers of the Directors are reduced absolutely to zero. We must provide against these things. I shall make some suggestions about the formation of a Board of Directors. In my opinion, Sir, there should be at least

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three Directors in every public company, whether incorporated before or after the commencement of this Act, and at least half of the Directors should be elected by the shareholders in a general meeting of the company. In the Bill before us, only a minimum of one-third is provided, but I want it to be raised to half.

Then, Sir, it is said that we have provided only the minimum of one-third. The shareholder may elect two-thirds, if there are no special Directors appointed on the Board. I say that if special Directors have to be elected as at present from among the debenture holders or nominees of local bodies, there is nothing to prevent the Directorate being expanded from 3 to 5 or so.

Again, Sir, it is not quite clear to me as drafted in the Bill whether the managing agents, apart from their power to nominate one-third of the Directors on the Board, will also have a right to vote in the elections for the balance of two-thirds of the Directors in the general meeting of a company. I should like this position to be made clear.

Then, Sir, I come to the system of the election of Directors in general meetings. Much has been said in this House on this matter. I support wholeheartedly the proposal that the system of election of Directors in general meetings must be by the method of proportional representation by means of the single transferable vote. It has been said by my Honourable friend, Mr. Sen, that this system will not work. With due respect to him, I beg to differ from him. I don't see why this system should not work. Some of my friends have asked me what this system is, and I shall explain it briefly. At present by the system of direct election to the Directorate, if fifty-one per cent. shareholders combine, then they can prevent the remaining 49 per cent. from sending any representative on the Board of Directors. I think this is most inequitable and unjust to those large minorities of shareholders. Under the system of proportional representation if five Directors have to be elected in a Board, then any Director who commands the confidence of 20 per cent. of the shareholders will get a chance of being elected to the Directorate. So under this system of election the majority of the shareholders will be satisfied.

Then, it was stated, Sir, that this system is a very complicated one. No doubt, it is much more complicated than the direct system of election, but that is no reason why this system should not be adopted. Sir, I suggest that in order to ensure the success of this system of proportional representation, there should be election of Directors every three years, and so far as the provisions of rotation of Directors relating to the Directors appointed in a general meeting are concerned, they should be deleted, otherwise the number of Directors to be elected each time will be so small that this system will surely fail. Therefore, I suggest that the Directors at general meetings should be elected every three years on the basis of proportional representation. This will ensure continuity of policy which has been one of the main features of this rotation system.

Then, it was said that it might be that all the Directors would have to go. I think such a contingency would not arise except on very rare occasions, and that too when the company is so badly managed that all the Directors deserve to be sent out.

Then, Sir, my friend, Mr. Sami Venkatachalam Chetty, said yesterday that there should be provincial representation on the Board of Directors. As I have said before, I do not want provincialism, communalism or any other ism...

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Not even rheumatism !

Babu Baijnath Bajoria : Rheumatism will paralyse industry and the company.

Mr. Sri Prakasa : Capitalism !

Babu Baijnath Bajoria : Without capital, there cannot be any industry.

An Honourable Member : We do not want the capitalist ; we want the capital.

Babu Baijnath Bajoria : Then I come to another thing. This is about speculation by directors in shares of the company of which they are directors. It is common knowledge that several unscrupulous directors take advantage of their position as directors and deal in shares to their benefit at the expense of others. Being on the board of directors they have got special knowledge of the affairs of the company, especially when the time for declaration of dividends come. You all know that the declaration of dividend is decided by the board of directors and is not made public at that time. The public know about the rate of dividend when the general meeting is held a few weeks after. During this interval much mischief is being done by the directors. I regret no provision has been made in this Bill to check this evil. I have given notice of an amendment, if not to check, at least to act as a deterrent on this practice and I will speak at length on this when my amendment comes to be discussed before this House.

I now come to the clauses which deal with managing agents. In section 87-A it has been provided that compensation will be paid to the managing agents if their contract is terminated before it is due. In spite of the assurance of my Honourable friend, the Leader of the House, that under this clause the managing agents cannot expect to get anything, I am sure that if my Honourable friend, the Leader of the House, is briefed on behalf of the managing agents to secure compensation for them under this clause, he will argue most eloquently and succeed also in getting compensation. With this Damocles's sword hanging over their head, I am sure that very few companies will run the risk of terminating the contract of managing agents. The whole idea of this Bill is that the contract of the managing agents should be terminated after 20 years and then it shall be optional with the shareholders to renew the contract or not. I think this compensation clause should be deleted. Provision has been added in sub-section (e) of section 87-B and sub-section (1) of section 87-C. that the first appointment of the managing agents and the remuneration of the first managing agents shall be excluded from the purview of these sections if the terms of appointment and the terms of their remuneration are mentioned in the prospectus. We all know that these terms both of appointment and of remuneration are as a general rule set out in the prospectus and are also published, but I ask my Honourable friend, the Leader of the House, to take into consideration

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the fact as to how many shareholders or prospective shareholders read those prospectuses. I will say a negligible fraction. I think these provisos will nullify the object of these sections and so they should be deleted.

There is one other thing which I want to say. That is about the manipulation of voting rights by the managing agents by the creation of different classes of shares, such as, deferred shares, founder shares, management shares, and the like. By these methods they reserve to themselves, either directly or through their nominees, the absolute voting power and control of the company and render the voting rights of the ordinary shareholders a practically nil. As I have got an amendment on this point also, I won't dilate on that at length now. A glaring instance has come into notice in Calcutta in the case of a big jute mill. I think something must be done to see that the shareholders, and especially the ordinary shareholders, get voting rights in the company proportionate to the capital invested by them.

I now come to the auditors. My Honourable friend, Mr. Sen, may be satisfied that the auditors are discharging their duties most efficiently and that there is nothing to be said against them and no provision is required. But I for one am not satisfied. I know that it is to the auditors that we as shareholders look for a detailed examination and scrutiny of the accounts of the company. You cannot expect the directors to go into the minor details of the accounts and it is to the auditors that we look for this purpose. The auditors are the watch dogs of the company, and if for some reason or other they fail to discharge their duties properly, no amount of legislation I say in other respects will improve the affairs of the company. I regret that under the present practice the auditors feel that they have amply discharged their duties if they simply tally the books of account with the vouchers. They do not question, I do not think they have got the power to question, the propriety of the expenditure. If the voucher says, Rs. 50,000 has been paid to so and so, they have to take it that it has been paid for good reason and they cannot question even if the payment may be a bogus one.

The Honourable Sir Nripendra Sircar (Law Member) : It will help me to answer this part of my Honourable friend's case if he will kindly inform me if he knows of any case or cases where the auditor has falsely audited. I do not want general charges. If he can give me a couple of instances I shall be obliged.

Babu Baijnath Bajoria : I think in the Bengal National Bank case the auditor was found to be guilty of professional misconduct and it was a big firm of European auditors, and the auditor was sentenced to a long term of imprisonment by the Court.

The Honourable Sir Nripendra Sircar : Let me inform my Honourable friend that I appeared for the prosecution in that case and got that sentence of imprisonment, but there was nothing wrong with the audit.

Babu Baijnath Bajoria : Was he not convicted and sentenced to a long term of imprisonment ?

The Honourable Sir Nripendra Sircar : Yes, but there was nothing wrong with his audit.

Mr. Sri Prakasa : Was he sent to prison simply because my Honourable friend was the prosecutor ? (Laughter.)

The Honourable Sir Nripendra Sircar : One of the reasons. (Laughter.)

Babu Baijnath Bajoria : The auditors at present perform only formal scrutiny. The substance may be wrong, but if the form is correct the auditors feel that they have done their duty. Now I will ask this question. There have been so many companies which the auditors have audited, and may I ask how many formal complaints have been made by the auditors against the companies ? When the company comes to grief, then and then only do the shareholders find out that things have been going wrong. Prevention is better than cure, and at that stage the company is already doomed, nothing can be done, and the shareholders' money is already lost. If the auditors had done their work properly and informed the shareholders, then something might have been done to protect and save the company. Whether the auditors are doing their work properly or not is another question, but I submit there should be a check on the work of the auditors. What check is provided here ? Supposing I am entrusted with a certain job and if I do not perform that job properly there must be some check over me. Otherwise, if there is no check over me, how can you expect that I shall perform my duties efficiently ? If I have no fear, then I will do it as I like.

The Honourable Sir Nripendra Sircar : Who will check the checker ?

An Honourable Member : Another checker will check !

Mr. N. M. Joshi (Nominated Non-Official) : The Government !

Babu Baijnath Bajoria : The main reason why the auditors are afraid of doing their duty properly is that they owe their appointment to the favour of the managing agents. I know that technically the auditors are appointed with the sanction of the general meeting of the company but that is merely a technical thing. It is the managing agents to all intents and purposes who appoint the auditors and it is they, if they like, who can remove them.

Mr. M. S. Aney (Berar Representative) : May I ask the Honourable Member whether he can even now give any instance where auditors have failed to do their duty ?

Babu Baijnath Bajoria : I have already given.

Mr. M. S. Aney : The Law Member has given some explanation.

Babu Baijnath Bajoria : No explanation has been given.

Mr. S. Satyamurti : Read Lokanathan's book.

The Honourable Sir Nripendra Sircar : Auditors have brought out defects in the working of companies hundreds of times. Under the present law, the companies need not publish them. We now make it compulsory for these reports to be published and my friend can take it from me that the auditors have brought out defects hundreds of times.

Babu Baijnath Bajoria : In this Bill, I am glad that loans to managing agents, directors and auditors have been wiped out. This will go a long way to check the evils of the present practice. I am also glad that a

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profit and loss account has been made compulsory. It has been made compulsory that the profit and loss account will be shown along with the balance sheet of the company, though in many cases the profit and loss accounts are shown even now. I am also glad that it has been provided that the account of the subsidiary company will be circulated to the shareholders of the holding company. There is one other point and that is about the valuation of the stocks and investments in balance sheets. At the present moment these valuations are made according to the whims and mercy of the managing agents and they value it at cost or at market value or under cost or under market value or whatever they like. There must be some system in it. It must be either cost or market value, preferably whichever is less and they must not value their stocks and investments at anything except at cost or market value. Sir, my main object in pointing out some of the defects which exist in the present Bill is only with the intention that they may be remedied. I want that the industries of our country should prosper and that companies may prosper, but at the same time we want that there should be restrictions and control over managing agents, directors and auditors, so that they may not abuse their position. I am wholeheartedly in support of this Bill and we are very much grateful to the Honourable the Law Member for the trouble which he has taken in framing this Bill and I think he has done a real service to the country in promoting this measure. There is one thing which I have forgotten. The Honourable the Law Member said the other day that rich Marwaris have a habit of dying at convenient times. I think that is only a humorous remark. I know that the Honourable the Law Member has got plenty of humour and I won't mind it if this remark was not intended to cast any aspersion....

The Honourable Sir Nripendra Sircar : I can assure my Honourable friend that no aspersion was meant.

Babu Baijnath Bajoria : I am glad. I would not say anything on that. The Honourable the Law Member will bear with me that I did not object to the provision of clause 82 made in the Select Committee. It was my sense of business integrity and honesty that induced me to accept that provision even though it encroached upon our Mitakshara Law. There are one or two sections in this Act which affect us, the Hindus. I am sorry that I could not make the Select Committee agree with my views. That is first about section 4 in clause 3. This section provides that if there are more than 10 persons who want to do banking business or if there are more than 20 persons who want to do any other business, they must form themselves into a private company and if this provision is not complied with, the offence is made penal and the parties will be fined Rs. 1,000 and they will also be subject to a civil liability. The Honourable the Law Member knows very well that there are innumerable Hindu firms—partnership firms, joint family partnership firms—which have got more than 20 members. It is a common practice amongst us Indians for four or five families to join together and do business. Under the present clause, we shall be prohibited from doing business until we have formed a joint stock company. We know that to form a private company means that we shall have to keep our accounts in English. We shall have to appoint an accountant and shall have to abide by so many rules and regulations under the Company's Act that it is impossible for an illiterate

man, the ordinary businessman, who does not know English to comply with all these requisitions. It shall be an undue and unnecessary hardship on us and I request my Honourable friend the Leader of the House to save us from this hardship. I have given amendments to this effect. I shall deal with them later on. Then, again, about the transfer of shares, some difficulties have also been experienced by us. We do not take letters of administration on the death of a member of a family. Why should, for the purpose of transference of shares, we be foisted with the onus of taking letters of administration? The production of a succession certificate ought to be enough. With these few words, I wholeheartedly support the Bill and shall be glad to see it placed on the Statute-book.

Sir Leslie Hudson (Bombay : European) : Sir, I do not propose to detain the House over a lengthy survey of the Bill as it has emerged from the Select Committee. I heartily agree that it is a very much better Bill than the one that was originally placed before the House but there are some clauses on which we are still not in agreement and which we should like to see altered. My Honourable friends, Mr. Ayyangar, Dr. Ziauddin, and, I think, Prof. Ranga, propounded some rather startling theories of commercial economics which really are so Utopian in their conception that I cannot see how they can be practicable in the present order of things. Nor do I think that the revolution which was mentioned by my Honourable friend, Pandit Govind Ballabh Pant, is likely to bring that about. For my part, I prefer evolution to revolution. (Hear, hear.) Revolution implies, especially just now, a particularly sanguinary state of affairs and would bring in its train the wholesale destruction of institutions and practices which have been built up by years of experience; but, if I may, I should like to pay a tribute to my Honourable friend, Pandit Govind Ballabh Pant, on the constructive speech in which he criticized the measure before us. None of us want to perpetuate the instances which have been quoted in this House where managing agents have manipulated contracts for raw materials and other supplies for their own benefit, to the detriment of the company for which they have had the management, but the restricted clauses which it is sought to include in the Bill to deal with such contracts are of such a nature that they will defeat a part at any rate of their object. It may and often does happen that managing agents are the best and the most economical channel through which such contracts and such purchases can be made. As my Honourable friend, Mr. Susil Sen, mentioned in his speech—on which I should like to congratulate him as being a very fair and unbiassed statement—the Bill is intended to restrict, but not to strangle. As an example of the danger of undue restriction, I would, however, draw the attention of the House to the effect of clause 87 A (2), to which many amendments have been tabled, to limit drastically the tenure of managing agents' contracts. I am aware that the Honourable the Law Member has said that he will be dealing fully with the whole question of managing agents and I do not want to infringe upon his line of action. From our point of view we shall deal with that when we come to the stage of the relevant amendments. I would only utter a note of warning as to what would be likely to happen if the tenure of existing managing agents were terminated in two or five or ten years, as some Honourable Members would like to see effected. Companies which have for years past been nursed and financed by their managing agents would find that their managing agents would, for their own protection, have to

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call in the monies advanced by them—and very considerable sums in many cases—with the obvious result that those companies would find their resources so restricted as to leave them faced with disaster. And, Sir, this is not a cry of “Wolf”—it is the bare and unpleasant fact. In addition to the losses which would occur to thousands of shareholders who have for years past relied on the financial strength and reputation of their managing agents, it would also result in a very serious restriction of trade in every direction.

Another instance is the inclusion of regulation 107 of Table A as a compulsory part of every company's articles. This regulation, as the House well knows, illustrates what items should be included in a company's profit and loss account. We consider that it is not possible to lay down a hard and fast rule and to standardize the form of profit and loss account applicable to each of the many classes of company which exist in this country. Similar conditions cannot exist for every class of company and the inclusion of this regulation is going to prove an unnecessary hardship. We are not in any way desirous of precluding the disclosure of the company's position to the shareholders, should they by a resolution express their desire in that direction, but a compulsory disclosure, we maintain, may be most detrimental to the interests of the shareholders themselves, in that information of importance to their competitors may thereby be made public.

Other danger points in the amendments which have been sent in are not difficult to find. I would specially point to the words “directly or indirectly” which find a place in several important amendments. It has not been easy in the Select Committee to find definitions for several terms used in the Bill. But I am at a loss entirely to see how those words “directly or indirectly” are going to be interpreted.

There are other points, Sir, which we wish to raise when we come to the discussion of the clauses of the Bill. We have had some difficulty in finding ourselves in agreement with certain of the clauses in the banking section which we hope we may be able to improve by amendments which we shall move. Amongst the amendments which we shall be moving are some which are questions of principle with us, and there are others which, while possibly of less importance, will, we think, improve the Bill by removing doubts in the language employed or which will prevent positions of impracticability arising. When one sits down after the conclusion of a Select Committee on an important matter such as this Bill is, points are bound to occur where decisions reached in the Select Committee are found to have contingent results which were not observed at the time. This will very likely be the case after the Bill has been passed into law and I hope the Honourable the Law Member will assure us, in his reply to this debate, that if errors and omissions are found in the practical working of the Bill, Government will give the House the earliest possible opportunity of correcting them.

There is just one point in the speech of my Honourable friend, Mr. Sri Prakasa, which I should like to refer to. He alluded to the first joint stock company of India and its first managing agent, Mr. Robert Clive. I think another of his colleagues would be only too willing to produce an Indian version of that celebrated film “Clive of India” if he would get the assistance of Mr. Sri Prakasa in the leading role and we shall enjoy

the scene where our friend would be issuing his edicts in one-clause Bills. (Laughter.) Sir, it should I think be a pleasure for all of us to debate a measure like this on which we are not likely to be divided on ordinary party lines; and so far as my Group is concerned, I can assure the House that our whole endeavour will be to produce a Bill which will give a fair deal to the shareholders, to the directors and to the managing agents, and that, I believe, is the intention of both sides of the House.

In conclusion, Sir, I would like to pay a tribute to the work that has been done in connection with this Bill by my Honourable friend, Mr. Susil Sen, and the Honourable the Law Member. (Loud Applause.) Mr. Sen's report is an eminently able document and his frank confession yesterday on one point that on examination of further evidence he had changed his view is an illustration of his desire to be fair to all the interests concerned. (Hear, hear.) My Honourable friend, the Honourable the Law Member, outstanding lawyer as he is, was of the greatest assistance to us all in the Select Committee: and if, with the help of this House, we are able to place on the Statute-book a measure which contains a much-needed reform of the company law of the present day, which will profit the shareholder without restricting trade or hampering industrial development, his name will be remembered with gratitude by all sections of the community. (Loud Applause.)

Dr. R. D. Dalal (Nominated Non-Official) : Mr. President, in supporting the motion moved by the Honourable the Law Member to take into consideration the Bill further to amend the Indian Companies Act of 1913, as reported by the Select Committee, I desire to refer to some of the general considerations and salient features of the Bill.

In the first place, I heartily congratulate the Honourable the Law Member on bringing forward this Bill. I think the general reform of Company law has been long overdue. I am sure that this is a Bill which the House will welcome as a practical and substantial contribution to commercial law; and I hope that the House will agree that we owe a real debt of gratitude to the Honourable the Law Member, who has been indefatigable over this Bill in order to bring company legislation in India up-to-date and to minimise the risk of frauds, malpractices, and abuses in company management. The Honourable the Law Member has carefully weighed the advantages and disadvantages of action and has sought to find the happy mean. In every case where there is a recognised evil against which the public ought to be protected, such protection has been afforded in the Bill; and in preparing this Bill the Honourable the Law Member has constantly kept in view one great consideration and it is that while the abuses must be stopped, nothing should be done to stop legitimate and good business from finding full play so that the trade and commerce may be brought to the country.

Sir, this Bill will set up a standard of honesty and a standard of conduct, which will enable the investing public to judge fairly easily whether a company may be regarded as a respectable company or not. Encouragement of the investment habit is a most desirable thing in India, because it will tend to discourage the holding of wealth in inert forms. If we are to have money for industries in India, it is essential that there should be in the mind of any intending investor the sense of security in the investment.

[Dr. R. D. Dalal.]

Sir, this Bill contains a large number of provisions from the English Companies Act of 1929, and also further provisions directed particularly at the managing agency system. The managing agency system has rendered great services to industry and commerce in India; but to prevent abuses certain safeguards have been found to be absolutely necessary, and provisions have been inserted in the Bill accordingly. Honest and conscientious managing agents have nothing to fear from this Bill. On the contrary, they are likely to benefit, because these safeguards will inspire confidence amongst the investing public and will also eliminate competition of a most undesirable character. This Bill gives ample protection to the old and existing agencies, and it places strict restrictions on unsound flotation of new companies. This Bill gives ample powers to the Board of Directors to exercise proper supervision over the managing agents. It also gives the shareholders greater control, and it also provides for proper disclosures in the prospectuses and balance-sheets.

Now, Sir, I shall just say one word as regards the remuneration of managing agents. A commission on production is generally admitted to be most unsound. A mill or a factory or a mine may turn out products at, above or below the market price, but the managing agent will keep working in order that his remuneration may be maintained undiminished. A commission on sales is equally open to objection. The sales may be effected at a profit or at a loss yet the remuneration of the managing agent is secure. But the most satisfactory method of remunerating managing agents was first introduced by that great Parsi industrialist, the late Mr. Jamsedji Nasarwanji Tata. That method is a fixed percentage on net annual profits, at the same time providing for a minimum amount of remuneration in case the figure of remuneration on net profits is lower than the minimum fixed. Many first class companies have already adopted this method of remuneration, and under this Act this method of remuneration becomes compulsory. In the existing companies where this method of remuneration obtains, attempts are sometimes made to secure larger remuneration by artfully defining the phrase 'net profits'; and under that definition legitimate charges against profits, such as depreciation, are excluded while subsidies and bounties are included. But under this Act the term 'net profits' is legally defined. So, in future the amount of remuneration of the managing agents will be calculated on that basis.

Sir, to my mind, an arresting feature of the Bill is the provision it makes for regulating the working of what are known as parent companies and subsidiary companies. This branch of company organisation is comparatively recent. A large company forms a number of smaller companies, and purchases 50 per cent. or more of their capital. The large company is called parent company and the smaller companies are known as subsidiary companies. The English Act of 1929 provides legislation for this branch of company organisation, and in the light of the experience obtained in Great Britain since the passing of the Act of 1929, this Bill goes a step further and provides that along with the balance-sheet of the parent company the last audited balance-sheets and profit and loss accounts of the subsidiaries also should be published and circulated amongst the shareholders of the parent company. This enables the shareholders to appreciate the financial position of the companies in which their money is

invested. This subsidiary system is open to grave abuses, and provisions have been inserted in the Bill to prevent or check abuses.

Sir, a remarkable provision introduced by the Select Committee allows a Registered Accountant to style himself as Chartered Accountant, India. This piece of legislation, if enacted, would legalise a virtual fraud on the public; and it would be tantamount to an expropriation of the rights of legitimate professional chartered accountants, who have had to obtain a high degree of qualification at considerable expense after five years' study in order to earn that designation.

Now, Sir, I shall touch upon a very important point and that is in respect of the multiplicity of directorships held by one man. I think it would be extraordinarily **unwise to lay down that a man should only be a director of a fixed number of companies.** In no walk of life are men of great ability too common today, and I think it would be a most unfortunate thing at a time when we want industry to develop, at a time when we want to get industries rationalised, at a time when we want driving power and experience of able men in such developments. I think we could not do a more futile thing than to lay down that a man can only be a director of a fixed number of companies. I am strongly of the opinion that we should not do any thing to fetter the elasticity with which businesses ought to function.

I think the Bill, which is now before this House, is a step in the right direction and is a real advance in company law administration. It is a real attempt to keep the business of the country clean and good, and to maintain our credit, which is a matter of prime importance to trade and commerce of the country. (Hear, hear.) This Bill is regarded as a Bill of more or less technical character. That is true, yet this is a Bill which affects the industrial and commercial life of the country. It must be realised that much business of the country is done through public companies, and the amount of money which is invested in public companies and put into business is colossal. The number of new companies registered every year is fast increasing. The commercial success of the country depends upon the way in which these companies are conducted. It is true that many companies are honestly and conscientiously managed, but unfortunately the exceptions to the rule are larger than we should like to see—hence the urgent and imperative necessity for this Bill; and I am confident that this Act, if placed upon the Statute-book, will promote the commercial prosperity and integrity of the country. (Applause.)

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

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

Mr. N. M. Joshi: Sir, I propose to occupy the attention of the House only for a very short time. At the outset, I would like to enter a protest against the failure of Government to help the Members of the Assembly in studying this complicated measure. Sir, after my arrival at Simla, I received a heap of papers. If you know the number of pages that were handed over to us, you will easily find how difficult it was for Members even to read them all, much less to study them closely.

[Mr. N. M. Joshi.]

I would suggest to the Government of India that as they generally supply members of the Select Committee with an analysis and summary of the opinions received on the Bills, they should not deny the same privilege to the Members of the Assembly who do not have the advantage of being members of the Select Committee. I am not quite sure whether the members of the Select Committee on this Bill were supplied with an analysis and summary of the opinions.

The Honourable Sir Nripendra Sircar : No, they got no summary.

Mr. N. M. Joshi : But I know that it is generally the practice of the Government of India to supply an analysis of the opinions received on the Bills to the members of the Select Committee. If they were not supplied to the members of the Select Committee, I suggest to the Government of India to follow the usual practice on all occasions. It is difficult to read all the opinions and to analyse into various sections on which the opinions are expressed. I would also suggest to the Government of India in a Bill of this kind to help the Members in studying the clauses by printing the original Bill and the original clauses along with the amendments proposed to the clauses. If a Bill is a small one, we do not expect the Government of India to help us in studying that measure, but, in the case of a complicated measure of this kind, Members will be very grateful to the Government of India if they would help them in some way in studying the various clauses of the Bill.

Sir, as regards the Bill itself, I must admit that the present Bill, as it was introduced in the Legislature, was an improvement upon the original Companies Act. If we study the report of the Select Committee and the amendments made by the Select Committee, I cannot say that most of the amendments made by the Select Committee are an improvement on the Bill from the point of view of either the investors or the public. On this occasion, Sir, I do not propose to deal with the various clauses of the Bill. I shall deal with certain general principles and the foundations upon which the commercial and industrial organisation of this country is based. While doing so I shall try my very best to avoid incurring the displeasure of my Honourable friend, Mr. Bajoria, or my Honourable friend, Sir Leslie Hudson, by not entering into problems like communism or revolution or even utopia. I shall try to deal with practical proposals. I hope my Honourable friends will also find them practical as I find them. In the first place, a company is brought into existence when an individual or a few individuals find it difficult to raise the capital necessary for carrying on a certain business or an industry. A company is an organisation intended for that purpose. It is a co-operative effort, and as it involves the principle of co-operation, I consider that it is a sound effort. Unfortunately the method which has been used in bringing about co-operation between various individuals in order to secure the capital and form an organisation is a wrong one. The main feature of the companies which are established under the present company law not only in India but in various countries is that only those people who invest money in a business or in an industry control that business and that industry. Sir, it does not require any long argument to convince any one that for the

success of a trade, business or industry it is not enough that the investors should pool together their financial resources and raise a certain amount of capital. For the success of a business, besides capital, you require people who will utilise the services of that business or of that industry, people whom my Honourable friend, Professor Ranga, called consumers. Then, Sir, for the success of a business or an industry you require a large number of employees who have no hand in the management of that business or that industry. Besides those people who require the services of that business or industry and the employees of that industry, the general public is very much interested in any trade and industry which is carried on a large scale in any country. When a business or industry or a company is registered under the present company law, care is generally taken to protect the interests of those people who invest their money in that business or in that industry. Hardly anything is done to protect the interests of those people who utilise the services of that business and of those who are employed in carrying on the work of that business. The interest of the public too is equally neglected. Sir, this is my first and fundamental criticism of the original Companies Act and the Bill which is placed before the Legislature for consideration this afternoon.

The companies which are formed under the present legislation are formed of investors. The ownership of the business is in the hands of those people who invest the money. The control is generally shared between the directors elected by the investors of money and another set of people called managing agents. I feel that if the Honourable the Leader of the House was to introduce a right measure for regulating the business of companies in India, he should have included some clauses by which the interests of the consumers, the interests of the employees and the interests of the public in general were safeguarded. The proposals which I am making are not so Utopian as some members might feel and believe. I know there are insurance companies which give representation on their board of directors not only to those people who invest money but who take out policies from that insurance company. It is the representation of those people who utilise the services of that business and of that trade. So the proposal of giving some representation to those people who utilise the service of a trade is not a Utopian one. Similarly, the proposal to give representation to the employees of that trade or business or industry is not a Utopian one. There are several concerns established in America which give representation to the employees employed by a particular trade, business or industry. Similarly, the representation of the public through the Government is not a Utopian proposal. That is done now in the case of certain public concerns even in India. I, therefore, hoped that when the Government of India had proposed a Bill for safeguarding various interests involved in the trade and industry of this country, they would have introduced some clauses by which these interests which I have mentioned would have been safeguarded.

Then, I would like to say a word about the distribution of the board of directors proposed under this Bill. I fail to understand why the managing agents should have any directors on the board of management. To the extent to which the managing agents are shareholders they get representation on the board of directors ;

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but beyond that I cannot understand what interest the managing agents have in that concern. Even if the object of the Government of India was to protect the interests only of the investors, they should have given larger representation to the investors and not given any representation to the managing agents. The present Bill has reserved one-third of the number of directors to certain interests which are not mentioned.....

The Honourable Sir Nripendra Sircar : That is not so.

Mr. N. M. Joshi : I am sorry if I have made a mistake in that respect. I thought that if a certain proportion of directors is not definitely assigned to any interest, I would like the Legislative Assembly during the consideration stage to allot a certain number of seats in the board of directors to the employees and the consumers of that trade or business.

Then, I would like to make a few remarks about the way in which the directors are elected. I feel that if a business or a company is to be conducted on democratic lines the proper method of electing the directors is to give one man one vote, even if that representation is restricted to those people who invest money. That is the principle of democracy. It may be said that those people who invest more money have got larger interest in that concern or that they take greater risk. I do not agree with that view. A man may take one share in a company worth, say, Rs. 100. Another man may take shares worth Rs. 1,000 : but to a man who takes one share worth Rs. 100, those Rs. 100 may be worth much more, may involve much greater risk than the Rs. 1,000 invested by another man who possesses property worth several lakhs or crores. I therefore feel that it is wrong to base your representation upon the amount of money invested by the shareholders in any concern. The best thing in my judgment would be to give one vote to one shareholder. Even if my proposal is not accepted as being too radical or too revolutionary or being too Utopian, I suggest that the Bill should lay down at least some maximum limit beyond which no shareholder should have larger votes. The voting strength of a shareholder should be limited. That principle is not a Utopian one. That principle has been accepted by the Government of India in the Reserve Bank Act.....

The Honourable Sir Nripendra Sircar : No.

Mr. N. M. Joshi : Yes. In any case it is a proposal which should meet with the approval of this Legislature. I would like to support the proposal made by my Honourable friend, the Deputy Leader of the Congress Party, that the election should be made by proportional representation. My Honourable friend, Dr. Ziauddin Ahmad, made a proposal for reserving a certain portion of the directorate to the smaller investors. I suggest to him to support the proposal which I have made namely, that those people who invest larger amounts of money should not be allowed to vote according to the amount of money invested by them ; but the voting strength of each individual should be limited to some maximum figure.

I would now like to say a few words about the managing agency system. The managing agent is generally a man who takes part in floating a company. He is a promoter of that company or of that business. Generally speaking, as a promoter he is paid for all the trouble he takes. I feel that the fact that he takes part in promoting a business or in floating a company should not give him any more interest in that company or business beyond the fee he is paid for the flotation of that company. Mr. Deputy President, I am one of those who feel that the managing agency system has not done much good either to the trade or to the industries of this country. I found from the speeches of various Honourable Members that they have bestowed high praise on the managing agency system as they seem to think that that system has been responsible largely for developing the trade and industries of this country. Mr. Deputy President, it is very difficult to prove what the condition of the trade and industries of this country would have been if the managing agency system had not existed here. But let us remember this, that the managing agency system does not exist in any other part of the world.

An Honourable Member : Nowhere do you find it.

Mr. N. M. Joshi : The other countries in the world have developed their trade and industries without the managing agency system, and if this managing system had not come into vogue in our country, perhaps we too might have developed our trade and industries to the same extent to which other countries have without this managing agency system. Therefore, it is wrong to say that the present condition of the trade and industries of this country is due to the managing agency system. There is a proposal, Mr. Deputy President, that managing agents who have got an interminable contract with a company should be given compensation when that contract is terminated. I fail to understand, Sir, the justification for this proposal. One can understand that a managing agent who floats a company and who was elected by the shareholders to manage the business of that company may have capacity and knowledge to manage that business and that industry, but nobody can say that simply because a man possessed capacity and knowledge to manage an industry, his sons, his heirs and successors will possess the same capacity.....

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : It is in their blood.

Mr. N. M. Joshi : I, therefore, feel, Mr. Deputy President, that an interminable contract for the right of a managing agency is a contract which is against public policy and public interests, and if a contract which is against public policy and public interests is broken, I am sure nobody will say that any compensation is due. The managing agents should thank their stars that they are not to be dealt with more severely for making contracts which are against public policy and public interests.

Mr. Deputy President, after having dealt with the question of the managing agency system, I would like to say a few words on some other points involved in this question. The first suggestion I would like to make to the Government of India is that they should make adequate provision to safeguard the interests of a company regarding

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the minimum subscription of the capital required for carrying on a business or industry properly. I know there is some proposal made in this Bill, but I feel that that proposal is not adequate. Supposing the carrying of a business requires a capital of 50 lakhs, and a company is floated with a capital of only 25 lakhs, it is but right that the Government should intervene and prevent such a company being floated in the interests of the general public and of those people who would invest money in it. We know that if a business is likely to require a capital of 50 lakhs, and if a company is floated to carry on that business with a capital of 25 lakhs, that business will not be conducted properly. That company will soon come to ruin. It is therefore necessary that the Government should reserve to itself the power to prohibit a company being floated when they find that the capital put down in the prospectus as being necessary for that business is not adequate to carry on the purposes of that business.....

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Who will judge that ?

Mr. N. M. Joshi : Government will judge that.

The Honourable Sir Nripendra Sircar : Mr. Joshi has great faith in Government ?

Mr. N. M. Joshi : Well, Sir, I have faith in Government, but the Government have no confidence in themselves, and it is our misfortune. Then, Sir, I would like the Government of India to strengthen the provisions regarding the power of the directors and the managing agents to make use of the funds in the company for their personal interests....

Sir H. P. Mody : Rubbish.

Mr. N. M. Joshi : The provision made in this Bill is a very weak one. I would like the Legislature and the Government of India to make adequate provision to prevent the directors, their partners, their relatives not only from taking loans from the company, but taking any advantage of their position in that company.....

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Also their employees.

Mr. N. M. Joshi : Then, Sir, I would like the Government of India to make a provision in this Bill for restricting the dividends which are distributed to the shareholders when a company makes large profits. It is absolutely necessary in the interests of the investors in the interests of the public in general, that there should be a restriction on the dividends distributed to the shareholders in a particular year. We have seen, Sir, how some industrial undertakings have gone to ruin on account of the fact that when they made huge profits they did not keep anything in the reserve fund but squandered away the profits by paying huge dividends. To give huge dividends is not to the interest of the shareholders themselves.

Then, Sir, the Government of India should also prohibit the practice of giving bonus shares to the shareholders when a company makes more than ordinary profits. The practice of giving bonus shares by which the company becomes over-subscribed and the capital is watered

harmful, and several industrial undertakings have come to grief on account of this practice.

Then, Sir, I would like the Government of India and the Legislature to make provision for the protection of the interests of the employees engaged in a business or industry. I have already suggested that the employees of a company or a business should have representation on the Board of Directors. I would now suggest that besides this, the Legislature should give some more protection to the employees of a business or industry by laying down conditions for this purpose in the Articles of Association or by compelling a company or an industry to take out a licence on particular conditions regarding the life and work of those employees. Well, Sir, only recently the Assembly discussed the Motor Vehicles Bill, and in that Bill the Government themselves have provided that a licence is necessary, and one of the conditions upon which a licence is given is that the number of hours of the employees should be restricted. If that can be done in the case of the motor transport business, I do not know why that cannot be done in the case of other companies. I therefore hope that the Legislature and the Government of India would insert some clause for the protection of employees of the companies which are registered under the Indian company law. Then I would like to support my Honourable friend, Prof. Ranga, in the demand which he made for inserting some provision in this Bill for avoiding the danger of a private monopoly when a cartel or a merger is brought into existence in such a way that the interests of the public will be endangered. Mr. Deputy President, the industry and commerce in this country have now reached such a stage of development that these mergers will become more and more frequent. We have already got a cement merger. People are talking of a sugar merger, we have also heard of the steel merger. These mergers under the present capitalist system are bound to come but they being a danger to the consumers must be avoided, in any case, measures should be taken to see that they will cease to be a danger to the consumers. Provisions of this kind are not unknown in the history of legislation on this subject in the world. I would therefore like the Legislature to introduce some clauses by which the danger which the country is bound to meet with from the mergers may be avoided. Then I would like some provision in this Bill in connection with what are called public utility services. These public utility services enjoy certain privileges and they are businesses and industries upon which the welfare of the community depends. Therefore the business of the public utility concerns should be under greater public control. Unfortunately, the Government of India in this Bill make no distinction between an ordinary company and a public utility company. There is legislation on the Indian Statute-book for treating the employees of a public utility company differently. The employees of a public utility company are at a disadvantage inasmuch as they are not allowed to go on strike without notice. If, Sir, the employees of a public utility concern are placed at a disadvantage by legislation, why should not the Government of India put special restrictions upon the public utility companies for the protection of the interests of the public ? Then, Sir, I would like the Government of India to make some provision for the inspection of the companies which are registered under the Indian Companies Act. We may pass

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a company law and we may improve it, but unless there is some machinery for the inspection of the working of these companies the interests of the investors and of the public will not be safeguarded. The men who conduct the affairs of these companies are very clever. They know how to get round the law and they will get round the law. I would therefore suggest to the Government of India that they should not be content with merely passing this law, but they should make some provision to create a body of inspectors who will inspect the affairs of these companies and report to the Government of India for such action as they may deem fit. Before I sit down I would like to make one remark about the audit of these companies. Several speakers have spoken pointing out the necessity for independent audit. I would suggest that if the audit is to be really independent it should be an audit conducted by the Government Audit Department. It may be said that I have more confidence in the Audit Department of the Government of India than the Government of India themselves have in them. But, on the whole, considering the independence shown by the private auditors, chartered or registered, and the independence of the Government Audit Department, I am justified in stating that the audit by the Government Audit Department will be much more independent and will be much more satisfactory than the audit by any private body of auditors, registered or chartered. I would like the Government of India, therefore, to hand over the business of auditing the companies in India registered under the Companies Act to the Government Audit Department.

Sir P. H. Mody : What about trade union accounts ?

Mr. N. M. Joshi : The trade union accounts are audited by auditors and the Government, being friends of labour, some of the Local Governments give the services of their auditors free to the trade unions. The Government of India are very watchful as regards the affairs of the trade unions in this country. I do not now wish to speak any more, but before I sit down, I would like to say that. If the public control over the commerce and industry of this country is increased and tightened, it will do no harm at all to the trade or industry of this country. On the other hand, I have absolutely no doubt in my mind that if the public control is increased and strengthened the commerce and industry of this country will greatly prosper. Sir, I have done.

Rai Bahadur Seth Bhagchand Soni (Ajmer-Merwara : General) : Sir, the warm welcome with which the present Indian Companies Act (Amendment) Bill is received by all classes of Indian commercial community is an ample testimony of the fact that a long felt demand has been satisfied by this Bill. The Government and the Honourable the Law Member deserve the highest congratulations for bringing out this Bill, which exhaustively overhauls the company law and meets the demands of all classes of commercial bodies. It is hoped that when this Bill is passed into law it will mark a new era in the development of joint stock business in this country.

Firstly, Sir, I am happy to note that special care has been taken in this Bill to check the growth of mushroom companies. The flotation of mushroom companies has been a great evil and has seriously

destroyed the confidence of the people in joint stock concerns in most parts of the country. It is a matter of common knowledge that crores of rupees have been lost by the unwary and credulous investors by subscribing to the shares of such concerns which have been floated during the last several years. Several loopholes and defects in the law attracted many unscrupulous promoters to launch concerns with big names and colossal authorised capital and the public had no control or check over such ventures. Sir, the Shareholders' Association of Bombay must be credited for their bold attitude and useful propaganda in bringing to light several cases in which the Directors and Managing Agents have acted in utter disregard of the shareholders' interest. Under these conditions, the introduction of this measure in this Bill will go a long way in creating confidence of the investing public in the new concerns. The second important feature in the Bill is the recognition of the Managing Agency System. Divergent views have been expressed by different classes regarding the Managing Agency System. Unfortunately the Managing Agency System has been blamed too much and condemned for evil practices and mismanagement. There is nothing inherently wrong in the management of the Companies by the Managing Agents if the Managing Agents perform their duties with scrupulous care and honesty and best of intentions. The system cannot be condemned entirely. There is a need for reforming this system and making it amenable to public criticism and popular check. The Managing Agency System has functioned in this country as a very great factor for fostering the development of almost all the industries and has been discharging some very necessary functions in the industrial development of the country. It has been entirely due to this system that necessary capital, experience and enterprise have been available for the successful working of many big industries such as cotton, jute, etc. It would be really very unfortunate if the managing agency system would be abolished. It is gratifying therefore that the indispensability of the managing agency system has been recognised. The Bill provides to restrict the life of the managing agency system to twenty years and to fix their remuneration on the basis of fixed percentage of profits. These two changes will of course satisfy the opponents of the managing agency system when other checks and restrictions are considered along them.

Sir, the other bright feature of the proposed amending Bill is the giving of increased rights and privileges to the shareholders. It is recognised that the present position of the shareholders is very unsatisfactory and under these conditions the shareholders cannot have an effective control on the management of the companies or can have their grievances redressed. In some of the companies the shareholders have felt that they are not considered as owners of the company but they are marked out as undesirable outsiders. Any protests or objections raised by them regarding the affairs of the company are never heard and it is no surprise that such a state of things engenders strong prejudice against the managing agents. But I am, Sir, sure that this could not have happened if the shareholders would have taken a keen interest in the affairs of industries. They are also no less responsible for their neglect of duty. Some of the provisions made in this Bill for giving the shareholders many facilities for enforcing their rights and for obtaining all reasonable information regarding the affairs

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of the company will serve a better guarantee for sound management of the companies. Sir, it is believed that providing of these facilities to the shareholders and giving them opportunities to take more interest in the affairs of the company will banish all misgivings and doubts which the shareholders have so long felt in making their voice effective. In this connection I may also express my apprehension that in giving all such rights to the shareholders there is danger that irresponsible and hostile shareholders may create unnecessary troubles sometimes. There is therefore a need to protect and safeguard the companies against such reckless shareholders.

The Bill has included some provisions regarding the banking companies. In the very near future, Sir, a comprehensive banking legislation will have to be proposed as only some aspects of banking business have been touched in this Bill. The importance and function of banking concern do not seem to have been fully considered by the Select Committee and it would have been desirable if a comprehensive Bill for the management of the banking concern had been proposed. The Bill before us has laid down some special provisions for exercising a statutory control on the management and the constitution of the bank. The proposed section 277-E and subsequent sections raise many complicated and difficult questions upon which I hope to have more to say when the time comes. The provision of minimum working capital is indeed very satisfactory and it will check the flotation of banking companies with small capital. It also serves as a guarantee to the depositors and customers of the bank.

Sir, I do not wish to go in much details into the different clauses of this Bill at present as this House will have ample opportunity of discussing the Bill clause by clause when various amendments will be moved at different stages by the Honourable Members of this House. I whole-heartedly support the general principles of the Bill and shall be glad to see it passed into law. With these few remarks, Sir, I resume my seat.

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Mr. Deputy President, this action of the Government to amend the Company Law has not come up too soon. The attention of the Government was drawn to the necessity of bringing about a change in the present company law by my Chamber as far back as 1914. Since then other commercial bodies also have taken up the demand, and latterly even the Federation of Indian Chambers of Commerce and Industry have also voiced their opinion on the same lines. Our present Law Member as Leader of the House saw the necessity of doing something in that direction and appointed Mr. Sen to review the position and make a report with his recommendations. That was done by him, and since then the procedure followed is well known to the Honourable Members here. The result was that the Bill was placed on the table of the House last Session, and a Select Committee was appointed for considering it in detail. The Bill has been gone through by the Select Committee very carefully, I should say and I should also like to mention that in the imperfect world in which we are living it cannot be expected that the results of the committee would be the best and most suitable to

everybody concerned. At the same time I must say that the Committee with the materials before it has done its best to look to the interests of all concerned, and brought out the necessary changes and recommendations for the House to consider at present. Mr. Sen has already explained the necessary changes that were brought about and I am not going to repeat them again today. But the attention of the House for the most part has been centered round the much abused managing agency system, and I will have to say a few words about that. Although there are many things to be said for and against the managing agency system, one has only to look at it from the practical point of view. One may not like it, but one has got to move with the times he is in, and, considering that, I say that the managing agency system has done a lot of service in the past. At the same time it has been abused by a few exceptions that must not be made a target for that very reason. We know as a matter of fact that this system of ours is mainly to be found in this country, but the counterpart of it to a certain extent is prevalent also in America, though not in the same form. In Japan such businesses and concerns are managed by the directors who are well-paid to look after them. There are also Trusts which look after the industries, but we must not forget the conditions prevailing there. Japan for instance is a country which is managed by its own nationals. In Germany you will find that the Banks are also taking part in the management of such spheres of industry and commerce to a considerable extent, while the Government also have got some share in it. They have got their representatives on the directorate of such concerns, and besides that, where things have got to be looked at more in detail and more carefully sub-committees are appointed and it is thus that such concerns are being managed. The responsibilities are divided like that but these conditions are prevailing in countries managed by their own nationals; and unless that sort of position comes to prevail in our country, so that the bankers as well as the Government should look after and conduct the concerns for which we are legislating today, we cannot expect to do away entirely with the managing agency system that prevails here, and which has brought about the development of industry and commerce to the extent that we find today.

The Select Committee, really speaking, have taken into account all these considerations, and the broad view that it has taken is certainly in favour of the continuance of the managing agency system with proper safeguards in a form as best as it could possibly prescribe under the circumstances. Of course, particular interests will always try to pull the strings to their best advantage, but still one has always to bear in mind that while it is strengthening its hold, it has got to see that it does not strangle the commerce and industry of the country. From that point of view the recommendations of the Select Committee deserve to be generally accepted.

Coming to the achievements that the managing agency system has made in the past, my Honourable friend, Mr. Sen, yesterday gave us to understand that the Honourable the Law Member was going to give us the balance sheet of it. Sir, I do not therefore like to go into those items in the present situation.

Sir, there is one more thing I would like to mention here. A suggestion was made yesterday for the elimination of the proviso to

[Mr. Mathuradas Vissanji.]

clause 42 and 87-B,—that is, to say the contract entered into by the managing agent with the company should not be disturbed as provided in the foregoing clause till the maturity of that contract. Well, a suggestion has been made to drop it. I will therefore cite an instance where that proviso is absolutely necessary for the sake of the facilitation of the flotation of companies. Supposing a man investigates a certain proposal, he spends money and energy upon it, and after a time he is satisfied that the flotation will prove successful; and he comes out with a prospectus whereunder, ordinarily, as provided in the company law, he gets a certain remuneration. After issuing the prospectus, some people with acute brains, as are not wanting in this country, find that there is a good opportunity to remove the original promoters from the managing agency, and thus take advantage of what is contained in the flotation. If the proviso is removed, surely they can go on buying shares and collect the necessary votes for bringing about the situation that they want in that concern. If that proviso is removed, harm will be done to that man who has already put in his money, energies and everything on the flotation of the concern, and he would thus be practically robbed of the fruits of his labours by the elimination of that proviso. It is therefore that this proviso is most essential to safeguard the man who takes really good pains and sinks his money in a concern before flotation.

Another point that I would bring to the notice of the House is the banking clause. The banking clauses required in the company law have been changed or improved to meet the situation, but that will not solve the problem of the Banking Act that is necessary for the country as a whole. I would here request the Government to consider that position and try to bring about the enactment of a Banking Act as early as they can possibly do.

The next point of importance is about the appointment and rotation of directors generally. A good deal has been mentioned about it and I think even there proper safeguards have been made by which the directors can much improve the solid work they want to do, and if they abuse that provision they can very well be brought to book for their own action. On the whole, I will not say that the Bill as it has emerged from the Select Committee is the best, but it is certainly the most practicable that could be achieved in a Select Committee after taking into consideration all the interests concerned. With these few remarks, Sir, I commend the Bill for the consideration of the House.

The Honourable Sir Nripendra Sircar : Sir, I indicated in my opening speech that if there was going to be any debate on the principles or on the major issues of the Bill, I will try to reply to them. It is not my desire to reply to the very numerous points which have been raised, but to confine myself to some of the more important ones. I am sure, the House expects that after all that has been said about the managing agency system, a reply is wanted from Government for justifying the measures which they have proposed in this Bill. Listening to those arguments in this House, I have not the slightest doubt in my mind that a certain pre-conceived notions which, one can suspect, is the result of the very intensive and persistent propaganda which has been carried on for

a couple of years. I must not be misunderstood. When I use the word "propaganda", I mean no offence. On the other hand, I acknowledge publicly that I have received the greatest assistance from the Bombay Shareholders Association. They have displayed untiring energy; they have spared neither time nor trouble and whenever an information had been asked for, their representatives had been willing to come up all the way from Bombay to Simla to supply us with information. I feel grateful for what they have done. But, after all that has been said and done, I would ask this House to remember and to realise that these pamphlets, booklets and rather big books, the constant writing in the press in India and in England, are what may be called the drain inspector's reports—because they are one-sided. They are very useful, they draw attention to the black spots, to the dangerous zones and they draw attention of the Legislature to the remedy which ought to be applied. But the great danger of this class of literature is, as we all know, that, although nothing untrue is said there or, at any rate, nothing substantially untrue, the unwary reader is likely to come to the conclusion that the whole prospect before him consists of drains only and there are no open and pure places. That is likely to be the result of this kind of propaganda and, judging by the result which has been achieved, I have not the slightest doubt that that has been done. I am insinuating nothing against the Bombay Shareholders Association because I am not charging them with having intentionally or deliberately misled the public. I do nothing of the kind, as indeed they have done great service. But I do press this House to consider whether they are not likely to be misled if they concentrate their attention on the abuses which undoubtedly exist and pay no attention to the other side of the story and refuse to look at the other side of the picture. If, therefore, I have got to present the other side of the picture before this House, it is not because I am oblivious of the abuses. If we had been oblivious, we would not have provided so many measures for removing them. But it is necessary in a matter of this importance that this House should come to a dispassionate judgment after being in possession of all facts not only as regards the abuses but as regards the uses of the managing agency system.

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

Sir, the first question which comes to the mind of any inquirer is : what is the origin of this managing agency system? If it is an evil, why is it a necessary evil which cannot be removed? Although it is very well known, I think it will do no harm if this House is reminded of the reasons for the existence and for the flourishing of this managing agency system. Sir, the difficulty in India is the difficulty of finding industrial capital. I have no desire to quote from a large number of books, but those who are interested to look into the matter further will find ample evidence before the Industrial Commission. They are scattered all over Volumes V, II and III. The next thing which was pointed out by this Commission, as also by the Banking Enquiry Committee, was that there was a tendency in this country to invest in real property. Evidence was led on this point, the result is embodied in the report of the Industrial Commission, paragraph 282, and the evidence will be found in Volume III, page 260, and further confirmation will be found in the Central Banking Inquiry Committee's report, pages 432-33. We start, therefore,

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with two things. Industrial capital is not easy to attract and there is the tendency to invest in real property. The third cause is that there is a preference for investment in Government securities, in municipal and port trust loans as compared to industrial activities. This will be found, again, in the reports to which I have referred. But more than any of these three causes, the cause which is responsible for the continuance of the managing agency system is the prevailing banking system in India, and I think the attention of the House should be drawn to some of the facts relating to it. It will be found that Sir Purshotamdas Thakurdas, when he gave his evidence, said this—I am quoting his exact words :

“ It is well known that banks are unwilling to advance money on the assets of a liability company unless the same is backed by the personal security of the managing agent. No practical banker in India will be prepared to depart from this practice.”

We pause for one moment—the fact established is that banks will not lend money to the company on the company's signature alone for they insist that they will have the signature of the managing agent. That is where the managing agent comes in. That is why these companies cannot go on without a managing agent who has sufficient credit with banks. My Honourable friend, Mr. Ananthasayanam Ayyangar, read certain passages from a book on this subject, I mean the subject of managing agency by Mr. Lokanathan. He cited that book as if the author was in favour of the abolition of the managing agency system, although the author tries to be as fair as possible to both sides, although he stresses the abuses of the managing agency system, yet his conclusion is that it is impossible to think of removing the managing agency system for many a year to come. Now, Sir, on the question of banking and what is done by the banks I may refer to the same book at pages 228-229 :

“ It would be hasty to conclude that the system of managing agents must go and a different system of financing should be adopted. For one thing this system is too deep rooted in the country to disappear merely because of the desire of some critics. Circumstances cannot suddenly vanish until the conditions that gave rise to it themselves alter. Whatever may be the view one takes of the need for changing the existing method of industrial financing of managing agents, the fact remains that for a long time yet, it will continue to prevail and will only change in some of its details. One has to stress this aspect a little, because, in recent years, criticism of the managing agents perfectly legitimate in itself has often led to absolutely impracticable proposals of reform. No new institution can be suddenly and newly created to take the place of an existing agency, and the only possible line of reform is readaptation and more easily brought about if certain measures are undertaken. This readjustment can be the banking system in India has been working on too conservative lines, and has not merely insisted upon the guaranteeing of the loans and advances by the managing agents, but has based its credits more on the reputation and worth of the agents than on the financial position of the mill companies under their management. This has led to a vicious circle which should be broken.” (Hear, hear.)

I shall read two more passages from the same book. On page 223, the author says :

“ When managing agents lend funds to the companies, the interest that is charged is generally one to two per cent. above the bank rate. But this is not universal. In the cotton industry there have been several instances where large funds have been placed at the disposal of industrial concerns at six per cent. at a time when money could not be had at anything less than eight per cent.”

Sir, these facts have to be remembered in considering what reform is possible, because nobody wants abolition of the system. I will give you further concrete instances, not from this book, but from outside information of how it has been happening; if not daily, at least very frequently, how managing agents have advanced lakhs and lakhs of rupees at rates of interest lower than what may be called the bazaar rate, and even in many cases suffered losses unable to recover them, after their struggle, after their sincere effort to save the company as long as is humanly possible. I now read from page 223 of the same book, from the foot note :

“ Indian Tariff Board : Cotton Industry, 1927, Volume 4, page 87 : A certain firm of managing agents made Rs. 9,000 in four years by way of commission, but had to undertake financing to the extent of one crore of rupees, 70 lakhs of which was its own money lent to the company at six per cent.”

The last quotation that I wish to give from this book is from page 141 :

“ What is significant in India is that the lack of an efficient banking system threw the whole burden of industrial finance on a limited class of entrepreneurs (namely, the managing agents) who were unwilling to pioneer new enterprises unless the chances of high profit were bright.”

We remember four conditions so far. The most important condition is that you cannot attract industrial capital for running your companies. As to the author's point of view, I will not give more quotations from this book, but he states that it is idle to think of removing the managing agency system so long as the banking system has not improved, so long as the mentality of the people of the country has not changed by their regarding industrial investments as more attractive than investments in real property and investments in Government securities. These are the reasons why the managing agent comes in. I think the House will have no difficulty in realising the essential difference in the position between that of a managing director and of the managing agent. What is a managing director? A managing director is a person who after all is a servant of the company, remunerated by a salary or possibly a salary plus a commission. It is not his business to find finance, it is not his business to give guarantee to the banks, it is not his business to take the risk of lakhs of rupees which may be lost altogether if the company comes to grief. If the managing agent has acquired a dominant position which he undoubtedly has, that is by reason of the facts which I am stating before the House. How has in fact money been found for such of the industries as are flourishing or existing in India? What is the history of Ahmedabad? Where did the money come from? The supply of finances—I think I have already said that in my opening speech,—came through the credit of the managing agent. The capital was very often, if not in all cases, a part of what was required for the block and for the working capital. But the money has come because the managing agent of Ahmedabad carries the confidence of the public and he can get lakhs of rupees as deposit for long term. If Mr. Joshi's requisition had been carried out, that is to say, not to start a mill unless the entire 50 lakhs required for block and working capital have been raised,—(assuming that to be the figure),—by sale of shares, Ahmedabad today would have been free from the smokes of the chimneys of their mills. There would not have been one in existence. There is enough material to trace the history of every single mill in Ahmedabad and I have got the material here. There may be one exception but every one

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of them has been started with what would be legitimately called on grossly undercapitalised conditions. But still here they are. As I said the other day the business has increased four times in short time. When I come to the dividends which they have paid it will be seen that though the managing agents have been swindlers and cheats and cut-throats, which I do not insinuate is the fact, the shareholders have done very well indeed, more than they could expect. They have received more than ample return for their investments.

Now, Sir, the next point to consider is that supposing, as the fact is, banks are not willing to lend money on the assets of these limited companies, what are the other methods by which finance can be raised for companies? The two obvious methods are the issue of preference shares and the issue of debentures. There again, Sir, if you come to preference shares the history of industrial movement and development in India will show that apart from the jute industry in Bengal, the preference shares have not succeeded in attracting capital, with the some exceptions as in Bombay of Messrs. Tata's. The figures are very significant when you compare them with the English figures. In England out of 100 the ordinary capital is 47, preference, 33 and debenture, 20. In India I have got only the figures for 1928,—I am sorry I have not got any later figures,—in India the figure is 16 per cent.; that is to say, 16 per cent. of the capital was raised by preference shares, and when one remembers that the bulk of it is contributed by the jute preference shares in Bengal the conclusion is inevitable, as the facts and figures also bear out, that preference shares have not succeeded in raising any substantial amount of capital in India, outside the Jute industry in Bengal. When we come to debentures the story is more dismal. I think I have said that out of 100 the capital represented by debentures is 20 in England; here it is only 9. And it is felt that the issue of debentures involves a loss of credit, whatever little the company has with the banks. Debentures therefore are not popular; they are not effective in securing finance. Sir, these figures here would be astounding to a man who is accustomed to the conditions in England. If I give you one figure,—this is to date 1st October 1930,—for the 56 Ahmedabad mills the amount lent by the managing agents was 264 lakhs, lent by the banks, 4 lakhs, deposits with the managing agents, 426 lakhs, and the whole share capital is 340 lakhs, debentures, 8 lakhs. The result is a matter of mathematics. I speak with some hesitation in the presence of Dr. Ziauddin, but I believe it means that 63 per cent. of the money was procured from the managing agents and the share capital was only 32 per cent.; while in Bombay it is slightly higher, about 49 per cent. Sir, I remind you of one more statement of Sir Purshottamdas Thakurdas. He was referring to Bombay but it applies with much greater force to Bengal, as I shall show when I come to the tea and the jute industry. What he said was this:

“Many more cotton mills would have gone into liquidation but for the capacity of managing agents to bear losses themselves and their willingness and ability to finance in critical times.”

When I come to Bengal and all other provinces, I shall show, not by making general statements, but from concrete instances, how in times of stress and strain industries have been saved from collapse, simply because, when banks were unwilling to advance a single copper coin, the managing

agents had to bear and could bear the risk of very large financial commitments, a good portion of which they ultimately lost.

Then, Sir, another point which has got to be remembered and which is of great importance is this, that when large initial resources are wanted and when the industry is one which requires careful nursing, where possibly for the first 7 or 8 or 10 years no profits are earned (and it may so happen at the end of 7 or 8 or 10 years that there may be a period of slump which lasts for a few years),—in those conditions there are very few companies in India which on the strength of their share capital can stop liquidation. They have got to turn to the managing agent for finance and as to how they have done it I hope to give some instances to this House. In this connection, as relevant to this debate, I will read again from Mr. Lokanathan's book at page 224:

“Managing agents in another direction have fulfilled a very essential and highly important function which, in the existing commercial and financial mechanism of the country, could not be performed by any one else. The managing agents have been the bulwark preventing the industrial concern from collapsing in times of industrial depression.”

I am reading from the very book which my Honourable friend, Mr. Ananthasayanam Ayyangar, read as a book showing the evils of the managing agency system which indeed it does bring out:

“This aspect of the matter has not been sufficiently recognised in assessing the value of the financial services rendered to industry by managing agents, and while it is possible to exaggerate it it is equally necessary to note its significance in the industrial development of India. When the tea industry of India passed through difficult times in 1920-21, and again in 1927-28, it was the financial strength of the managing agents that saved them from collapse and liquidation. The continual losses of the industry dissuaded the banks from renewing the advances, and had the industry had no other agency to fall back on, many of the concerns would almost certainly have had to close down. The same thing happened in the jute and coal-mining industry and in the cotton industry. In the years when the Bombay cotton industry was in a critical condition, many more mills would have gone into liquidation than those that actually closed down but for the capacity of the agents to bear the losses themselves and their willingness or ability to finance at those times.”

Which also is the evidence, as I read, of Sir Purshottamdas Thakurdas:

“In the existing state of banking organisation it was hardly surprising that banks were unwilling to lock up their funds in the cotton industry, and the managing agents carried the burden as well as they could. . . . Managing agents have every inducement to persevere and to continue financing, inspired by the knowledge and the hope that recovery may be a matter of time. But the crisis lasted sufficiently long to inflict serious damage on the industries and only the ability of the managing agents and their independence of banking credit enabled them to survive.”

Now, Sir, another factor which has got to be remembered is this:

4 P.M. that in India persons of experience and ability in industry are not unlimited. Unfortunately even up to the present time they are very few, and outside these people who are managing agents or associated with managing agents it is difficult to find suitable men with suitable experience and ability and with suitable capacity for raising finance, who could run the companies. I believe an ideal board of directors of an ideal company will be one with myself as chairman and Prof. Ranga and Dr. Ziauddin as the other directors. I could attend to the law cases. . . .

An Honourable Member: And not Sir Mody and Sir Cowasji Jehangir?

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The Honourable Sir Nripendra Sircar : No, no : they are merely business men—I ignore them : as I was saying, I could attend to the law cases : Prof. Ranga will see to it that whatever profits are made, they go to the labourers, and Dr. Ziauddin will solve the most intricate problems about stress and strain of machinery (Laughter) : provided, we apply our mathematical talents, with the help of Dr. Ziauddin it will be easy to convert imaginary profits, to substantial profits, on paper.

I was about to read another passage from Mr. Lokanathan, where he says—and I read this as part of my argument :

“ While it is perfectly true that a reorganisation and adaptation of the system to changed industrial conditions in India may promote efficiency, it should not be forgotten that in so far as Indian industrial organisation depends for the ultimate success upon the capacity and integrity of the entrepreneurs, it will have to rely for a long time to come upon the very same persons who are now directly or indirectly associated with the several managing agency firms. In one way or another, they represent the quintessence of industrial ability and experience available in the country and whatever be the form of industrial control that is devised, they will undoubtedly remain the captains of industry.”

Remove the managing agency system and you will get no money for your companies and these much-abused people will manage somehow to go on, though not with the amount of success which they have now achieved. In this book it has been said that because the managing agents have got to take financial risk, they sometimes—indeed often—have got to suffer heavy losses. A general statement like that leaves no impression on the mind when we read 250 pages of a book supplied by the Bombay Shareholders Association where we find instances given, taken down with great care as they ought to be, (I am not complaining) of incidents where a managing agent has gone wrong. There is a complete silence about the other side of the picture, that is to say, where they have behaved in quite a different way.....

Dr. Ziauddin Ahmad : Only by the grace of the Commerce Member by imposing heavy duty.

The Honourable Sir Nripendra Sircar : Dr. Ziauddin wanted to say something ; but my powers of hearing are not sufficiently acute—I could not hear what he meant ; but I am told he has said something with which the Honourable the Finance Member agrees.....

Mr. S. Satyamurti : Obviously !

The Honourable Sir Nripendra Sircar : and in the strength of that I am also agreeing although I have not heard what he has said. (Laughter.)

Now, Sir, I will give certain instances. As I said in my opening speech, this will be rather tiresome and boring work ; and I cannot accept my Honourable friend, Dr. Khare's idea of putting some ginger and pepper in it because this is a dry mass of facts.....

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : You have already done it, and you are doing it even now.

The Honourable Sir Nripendra Sircar : That is not my idea of ginger. I will go on as rapidly as I can. I will not mention the name of the managing agents although they can be easily found out, but I will

mention the names of the companies—I do not want to give an unnecessary booming to particular managing agents if I can avoid it. I will take the Sutikdih Coal Company. It went into liquidation on the 13th August, 1928 : the managing agents had unsecured advances to the extent of nearly Rs. 4 lakhs : after the creditors had been paid, they recovered Rs. 118,000, and they lost Rs. 247,000. They have been trying during these past number of years to keep things going : they have been increasing the financial risk which they had been taking, and supplying money. In the end the result was that they lost Rs. 247,000. A managing director would never have bothered about it : he would have closed down as soon as the banks refused to lend them any further money.....

Mr. Sri Prakasa : Were the managing agents in that case drawing any salary all this time, and if so, what was that amount ?

The Honourable Sir Nripendra Sircar : I infer that my Honourable friend, Mr. Sri Prakasa, by his question admits that he has not studied these matters at all. The managing agents gave up very large amounts, lakhs and lakhs of rupees, to which I shall draw your attention : facts which can be proved from printed publications, authorised publications, and not from any secret information which I have obtained.

Dr. Ziauddin Ahmad : May I just say this, that Mr. Sri Prakasa asked him if the managing agents received any salaries during this time : will you please give that figure, and not only how much they spent ? We should also know how much they earned.

The Honourable Sir Nripendra Sircar : Supposing I could have given the figure—at present I cannot give him the amount which the agent earned—but supposing I did, what would have happened ?

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : He would have added the amounts !

The Honourable Sir Nripendra Sircar : He would have added them : well, he may be saved that trouble.....

(Interruption by Dr. Ziauddin Ahmad.)

If Dr. Ziauddin, who wishes to abolish the managing agency system without knowing any facts connected with it, has the desire to learn, I am sure he will be able to pick it up in a couple of months' time.

Now, coming to No. 2, the Britannia Engineering Company : it had a series of disastrous years : the advances due to the managing agent were to the tune of Rs. 10 lakhs. In addition they had to guarantee to the bank Rs. 1½ lakhs : shares which were worth nominally Rs. 10 had come down to Rs. 1-8-0, and the loss to the managing agents was Rs. 5 lakhs. I will take the Gopalchuk Company ; the present managing agents whom I would not name came in 1927 : at that time there were outsiders who were holding debentures, a certain portion was due to the banks and to other creditors the amount due from the company to the managing agent was to the tune of Rs. 6 lakhs. The Reports and the balance sheets of the company will show that they have given up their managing agency allowances during all these years ; from the year 1927 onwards they have taken nothing ; and that is not a characteristic of the managing agency of the Britannia

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Engineering Company only. That has been happening every year in the Ahmedabad Mills, as also in Bengal and Bombay and I shall have the opportunity of telling the House what is the amount of commission given up by them which they had earned, because the mills were badly off. The position of this managing agency firm was that they had to receive 8 lakhs; they had not charged any managing agency allowance; from 1927 onwards they are struggling, and if the company ever proves successful, they may recover some of their dues but we can quite understand what financial risks they have undertaken.

Now, Sir, I will take you to the Russa Engineering Works. The managing agency advanced Rs. 6,90,000 to the company without any security whatsoever. The company went into liquidation; they could not save it. They were agents of some motor companies; I need not go into the history of the matter. The company failed; the managing agents tried their level best for years to keep their head above water; they did not succeed, owing to trade conditions and the whole of the 7 lakhs which was advanced without any security was lost.

Then, Sir, we come to the Kumardhubi Engineering Works, Limited. The managing agents from time to time, as the balance sheets will show, had to lend to the concern up to the tune of 22½ lakhs, because without this finance they could not carry on, and money could not be obtained otherwise. In addition, the Banks called upon them to guarantee the overdraft which they had to. And here, in answer to my Honourable friend, Mr. Sri Prakasa, I may tell him that they had given up out of the principal, 6 lakhs of rupees, out of interest and commission another 6½ lakhs, and so 12½ lakhs were given up by them. They had not only charged no managing agency allowance, but as they had to keep an office establishment, they did not charge for it which came to nearly 5 lakhs of rupees, and all this went out of the pockets of the managing agents, and no charge was made to the company.

I now come to the Indian Tanneries. It was started during the war. It had to be heavily financed by the managing agents. It went into liquidation, because, Honourable Members will remember, there was a slump after the war. They lost 26½ lakhs of rupees, and all throughout they had been bearing the establishment charges out of their own pockets; here there is no question of profit, but there is a distinct loss of 26½ lakhs.

I will now come to another Tea Company, the Redbank Tea Company. When the company went into liquidation, all the creditors were paid in full by the managing agents, but they themselves lost to the tune of Rs. 1,97,000, or roughly 2 lakhs. This company had been nursed by the managing agents for nearly 8 years. It could not be turned into a success, and their total loss, remembering that the share held by them were worth nothing, was nearly 5 lakhs.

I shall omit some of the other instances and tell the House whether we have taken an imaginary figure of 20 years or whether a genuine figure has been taken based on experience, and but for a long term agency no managing agent would take risks of this kind. Why should he? He knows that if things go wrong, possibly he will never recover his money, and that is the reason why a short term managing agency is not

practicable. Under an ideal system we may have no managing agency system, but under the present conditions if a company is to be worked by Directors, and if the company is not to be actually started until the whole of the working capital is raised, the shares of the company are sold, there will be very few industrial companies. These ideal conditions may come after a century or so,—I do not know,—but at any rate they are not coming in a hurry. However, Sir, until those ideal conditions come into existence, we have to legislate having regard to the realities of the situation in India, and not on any abstract ideals which were placed before us by theorists. I am not looking at you, Dr. Ziauddin. (Laughter.)

Dr. Ziauddin Ahmad : But I am looking at you all right.

The Honourable Sir Nripendra Sircar : Now, Sir, I will give the House two more instances, because one has something to do with Public Utility companies. One of the Tea Companies in Assam, the Manipore Tea Company was totally destroyed by floods in 1929. The garden was replanted. The managing agents went on suffering losses up to the year 1934, and they had just made a small profit in 1935. All this time where was the money coming from? Where were the shareholders? Where were the men who espouse the cause of labour? The money had to be found from the pockets of the managing agents.

Then, Sir, I will give one more instance, and I shall have done with instances. Let us look at the Electricity Supply Companies. These companies at Bhagalpur, Muzaffarpore, Cuttack, Mirzapur and Mangalore are financed by one managing agent. They were incorporated between 1926 and 1930. It is not necessary to go into the details of each. The advances made by the managing agents and their guarantees come up to nearly 12 lakhs of rupees. This is one of the forms of industry which requires, at least in this country, a pretty large number of years before it comes profitable. These companies,—I do not know if I can yet call them successful, or very successful,—these companies have struggled through for years in the hope of achieving success, and these have been kept up by the money of the managing agents. Now, during all these years,—I did not want to go into details,—but in deference to my friend, Mr. Sri Prakasa, I would like to inform him that the managing agents, in respect of these 4 companies, gave up half, half, half and one-third of their commission during the last four years, and one can easily realise that all these companies would have gone into liquidation but for the financial help rendered by the managing agents. And again, in answer to my friend, I would like to give him another instance,—I have got dozens of them, in my possession,—if you take the Paper Pulp Company,—I am now talking of giving up the managing agency charges,—the Paper Pulp Company was started in 1919. For the first nine years it suffered heavy losses, and the profit and loss account after the first nine years showed a debit of nearly 16 lakhs. The advances made by the managing agents fluctuated between 15 to 25 lakhs, and there has been no managing agency charge made from the beginning, that is, from 1919 up to 1929, but in 1929 they took a portion of the charges to which they were legitimately entitled under the terms of their managing agency.

Sir, I propose now to come to the industries in Bengal. Some idea of the success or otherwise of industries in Bengal can be gathered from two facts which I am going to mention presently. Again, I shall not mention

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the names of the managing agents. Managing Agent A has a large number of companies under his control. He has been managing them from 1918 to 1935. The capital of these companies came to nearly 5 crores and 58 lakhs. Some idea of the size of the industrial ventures can be obtained from the fact that the paid up capital is over five and half crores. Upon this capital, during the 17 years from 1918—1935 tax free dividends were paid to the extent in round figures of Rs. 18 crores, bonus shares—I am told by my Honourable friend, Mr. Joshi, that bonus share is a horrible thing and that it should not be touched with a pair of tongs, but if I were a shareholder I would welcome bonus shares—bonus shares were issued to the extent of Rs. 23 lakhs, cash bonuses distributed, Rs. 1½ crores. Managing Agent No. 2—I won't give you the name.....

Pandit Lakshmi Kanta Maitra : These are European companies ?

The Honourable Sir Nripendra Sircar : Does that make any difference ? I will answer that in a minute, Yes. But one of the companies whose record is equally good and whose figures are equally large, has an English name, it is Messrs. Martin and Company, but really its senior partner was an Indian and there are other Indian partners. I am talking of Messrs. Martin and Company. During the time that there was slump in the trade, I know from first hand information from the late Sir Rajendra Nath Mukherjee that over Rs. 50 lakhs had been advanced by Messrs. Martin and Company to the different tea gardens in Assam and elsewhere. The position was extremely perilous. No bank would advance a single farthing to any of these gardens having regard to the condition of the industry and here were the managing agents going on, striving their hardest to keep the companies going, and ultimately although they could not make profit for years they have been saved from liquidation and they are still going on. But my Honourable friend, Pandit Lakshmi Kanta Maitra, is quite right in thinking that managing agents Nos. 1 and 2 are British.

Pandit Govind Ballabh Pant : For Bengal use A and B, and not 1 and 2.

The Honourable Sir Nripendra Sircar : I said managing agent No. 2, but out of deference to my Honourable friend, Pandit Govind Ballabh Pant, I shall now call him managing agent B.

Pandit Govind Ballabh Pant : Leave that to the Honourable the Home Member, Public Enemy No. 1, Public Enemy No. 2, and you restrict yourself to A and B. (Laughter.)

The Honourable Sir Nripendra Sircar : I am sure that my Honourable friend, Sir H. P. Mody, will say Public Benefactor No. 1 and Public Benefactor No. 2. (Laughter.) Managing agent B runs 31 different companies. The paid up capital of these companies is nearly 3½ crores. The market value of the shares today, if they are calculated from any of the financial papers, is over Rs. 7½ crores. They have distributed tax free dividends to the extent of Rs. 12½ crores, and not a single creditor has ever lost any money so far as these companies are concerned. Now, Sir, my Honourable friend asked me about the British managing agents. May I also give him certain figures about the Ahmedabad mills ? I may tell my Honourable friends that these figures for Ahmedabad, and in fact, every matter relevant to Ahmedabad are very easy to find now from a directory

which has been published by one Mr. Navalraj. He sent free copies to every one of us, but, of course, that was with a view to urging that the managing agency system is rotten, and the figures quoted in his publication may therefore be relied upon as not being friendly concoctions to support the managing agency system.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I ask the Honourable Member whether it is open to any Honourable Member now at this stage of the Bill to move that the managing agency system should be abolished ? It seems to me the Bill had gone to a Select Committee and that Committee have made their report, and one of the basic principles of the Bill is that the managing agency is accepted. The only question is how it should be improved or how the evils should be cured. Is it necessary for us to discuss the question whether the managing agency system should be abolished straightaway ?

The Honourable Sir Nripendra Sircar : As this is not a point of order, all I will say is this that I am not discussing it from the point of view that the managing agency system should not be abolished. But I have got to justify why they have been given 20 years, why they have not been directed to be shot at sight. I have got to explain how long the nursing has got to be done by the managing agents, and what is the amount of risk they take and so on, and it is with a view to show that to proceed further than what we have done in the Bill will be an expropriation which is not justified by the necessities of the case and which will not be fair to the existing managing agents in spite of the abuses which in some cases have been proved. That is the point of view from which I am addressing this House and not with a view to arguing the question of abolition. I think I told the House,—of course, these interruptions are not welcome at all—I was telling the House the reasons why we are giving managing agents 20 years, how we are trying to justify it. After that, I went on reading out some figures. I do not see what justification there is for suggesting that I am now urging the issue as to whether the managing agency should be abolished or not. I think I was talking of Ahmedabad although this unnecessary interruption rather takes me out of my line—my Honourable friends will find from the book to which I referred, at page 204, that in 1933—I am giving the figures of one year and not of all the years—they gave up out of Rs. 41 lakhs of commission earned, I mean, by all the managing agents in that year, in 1933,—out of Rs. 41 lakhs they gave up Rs. 15 lakhs. Some did not give up, or rather a few did not give up, others gave up very negligible proportions, but as against that, there were mills which gave up the whole of their commission for a series of years.

Then, the next matter to which I would draw the attention of the House is about the 20 years which is proposed to be given by the Bill to the existing and new managing agents,—I am not talking of abolition but of the 20 years which is proposed to be given to the existing managing agents. May I remind the House of the opinions which have been received ? I have made a careful analysis of the hundred odd opinions which have been received and I will give the result of my summary. If I have made an occasional mistake, my Honourable friends will pardon me, but I have taken care to see that this is not wrong. The position is this. Out of these over 100 opinions which we have received, I believe it is 115 or something—we find that there are 21 opinions, mostly from Chambers of Commerce, and particularly from Indian mercantile interests,

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which want more than 20 years, either 25 years, and I believe in one case the Federated Chamber want 30 years. Those are 21. Now, these are 21 and those who want shorter periods I shall give them to you in a minute. They are four in number. I give you rapidly names of associations and persons who are not satisfied with 20 but want 25. They are the Federation of the Baroda State Mills, the Maharashtra Chamber, the Bengal Chamber of Commerce, Dr. K. M. Malaviya, the Upper India Chamber of Commerce. The Ahmedabad Mill Owners Association, the Indian Merchants Chamber, the Millowners Association of Bombay, the Government of Bengal, the Chittagong Chamber of Commerce, the Federation of Indian Chambers, Northern Indian Chamber of Commerce, the Burma Chamber of Commerce, the Government of Burma and the Burma Indian Chamber of Commerce, the Marwari Chamber of Commerce, and the Bombay Shroffs' Association. They want little more than 20 years. The four who want shorter periods are the Registrar of Companies, Sind. He suggests five years. The Registrar of U. P. suggests 10 years, although his opinion does not agree with either the Chambers of Commerce or Indian opinion there or with the Local Government. He, however, suggests 10 years. Then, Sir, to be absolutely exhaustive, one Mr. S. B. Pandya an auditor says that seven years should be given. Then, the Registrar of Bengal and the Bombay Shareholders are the last. That accounts for about 25.

An Honourable Member : What do the Bombay shareholders want ?

The Honourable Sir Nripendra Sircar : That is a long story. The three stages are zero, then one or two. Then it is 5. I speak subject to correction. The opinions are altogether 130. Of this, 105 are satisfied, because they made no comments on the period. There are some of course who do not deal with managing agents, for example, the Lloyds' Bank. I am omitting them as they are few. It is only to give the House a rough idea. 105 are satisfied with 20 years. 21 want longer periods and four including Sind and Mr. Pandya ask for shorter periods.

Pandit Govind Ballabh Pant : 105 are silent ?

The Honourable Sir Nripendra Sircar : They are silent on the question of the period. They are not silent, not all of them, on the question of the managing agency. For instance, some of them deal with remuneration or about dismissal and so on but they are silent about the period. Now, Sir, it may be said after all most of them are merchants. What about the shareholders. Bombay is opposed, as I have said. There are only two other associations of shareholders. One is the Northern India Shareholders. The other is the Calcutta shareholders. They do not object to 20 years. The Bombay Shareholders Association alone among the opinions received from shareholders ask for shorter period.

Mr. M. S. Aney : Do they support it ?

The Honourable Sir Nripendra Sircar : As I explained to my friend, Pandit Pant, they do not make any comments on the question of the period but they do make comments on other matters relating to the managing agency, for instance, remuneration, removal and so on. They make no comments or criticisms on our proposal of 20 years. I have given you the names of the commercial bodies who want more than 20 years. The other

commercial bodies which are content, as they do not make any adverse criticism on our suggestion for 20 years, are, I proceed very rapidly, the Bangalore Trade Association, the Karachi Chamber of Commerce, the Karachi Indian Merchants Association, the Cochin Native Joint Stock Ltd., the Southern India Chamber of Commerce, the Punjab Chamber of Commerce, the Bombay Exchange Banks Association, the Bengal Mahajan Sabha, the Muslim Chamber of Commerce, the Trades Association of Madras, the Bengal National Chamber of Commerce, the Madras Chamber of Commerce, the Mysore Chamber of Commerce, the Indian Tea Planters Association, the Native Share and Stock Brokers Association, Bombay, the Merchants' Chamber U. P. and the Burma Planters Association. I am right in saying, without being guilty of exaggeration, that really the support is overwhelming in favour of our proposal for 20 years.

Mr. Sri Prakasa : What do the managing agents themselves want after all the losses they have suffered ?

Sir H. P. Mody : Perpetual tenure.

The Honourable Sir Nripendra Sircar : Mr. Jinnah is absolutely wrong there. They do not want perpetual tenure. They ask for 20 years.

Mr. M. A. Jinnah : I must protest against what my Honourable friend said, I did not say a word.

Sir H. P. Mody : I said it.

The Honourable Sir Nripendra Sircar : I am very sorry. Now, Sir, the Bombay Chamber of Commerce are satisfied with 20 years. They do not want more. The Bengal Chamber of Commerce takes that view but the Indian Merchants Chamber, the Federated Chambers and the Indian Mercantile interests, most of them want 25, with the exception, I believe, of the Federated Chambers and another who ask for 30. That is the position.

Mr. Sri Prakasa : What do the managing agents themselves say ?

The Honourable Sir Nripendra Sircar : There is no association of managing agents.

Mr. Sri Prakasa : They might have submitted their opinion.

The Honourable Sir Nripendra Sircar : They might have but they have not.

Mr. M. A. Jinnah : May I take it that the Government have not tried to ascertain what the managing agents, who are vitally concerned, would like to have.

The Honourable Sir Nripendra Sircar : For the obvious reason that they were very ably represented on the advisory committee which had its sittings for ten days at Delhi.

Mr. M. A. Jinnah : Then you have ascertained their opinion and they are content with 20 years.

The Honourable Sir Nripendra Sircar : That is partly true, partly untrue.

Mr. M. A. Jinnah : Which is the untrue part of it ?

The Honourable Sir Nripendra Sircar : I am coming to that. If the Honourable Member thinks that he will prevent me from going on with my speech with these interruptions, he is very much mistaken. It will take a little longer time.

Mr. M. A. Jinnah : I am not used to that sort of practice.

The Honourable Sir Nripendra Sircar : I am not giving way. I do not think my friend has any right to speak, now. What they wanted was this. They wanted 25 years, but, subject to this, that, at the end of 20 years, the shareholders will have the right to get rid of the managing agents by a Resolution. So they really wanted 25 years subject to dismissal after 20 years if a Resolution was passed—20 years certain and five years dependent on the good wishes of the shareholders. That is what they wanted but that is not what was accepted by the Bill. What was accepted by the Bill will be found in the provisions which are before you.

Now, I want to say one word about the position of the Government in the matter of the existing managing agents. So far as the existing managing agents are concerned our position is that it is quite true that we have not relied absolutely on what is called the sanctity of contract, and that as a matter of fact the abuses which have been proved justify our going to a certain extent to propose legislation which is expropriatory, depriving people of their vested rights under agreements—so that we made no fetish of sanctity of contract. On the other hand, we take the view that the sanctity of contract is not to be brushed aside as has been done for instance by the Bombay Shareholders Association. Who say, "what is blatantly spoken of as the sanctity of contracts". We cannot take that extreme view. After all, we cannot be expected to take the view that the moment we find a contract, it is the business of Government to destroy it. We are not prepared to go an inch beyond the proved necessities of the case where it involves the taking away of people's rights under contracts. Sir, opinions are bound to differ. There are no chemical balances by means of which you can exactly weigh rival considerations. But having given the best consideration to that fact for a pretty long time, the proposal which we have made, viz., that twenty years should be given to the existing managing agents, as also to the new represents the limit to which the Government are prepared to go in this matter; that is to say, we are not prepared to accept a lesser period for the existing managing agents. Sir, the further reasons, put very succinctly, are these, that the fact that the managing agent has continued for a certain number of years, let us say that he is continuing for ten years or twenty years—I am thinking of the amendment which was suggested by my Honourable friend, Pandit Govind Ballabh Pant,—I say that that indicates nothing. After all, the idea is that if he was in possession for twenty years, he must have sufficiently fattened by that time to make room for strangers, I say the facts do not justify that conclusion. I have given some instances, and, if necessary, when the clauses are discussed, I will give more, to show that it is possible, and it has happened, that managing agents in possession for the last fifteen or twenty years have really got nothing or, having suffered, it is only during recent years that they have turned the corner. Why should such a man be turned out in favour of a stranger to whom we are willing to give twenty years?

Mr. M. A. Jinnah : There is a fresh agreement.

The Honourable Sir Nripendra Sircar : I do not mind the interruption. The other argument which is advanced is—what have they got to fear? If they are good men, they are bound to be reappointed. Sir, I am unable to accept this contention and for this reason. Experience has shown that when the managing agents can be removed—which situation very often arises on account of the financial weakness of the managing agent,—that is the time when an attempt is made by speculators to corner shares, and to get rid of the managing agent to capture the profits which would be due to him. If I may put it in the language of Mr. Lokanathan at page 228 of his book, "Industrial Organization in India" :

"Few persons have understood the significance of the cornering activity on the Bombay Stock Exchange and its disastrous consequences. Since the management of a cotton mill company is in the hands of agents who at the start control a majority of shares, any weakness in their position leads to a speculative activity on the part of a small group of persons who want to drive them away and get control of the company in their hands by becoming holders of a majority of shares and to earn the agency commission..... A body of speculative capitalists are always ready to take the initiative at the first touch of adversity and it is the existence of this element that supplies the key to the cornerings of cotton mill shares in Bombay."

Now, Sir, I shall be told, well, there is no question of financial weakness here. The managing agent is going out because the statute orders him to go out. But what I want this House to dispassionately consider is this. It is not the circumstances of his going out, but it is the fact that he will go out that induces speculators to behave in the way which has been described. This canvassing, this cornering of shares, all this take place,—why? Because, if I can turn out the other man, I will get the managing agency. Therefore, I am not impressed, so far as I am concerned, by the argument, "oh, if he is a good man, he has nothing to fear". That is not what happens in the business world, judging by past experience. Statutory termination at the end of less than twenty years will create the same situation as that described in this book and create it too soon. Then, Sir, our next contention is that the equities in favour of the existing managing agents are certainly stronger and higher than in the case of the new ones. They are the people whose rights we are confiscating by Statute. They have the right to go on, and we are preventing that by Statute and I say there is no reason whatsoever why they should be treated more rigorously than the new managing agents. Another argument which has been advanced is—and this was advanced in a letter which I received a week ago—"well, if you continue the old managing agents for twenty years, you allow them to earn commission on a wrong basis, on an undesirable basis, for instance, a commission on production". Now, Sir, a commission on production, I am willing to agree, is an undesirable provision. There, again, I do not want to tire this House out, but I state these facts after looking into it with a certain amount of care. It would appear that of the 77 mills in Ahmedabad—I have only got figures up to 1933—only 28 are entitled to a commission on production. The rest are not. Of the twenty-eight again, (you can trace the history of each one year by year from the books which have been published), nineteen have given up sometimes the whole, sometimes a half and sometimes a substantial portion of the managing agency year after year. The fact remains, therefore, abuse may be suspected in the case of nine mills out of 78. I do not say that nine mills which are not accounted for are guilty of any abuse, I do not charge anybody with anything—but the possibility of abuse is limited to nine out of

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78 mills is the point to bear in mind. If there was any substance in the contention that this undesirable system has led to production simply because the managing agent wanted to inflate the commission due to him by an increase of production, it is absolutely incompatible, and irreconcilable with the fact that year after year they have been giving up a very large portion of the commissions earned on this basis.

Then, Sir, one must not lose all sense of proportion. After all, Ahmedabad may be a great place but the paid up capital of the Ahmedabad mills—talking of the year 1933—is only 4½ crores, whereas the paid up capital of all the British Indian companies is in the region of 300 crores. So, Ahmedabad represents only 4½ crores out of 300 crores. Out of that 4½ crores, as I have shown, if there has been any abuse of the production commission, it is possible only in 9 out of 78 cases. Further, in the long documents which we have been asked to read and in the pamphlets which have been issued, it has been impressed upon us, what is obviously correct, that this is an undesirable system, (a fact with which I entirely agree), but no instance has been given and I am waiting to hear instances being given by others in this House, of managing agents having unnecessarily produced goods for increasing their commission. It has not been shown that in a particular case the managing agent had been going on producing goods simply for increasing his commission. No trouble had been spared in making out the case of abuses prevalent under the managing agency system. But I have not found any tangible case apart from the contention that the situation is not a desirable one. The question is why the small fraction of 4½ crores out of total of 300 crores, is assumed to be capable of earning unconscionable profits for 20 or 25 years—why if they may be suspected of going on with abusing the commission system? Why should the overwhelming majority of managing agents to whom these considerations do not apply, why should they be hit? For the sake of one person, are you going to hit the remaining 199? Are they to be expropriated because a very minute fraction are capable *ex-hypothesi* of making more money than they ought to by misusing this system? I venture to submit that from the evidence received so far there is, really no case for inducing us to change the conclusion at which we have arrived.

Now, Sir, I will briefly refer to some of the speeches which have been made. My Honourable friend, Mr. Ananthasayanam Ayyangar, wants a Board of Control. Now, as a Member of Government I have really been very much flattered by the suggestions which have been made from time to time by some of the Honourable Members. They have said: "Do not trust the managing agents; do not trust the directors because they are all cheats; do not trust the shareholders because they are all fools; but trust the Government to do the right."

An Honourable Member: Not the present Government.

The Honourable Sir Nripendra Sircar: There may be non-official representatives but the Government's finger will be there right enough. You want a Board of Control, you want the executive really to have power to make or mar the industrial concerns. I would have thought that a non-official would have shunned this idea of undue Government interference.

Mr. Sri Prakasa: We want a better Government also.

The Honourable Sir Nripendra Sircar: We are legislating for the present Government. When the better Government arrives, there may be no laws. (Laughter.) Now, Sir, Mr. Avinashilingam Chettiar made a suggestion which, I venture to submit, required serious consideration. The House will remember that he made certain criticisms, into which I need not go in great detail. I refer to the section which relates to the removal of a director after conviction in Court. The point which he made was that there was no necessity for finding of fraud against him followed by conviction in Court and that to be followed by a resolution. All that is unnecessary, is my Honourable friend's contention. Thinking over that, a solution seems to me to be probable which I would beg my friends on the opposite side to seriously consider. It is this. I find that under the law the managing agent is liable to be removed for pecuniary misconduct, whether it is a case of embezzlement or theft or cheating or misappropriation or fraud. He is equally removable in case of negligence in business or conduct calculated to injure the employer's business. He is also removable for incompetence or permanent disability. Now, what I am driving at is this. Under the common law the position of the company is, indeed, very strong. The company need not go to Court; it need not get anybody convicted. The company decides that this man is guilty of misconduct or is guilty of fraud or it has been proved that he is a criminal and so on and proceeds to dismiss him. Then, no further ceremony is wanted. The other man has got to go to the Court and sue for damages for wrongful dismissal. But Honourable Members may inquire: if that is so, why does it not happen? That is because in many articles—I will not say in all articles—there are special provisions. For instance, there may be a provision that he is not to be removed unless he has been convicted of cheating or that he has been found guilty, by Court, of fraud. Then there are special articles in some cases to the effect that in case of conviction in Court or in case of proof of fraud and negligence, there should be a meeting of which 12 months notice should be given individually to every shareholder and four-fifths of the members must be present at the meeting. There are such provisions in some companies. That has been avoided in the English Act by their introducing section 152 which makes all such stipulations void. What I want my friends to think over is—and there is plenty of time yet—whether we cannot proceed on those lines. That is to say, let the managing agent or officer remain subject to removal under the law of the land on all these grounds but take away the protection which is afforded to them by these very peculiar and special articles in many of the managing agency agreements and in the articles of companies. I am quite willing to pursue that line and see whether that is an improvement on what we have done.

Mr. President (The Honourable Sir Abdur Rahim): Would the Honourable Member like to stop at this stage?

The Honourable Sir Nripendra Sircar: As you please, Sir.

The Assembly then adjourned till Eleven of the Clock on Friday, the 11th September, 1936.

LEGISLATIVE ASSEMBLY.

Friday, 11th September, 1936.

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

QUESTIONS AND ANSWERS.

REQUIREMENTS OF CEMENT AND CONCRETE.

301. *Mr. S. Satyamurti : Will Government be pleased to state :

(a) whether for all their requirements, they cannot get cement and concrete from India itself ; and

(b) if not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Government use cement and concrete of Indian manufacture for practically all their requirements, and use imported cement only very occasionally to meet special demands. The total purchases of the latter are very small.

Mr. S. Satyamurti : May I have some indication of the proportion of the imported cement to Indian cement ?

The Honourable Sir Frank Noyce : Certainly. Anticipating my Honourable friend's question, I have got the figures here. The purchases of the Indian Stores Department which buys cement and concrete also for the Defence services in 1935-36 were Rs. 14.85 lakhs of Indian cement and Rs. 8,000 worth of imported cement. For the railways, the latest figures I have are for 1934-35, and there the purchases of Indian cement amounted to Rs. 11.34 lakhs, whereas those for imported cement were Rs. 35,000, and I think some of that was for Burma.

PAYMENT OF DOUBLE INCOME-TAX BY PEOPLE OWNING HOUSE PROPERTY IN SAIGON.

302. *Mr. S. Satyamurti : Will Government be pleased to state :

(a) whether it is a fact that people owning house property in Saigon have got to pay income-tax ;

(b) whether they are aware that owing to the new move of the French Government and the Income-tax Act of India, merchants have to pay tax twice ;

(c) if so, the reasons for the anomalies ; and

(d) whether they propose to take steps to remove the anomalies ?

The Honourable Sir James Grigg : (a) No.

(817)

(b) Income from house property in Saigon is not liable to Indian income-tax unless it is received in or brought into British India by a resident of British India.

(c) and (d). The Government do not propose to take any action.

I might elaborate the answer to part (a) to avoid any misunderstanding. There is no income-tax on house property in Saigon, but there is a land tax on the land on which property is built.

Mr. S. Satyamurti : May I know whether this question is one of those, which are being considered by the income-tax experts ?

The Honourable Sir James Grigg : Yes, Sir, it is. But I am afraid it is being considered or almost certainly will be considered in the sense opposite to the one suggested by the Honourable Member.

Mr. S. Satyamurti : When is this report of the experts expected to be received ?

The Honourable Sir James Grigg : I think in a month or six weeks, or possibly as long as two months. In any case within the next month or two.

Mr. S. Satyamurti : May I know whether Government propose to place that report on the table of the House ? Have the Government made up their mind to give an opportunity to this House to discuss that report, before they introduce any reforms on the lines that may be suggested by the experts ?

The Honourable Sir James Grigg : I think I have answered that question the other day. I have every intention of seeing public opinion invited on it, but as to the precise form in which public opinion is to be invited, I have not yet reached any final conclusion.

Mr. S. Satyamurti : Will the Honourable Member consider this House as one of the means of ascertaining that public opinion ?

The Honourable Sir James Grigg : I shall certainly remember that exhortation.

Pandit Lakshmi Kanta Maitra : Is there a general tax on land or a tax only on plots of land on which house property is situate ?

The Honourable Sir James Grigg : I imagine it is a general land tax, but I cannot say definitely.

EXAMINATION FOR RECRUITMENT OF CLERKS IN THE TELEPHONE REVENUE ACCOUNTING OFFICE, DELHI.

303. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether it is a fact that a recruitment examination for clerks was held by the Telephone Revenue Accounting Office, Delhi, in June, 1935 ;

(b) whether the above examination was subsequently declared invalid by the Postmaster General, Punjab and North-West Frontier Circle on account of certain irregularities on the part of the office ;

(c) whether a re-examination was held in September ;

(d) whether it is a fact that candidates who became over-aged between June and September, were not allowed to sit for the September examination ;

(e) if so, the reasons ; and

(f) if the reply to part (b) be in the affirmative, whether they are prepared to remedy the grievances of those over-aged students ?

The Honourable Sir Frank Noyce : (a) to (e). The Honourable Member is referred to the reply given to Sardar Sant Singh's unstarred question No. 307 on the 9th March, 1936.

(f) Does not arise.

Mr. K. Ahmed : Is not the present question identical with the previous one (which was already answered), word for word, comma for comma, and full stop for full stop ?

Mr. S. Satyamurti : I think, Sir, you gave a ruling the other day on that matter.

Mr. President (The Honourable Sir Abdur Rahim) : Anyway, if it can be avoided, identical questions ought not to be asked.

Mr. S. Satyamurti : Unless my Honourable friend has convinced you or convinced the House that I had notice of another identical question, I can hardly help this. I can understand that I should not put a question again, once it has been answered on the floor of the House.

Mr. K. Ahmed : Is it a fact that interested persons circulate identical questions to all the Members, and in this way it happens that different Members put the same identical questions.

Mr. S. Satyamurti : What is wrong with that ? I am not an irresponsible Member like my Honourable friend !

NON-APPOINTMENT OF AN INDIAN AS DEPUTY AGENT OF THE SOUTH INDIAN RAILWAY.

304. ***Mr. S. Satyamurti** : Will Government be pleased to state :

(a) whether it is a fact that the post of the Deputy Agent on the South Indian Railway was sanctioned on the distinct understanding that an Indian officer would be appointed to the same ;

(b) if so, why an Indian officer was not selected ;

(c) when the present European Deputy Agent is due to retire ;

(d) whether the South Indian Railway authorities are thinking of appointing another European officer in his place ;

(e) whether there are Indian officers senior to the said European officer ;

(f) if so, why a European officer is preferred to an Indian officer for the Deputy Agent's post ; and

(g) whether they propose to address the South Indian Railway authorities on this matter ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Sanction to the creation of the post was given subject to the condition that an Indian officer should be appointed to the post if a qualified officer was available.

(b) No Indian officer with the necessary qualifications was available.

(c) The present Deputy Agent retires on 8th October, 1936.

(d) Yes.

(e) No.

(f) and (g). Do not arise.

Mr. S. Satyamurti : May I know what were the qualifications, which were prescribed when the sanction was given for the creation of the post of Deputy Agent ?

The Honourable Sir Muhammad Zafrullah Khan : No qualifications were prescribed. But you could only appoint an officer who was having regard to the duties of the post of Deputy Agent qualified to hold that post.

Mr. S. Satyamurti : Who was to judge the qualifications ?

The Honourable Sir Muhammad Zafrullah Khan : The Agent, I should imagine.

Mr. S. Satyamurti : When the sanction was given, did the Government satisfy themselves that the selection to the office and the decision as to the fitness of the particular appointee will be brought to the notice of the Government ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice, but I do not imagine that that would have been laid down.

Mr. S. Satyamurti : May I know what is the meaning of the answer to part (a) of the question, that is to say, 'it was sanctioned on the distinct understanding that an Indian officer would be appointed to the same' ?

The Honourable Sir Muhammad Zafrullah Khan : No ; on the distinct understanding that if a suitable qualified Indian officer was available, he would be appointed.

Mr. S. Satyamurti : May I know on what ground the Government satisfied themselves that no suitable qualified Indian officer was available ?

The Honourable Sir Muhammad Zafrullah Khan : The Agent would take into consideration the claims of any Indian officer who was senior enough and who might be qualified to hold the post.

Mr. S. Satyamurti : Did the Government accept the Agent's opinion ?

The Honourable Sir Muhammad Zafrullah Khan : Ordinarily I should imagine the Agent's opinion would be accepted on that point.

Mr. S. Satyamurti : With reference to part (d), may I know the reasons why another European officer is to be appointed to the same place ?

The Honourable Sir Muhammad Zafrullah Khan : The answer to this part is contained more or less in the answer to the next part (e).

Mr. S. Satyamurti : May I know if there are no Indian officers, who are senior to the European officer ?

The Honourable Sir Muhammad Zafrullah Khan : That is what the Agent says. There are no senior officers to the one who has been appointed.

Pandit Lakshmi Kanta Maitra : Do the Government prescribe no qualifications which make any particular person eligible for the office of Agent or Deputy Agent ? Do the Government have no idea of the qualification which entitle a man to hold these posts ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member in the first part of his question asks whether Government do not prescribe any qualifications and in the next part he asks whether they have no idea as to the precise qualifications necessary. As regards the first part, the answer is that the Government do not prescribe them, as regards the second part, the answer is that the Government have a pretty clear idea as to what they should do.

Pandit Lakshmi Kanta Maitra : Can the Honourable Member give some idea to the House as to the qualifications which should be fulfilled before a man is entitled to hold the post of Deputy Agent ? We want some idea of the qualifications to judge whether the post has been given to the proper man ?

The Honourable Sir Muhammad Zafrullah Khan : There are different kinds of Deputy Agents. There may be a Deputy Agent, Personnel, who deals with personnel matters. An officer who has had experience in that line will be qualified to hold such post of Deputy Agent.

Pandit Lakshmi Kanta Maitra : In the appointment of Agents and Deputy Agents, what are the qualifications which weigh with the Government on making the selection ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already answered that the qualifications depend upon the nature of the work which he is called upon to undertake.

Mr. N. V. Gadgil : Are the posts created for the man or the man is meant for the post ?

Pandit Lakshmi Kanta Maitra : The Honourable Member says, personal qualifications. I quite understand that. He seems to suggest particular Deputy Agents doing particular acts. I want a specific answer to the question what are the considerations which weigh with the Government in making appointments to the posts of Agents and Deputy Agents generally ?

Mr. S. Satyamurti : When the last European was appointed, was he the most senior ?

The Honourable Sir Muhammad Zafrullah Khan : I have already said in answer to part (e) that the officer who has been selected for appointment to this post in succession to the present incumbent is senior to any other Indian officer.

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Mr. S. Satyamurti : I am asking whether with regard to the last appointment, the European who was selected was the most senior ?

The Honourable Sir Muhammad Zafrullah Khan : Senior to everybody who was considered qualified for the post. I cannot say without notice whether he was the most senior.

Mr. S. Satyamurti : May I, therefore, take it that, if it is a case of an Indian being overlooked, it should be either on the ground of a European being senior or a junior European being better qualified for the post ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member started with the preface, "may I therefore take it", thus referring to my previous reply which I said I could not answer without notice. How can his question therefore arise ?

Mr. S. Satyamurti : It arises this way, that in both cases a European is to be appointed, because he is the most senior or he is better qualified than any other Indian.

Pandit Lakshmi Kanta Maitra : I wanted to know from the Honourable Member what are the qualifications which weigh with the Government in making the selection ?

Mr. President (The Honourable Sir Abdur Rahim) : I have already ruled that it has been answered. Next question.

DELIVERY OF PARCELS CONTAINING FRESH FRUITS.

305. ***Mr. Sri Prakasa** : (a) Is it a fact that Railway Companies have arrangements at hill stations to deliver parcels of fresh fruits to the addressees directly and to collect the railway receipts from them ?

(b) If so, are Government prepared to recommend to the Railway Companies to follow a similar practice in cases of at least such parties who express their desire in writing in this behalf to the station masters at stations in the plains also ?

(c) Are Government aware that parcels of fresh fruits have often been completely spoiled and that addressees have had to pay demurrage besides, owing to the late delivery of postal covers containing railway receipts on account of censorship or other reasons ?

The Honourable Sir Muhammad Zafrullah Khan (a) Government understand that the only hill stations at which there are arrangements for the delivery of parcels to consignees at their residences are Darjeeling, Ootacamund, Yercaud (Railway Station Salem) and Mussoorie (Railway Station Dehra Dun).

(b) Railways have established a similar street delivery system at certain stations on the plains, e.g., Madras, Coimbatore and Calcutta, where they are satisfied that such an arrangement is justified.

(c) Government have no information.

Mr. Sri Prakasa : Are not similar facilities provided at Simla, Naini Tal and Ranikhet ?

The Honourable Sir Muhammad Zafrullah Khan : So far as Simla is concerned, my personal experience is that they are not ; and I am afraid with regard to the other two stations I must require notice.

Mr. Sri Prakasa : Is it a fact that when letters containing railway receipts for fruit parcels are opened by the censor, the censor makes sure from the railway stations as to what the parcels actually contain, with the result that the letters are delivered after five or six days, and when the addressee goes to the railway station with the railway receipt, he finds that the contents have all got rotten ?

The Honourable Sir Muhammad Zafrullah Khan : That is the question to which I have replied that I have no information.

Mr. Sri Prakasa : Perhaps the Home Member may reply to that ?

The Honourable Sir Henry Craik : It has nothing to do with my Department.

ISSUE OF POSTAGE STAMPS AND CURRENCY WITH THE NEW KING'S EFFIGY.

306. ***Mr. Sri Prakasa** : (a) By what time do Government expect that postage stamps and currency with the new King's effigy will be available ?

(b) What scripts, besides the Latin, do Government intend to use on the new coins and currency notes ?

(c) Are Government prepared to consider the desirability of using the Nagri script also in view of its wide prevalence in the country ?

The Honourable Sir James Grigg : (a) I am not in a position to say. Some of them may be ready about the latter half of next year.

(b) and (c). The Government of India have no present intention of altering the existing position.

Sir Muhammad Yakub : Are Government aware that the Urdu script was used on the rupees of the late Queen Victoria, and do Government propose to renew the same and have Urdu script on the new coins of King Edward ?

The Honourable Sir James Grigg : I understand the position is that nickel coins already have Nagri and three other vernaculars, bronze coins have no vernacular inscription, and silver coins have only Urdu.

Prof. N. G. Ranga : Why is the Latin script used on our coins ?

Mr. Sri Prakasa : What is the position in the case of currency notes, as regards new designs ?

The Honourable Sir James Grigg : I cannot say without notice ; I will look into it and let the Honourable Member know.

IDEA TO RUN THE PUNJAB MAHS ON THE JAUNPUR-SULTANPUR-LUCKNOW SECTION OF THE EAST INDIAN RAILWAY.

307. ***Mr. Sri Prakasa** : (a) Is it a fact that when the new railway line was laid between Jaunpur, Sultanpur and Lucknow on the East Indian Railway, there was an idea that the Punjab Maahs will run over this ?

(b) Has the idea been now given up?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) Does not arise.

Mr. Sri Prakasa : Am I to take it that there was never any idea of running the Punjab Mails along this new route?

The Honourable Sir Muhammad Zafrullah Khan : I said, the answer to (a) is, no.

Mr. Mohan Lal Saksena : Is it a fact that this route is shorter than the route by which it is running just now?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. Sri Prakasa : Why do not Government propose to run the mail along that route which is both shorter and quicker?

The Honourable Sir Muhammad Zafrullah Khan : I do not know whether it would be quicker; that would depend upon the quality of the track. But I suppose the present route enables more connections to be made with important junctions.

ADVISABILITY OF INCREASING THE SIZE OF EMBOSSED POSTCARDS.

308. ***Mr. Sri Prakasa :** (a) Are Government considering the advisability of increasing the size of the embossed postcards to that now permitted for privately manufactured postcards?

(b) If so, by what date do Government expect such postcards to be available at the Post Offices?

The Honourable Sir Frank Noyce : (a) and (b). Government have already carefully considered the question of increasing the size of the embossed postcard and have decided not to do so in view of the large increase in the cost of manufacture that would be involved.

ISSUE OF PLATFORM TICKETS TO THE MEMBERS OF THE CRIMINAL INVESTIGATION DEPARTMENT.

309. ***Mr. Sri Prakasa :** (a) With reference to the reply given to starred question No. 1134 on March 11, 1936, will Government state whether there is any law that compels Railway authorities to give platform passes to members of the Criminal Investigation Department to enter railway platforms?

(b) What, if any, are the conditions attached to these passes?

(c) Is there any law by which railway officials are compelled to obey the orders of the members of the Criminal Investigation Department in the matter of waking up passengers, examining tickets, etc.?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (c). No.

(b) No condition is attached.

Mr. Sri Prakasa : Ordinary platform passes only give admission to persons to the platforms, but these gentlemen seem to have special rights of asking railway servants to worry passengers. Have they that right under the Railway Act?

The Honourable Sir Muhammad Zafrullah Khan : That is an argument.

Pandit Lakshmi Kanta Maitra : May I know if they get free platform passes?

The Honourable Sir Muhammad Zafrullah Khan : Passes are ordinarily issued free.

Mr. Sri Prakasa : In view of the fact that these people worry innocent passengers, I should like the railway administration to look into the matter; and that is why I have brought this matter to the notice of the Railway Member in the hope that he will inquire into it.

The Honourable Sir Muhammad Zafrullah Khan : That is an argument the implication of which I do not admit.

Mr. S. Satyamurti : To whom are these passes issued?

The Honourable Sir Muhammad Zafrullah Khan : To a good many people.

Mr. S. Satyamurti : Are they given to public servants only, or to private individuals also?

The Honourable Sir Muhammad Zafrullah Khan : It is possible that on some occasions they may be issued to private individuals also.

Pandit Lakshmi Kanta Maitra : Why are they given free passes?

The Honourable Sir Muhammad Zafrullah Khan : They are supposed to be there on public duty, and, therefore, they are given free passes.

RUNNING OF THE BOMBAY-CALCUTTA MAIL via ALLAHABAD AND BENARES AND THROUGH RAILWAY SERVICE BETWEEN DELHI AND CALCUTTA via MUTTRA, AGRA, ETC.

310. ***Mr. Sri Prakasa :** With reference to the reply given to starred questions Nos. 1238 and 1241 on the 16th March, 1936, will Government state what, if any, reply has been received from the railways concerned, regarding the suggestions made to run the Bombay-Calcutta (via Jubbulpore) Up and Down Mails, via Allahabad-Janghai-Benares, and the running of a through railway service between Delhi and Calcutta, via Muttra, Agra, Allahabad, Benares and Gaya?

The Honourable Sir Muhammad Zafrullah Khan : The Agent, East Indian Railway, states that the traffic offering at stations on the longer route suggested, i.e., Allahabad-Janghai-Benares, does not justify the running of the Bombay-Calcutta Mails by that route; and that the figures relating to the number of passengers travelling to Muttra indicate that a through train between Delhi and Calcutta passing through Muttra is not financially justified.

Mr. Sri Prakasa : Is the reply based on the experience of the earlier trains that used to run along these lines?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say. I have read out the reply which is based on the information received from the Agent of the East Indian Railway.

EAST INDIAN RAILWAY ADVERTISEMENTS IN THE *Aj* AND *Pratap* NEWSPAPERS.

311. ***Mr. Sri Prakasa** : With reference to the reply given to starred question No. 1460 (d) and (e) on the 7th April, 1936, have Government received the information from the East Indian Railway as to why they stopped advertising in the *Aj* and *Pratap* newspapers and whether any communication from the United Provinces Government was received by them ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is referred to the information laid on the table of the House on 31st August, 1936.

Mr. Sri Prakasa : Did the United Provinces Government write to the Railway informally, as they did in the case of the Etawah Dharamsala, or was it done formally in this particular case ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I am unable to answer that.

Mr. Sri Prakasa : Will the Honourable Member inquire, because there seems to be a difference in the attitude of the Railway in regard to the two matters ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir, I shall not inquire, because the distinction is not of any great importance.

Mr. Sri Prakasa : Are the Railways bound to accede to the wishes and dictates of Local Governments ?

The Honourable Sir Muhammad Zafrullah Khan : It depends, but they are bound to consider them very carefully.

Mr. Sri Prakasa : In view of the fact that it is in the interest of the railways to get the widest possible publicity for their advertisements, will they consider the desirability of not attending to the political dictation of Local Governments but to their own commercial requirements and patronise papers that circulate widely in the areas concerned ?

The Honourable Sir Muhammad Zafrullah Khan : Sometimes adjustments have to be made. An exception was made very recently where Government were of the opinion that a certain kind of advertisement in a paper of that kind was desirable in the commercial interests of the railway.

Mr. Sri Prakasa : In view of the fact that these advertisements only appear in English papers in the United Provinces and not in the papers published in the languages of the province, will Government be pleased to reconsider this matter ?

The Honourable Sir Muhammad Zafrullah Khan : I am not sure that the Honourable Member is quite correct in stating that railway advertisements appear only in English papers and not in the vernacular papers in the United Provinces. I should be very much surprised if that is so.

Mr. Sri Prakasa : May I know what other papers in the United Provinces receive railway advertisements ?

The Honourable Sir Muhammad Zafrullah Khan : I shall require notice of that question.

Pandit Lakshmi Kanta Maitra : May I know if, in the matter of giving advertisements to these papers, Government are swayed mainly by considerations of publicity and business rather than political considerations ?

The Honourable Sir Muhammad Zafrullah Khan : That is what the question and its supplementaries are concerned with, and I have replied already to it.

CLOSING OF THE LEVEL CROSSING NEAR THE BENARES CANTONMENT RAILWAY STATION.

312. ***Mr. Sri Prakasa** : With reference to the reply given to starred question No. 1618 on the 14th April, 1936, regarding the closing of the level crossing near the Benares Cantonment Railway Station, have Government received any reply to their enquiries from the Railway Administration, and if so, what is it ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is referred to the information laid on the table of the House on 31st August, 1936.

Mr. Sri Prakasa : In view of the fact that the Honourable Member is very fond of averages, may I know if he has worked out the average time necessary for the closing of these gates and if he will not order that more than that average time is not taken on an average ?

The Honourable Sir Muhammad Zafrullah Khan : The question starts by saying "in view of the fact that the Honourable Member is very fond of averages". If the Honourable Member will first substantiate that portion of his question, I will then reply to the later parts of his question.

Mr. Sri Prakasa : Only yesterday the Honourable Member referred to the average number of servants.

Mr. President (The Honourable Sir Abdur Rahim) : I think such remarks should not be made.

RULES ON THE EAST INDIAN RAILWAY *re* ALTERNATE ROUTES FOR THROUGH TRAVELLING AND BREAK OF JOURNEY.

313. ***Mr. Sri Prakasa** : (a) With reference to the reply given to starred question No. 1624, on the 14th April, 1936, and the indication therein that the rules on the East Indian Railway as published in the time table, regarding the alternate routes and break of journey, are quite clear, will Government state on the strength of the above rules whether the routes between Benares and Delhi *via* Janghai-Allahabad, Lucknow-Cawnpore, and Moradabad are alternate routes, and on which routes, if any, can a passenger break journey ?

(b) Will Government state what are the routes by which a passenger can travel between Patna and Unao and Benares and Unao, and on which routes, if any, he can break journey ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No. The correct route between Benares and Delhi is through Janghai, Allahabad and Cawnpore. The adoption of any other route would normally

necessitate the payment of a higher fare calculated on the distance by that route. Since the issue of the April, 1936, time table, however, the East Indian Railway Administration have notified *via* Moghal Sarai as an alternative route, permitting the journey between Moghal Sarai and Naini to be broken only at Bindhachal for a period not exceeding 24 hours.

(b) The correct route between Patna and Unao is *via* Moghal Sarai, Benares, Jhanghai, Phaphamau and Dalmau by which route break of journey is permitted. The alternative routes, as recently notified, by which a break of journey is not permitted are :

- (i) *via* Benares, Janghai, Partabgarh, Rai Bareilly and Dalmau.
- (ii) *via* Allahabad and Cawnpore Central.

The correct route between Benares and Unao is *via* Janghai, Phaphamau, Unchahar and Dalmau by which route break of journey is permitted. The alternative routes by which a break of journey is not permitted are :

- (i) *via* Partabgarh, Rai Bareilly and Dalmau.
- (ii) *via* Partabgarh and Lucknow.

Mr. Sri Prakasa : May I take it that the journey between Benares and Delhi *via* Lucknow is not permissible as an alternative route ?

The Honourable Sir Muhammad Zafrullah Khan : It is permissible in the sense that, if anybody wants to travel by that route, he can do so on payment of a higher fare than would be payable by the shortest route.

CARRIAGE OF ICE BY FIRST AND SECOND CLASS PASSENGERS ON THE EAST INDIAN RAILWAY.

314. ***Mr. Sri Prakasa :** (a) Are Government aware that the East Indian Railway have introduced a system by which any first or second class passenger can carry a maund of ice in a case for a consideration in his compartment, and that other passengers, travelling in the same compartment who may not like to have this ice travelling with them in the interest of their health, are put to great inconvenience ?

(b) If so, what relief do Government intend to offer in this behalf ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The East Indian Railway, as also other Railways, have notified that ice containers are available at certain of the more important stations for supply to first and second class passengers who are prepared to pay the small charge made for the use of the container. The quantity of ice that may be taken is entirely at the discretion of the passenger. Government are not aware that this causes great inconvenience to other passengers. On the contrary, the majority would presumably appreciate the resultant lowering of the temperature in the compartment without having to pay for it.

(b) Government have no reason to believe that their interference in this matter is called for.

Mr. Sri Prakasa : In view of the fact that sometimes some people catch colds even in the hot weather, and they do not like this ice, what relief will the railway give in a particular case like that ?

The Honourable Sir Muhammad Zafrullah Khan : Considering that all sorts of people are affected by all sorts of conditions, I am afraid railways could not ensure that the atmosphere in a carriage would suit everybody.

Mr. Sri Prakasa : Just as every passenger has got a right to object to a fellow passenger smoking, can he also object to this extra maund of ice ?

The Honourable Sir Muhammad Zafrullah Khan : The objection to smoking, I imagine, is mainly based upon religious sentiment which does not apply to ice.

INCONVENIENCE FELT BY INTERMEDIATE AND THIRD CLASS THROUGH PASSENGERS ON THE EAST INDIAN RAILWAY.

315. ***Mr. Sri Prakasa :** (a) Are Government aware that the East Indian Railway have arrangements for running up through compartments from one station to another which are detached and attached at intervening junction stations for the convenience of through passengers ?

(b) Are Government aware that, while such first and second class through carriages are put at convenient sidings for passengers to board before the arrival of the trains to which they are to be attached, intermediate and third class through carriages are not similarly available and are only brought to the platform after the train is in, resulting in a scramble for seats in the hurry of the moment, and thus detracting a great deal from the value of this arrangement ?

(c) Are Government prepared to instruct the Railway authorities to provide adequate facilities for intermediate and third class passengers to board these compartments before the trains to which they are to be attached, are due, and thus add to the convenience of the travelling public ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) No. The Agent, East Indian Railway, states that no such distinction is made. At stations at which convenient siding or platform facilities do not exist, passengers are not allowed to entrain into through service carriages of all classes until these carriages are placed on the platform with the regular stock of the train. These stations are Howrah, Moghal Sarai, Benares Cantonment, Lucknow and Lhaksar. At other stations, *viz.*, Gaya, Allahabad, Hardwar, Patna Junction, Cawnpore Central and Dehra Dun, passengers of all classes are allowed to entrain into through service carriages.

(c) Does not arise.

Mr. Sri Prakasa : May I know if Moghal Sarai and Benares have no convenient sidings ? That is news to me.

The Honourable Sir Muhammad Zafrullah Khan : There are a good many things that are news to the Honourable Member : surely he cannot claim to know all the details in these matters.

HONORARY MAGISTRATES IN THE CENTRALLY ADMINISTERED AREAS.

316. ***Mr. Sri Prakasa :** (a) How many honorary magistrates function in the centrally administered areas ?

(b) What, if any, are the qualifications required before such appointments are made?

(c) Do Government invite gentlemen to take upon themselves the duties of honorary magistrates, or are persons desirous of the office appointed by the executive?

(d) Do Government make sure that a person appointed to the office of an honorary magistrate has some acquaintance with the criminal codes of the land and the law of evidence?

(e) Are Government aware that many honorary magistrates visit the evening *darbars* of *thanedars* and *kotwals*?

(f) Are Government aware that many observers feel that such visits produce alliances between the police and the magistrates making justice impossible?

(g) Do Government propose to make a rule that honorary magistrates are not to visit police stations except on duty?

The Honourable Sir Henry Craik : (a) 143.

(b) Good repute, high standing, and adequate intellectual attainments.

(c) The administrations invite suitable gentlemen to take upon themselves the duties of honorary magistrates.

(d) Yes, as far as possible.

(e) and (f). The administrations are not aware of any such *darbars*.

(g) No.

Mr. Sri Prakasa : With reference to the answer to part (b) of the question, may I know whether a knowledge of the criminal codes of the land and the law of evidence is not absolutely necessary for persons so appointed? The Honourable Member said "as far as possible".

The Honourable Sir Henry Craik : When I said that, I meant it is not possible to compel these gentlemen to undergo an examination; but they are encouraged to undergo departmental examination, and I believe in some cases they do so. Anyhow it is possible to ensure to some extent at any rate that a man is acquainted with criminal law without compelling him to undergo an examination.

Dr. N. B. Khare : Is there any test made before they are appointed?

The Honourable Sir Henry Craik : In some cases, yes.

Prof. N. G. Ranga : Are they re-appointed even if they have not taken advantage of an examination?

The Honourable Sir Henry Craik : I said it is not possible to insist on their undergoing an examination in all cases.

Mr. T. S. Avinashilingam Chettiar : May I know if, in some cases, they are appointed without passing these tests or undergoing these tests?

The Honourable Sir Henry Craik : In some cases, yes.

OVERCROWDING IN RAILWAY COMPARTMENTS.

317. ***Mr. Sri Prakasa :** (a) What relief, if any, have passengers already occupying a railway compartment when owing to further arrivals at a later station the number goes beyond what is marked as the carrying capacity of that compartment?

(b) Are Government aware that railway officials do not listen to complaints made on the spot in this behalf and themselves help in overcrowding compartments?

(c) Is it not the duty of railway officials to prohibit overcrowding? If so, what, if any, instructions have Government issued or intend to issue in this behalf?

The Honourable Sir Muhammad Zafrullah Khan : (a) The overcrowding can be brought to the notice of any railway servant who is empowered under section 109 of the Indian Railways Act to require passengers in excess of the marked carrying capacity to vacate the compartment.

(b) Allegations to this effect have sometimes been made but as the Honourable Member is aware, passengers insist on forcing themselves into compartments that are already full rather than stay back for a later train.

(c) Railway Administrations have been doing all they can within the means at their disposal to prevent overcrowding, and in this connection I would refer the Honourable Member to the reply given by Mr. P. R. Rau to Professor Ranga's question No. 55 on the 6th February, 1935.

Mr. Sri Prakasa : In view of the fact that there is a certain class of railway officials to whom complaints can be made, will the Honourable Member suggest to the railways to have some notices put in each compartment showing to what officials such complaints can be made, because every passenger does not know to whom to go?

The Honourable Sir Muhammad Zafrullah Khan : I think that is not necessary; complaints can be made to the conductor or the guard.

Mr. Sri Prakasa : I do not know what exactly the Honourable Member means by conductor: for no such official is found in most of the trains I know?

The Honourable Sir Muhammad Zafrullah Khan : Conductors travel along with some of the mail trains to look after the comfort of the passengers: but the guard is always there.

Prof. N. G. Ranga : Is the Honourable Member aware of the fact that no officer goes about with any particular label saying that he is a conductor of passengers?

The Honourable Sir Muhammad Zafrullah Khan : Yes: wherever there is a conductor, he has a label across his chest or arm.

Mr. Sri Prakasa : What about those trains which are not mail trains—for those are generally overcrowded and they have no conductors, as the Honourable Member himself says?

The Honourable Sir Muhammad Zafrullah Khan : There are no trains without guards.

Mr. Sri Prakasa : The Honourable Member knows that it is not always possible for passengers travelling in a compartment near the engine to get to the guard at the rear, especially when the train stops only two or three minutes at wayside stations.

The Honourable Sir Muhammad Zafrullah Khan : I am afraid railways cannot provide an officer next to every carriage at each station at which the train stops.

Mr. Sri Prakasa : Is not action taken against bus companies if more than the stipulated number of passengers force their way into buses ? Why should Government make a difference between the two and not penalise railways carrying more than the stipulated number in a compartment ?

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of argument.

PASSAGES IN CERTAIN BOOKS DEROGATORY TO THE JEWS AND THEIR RELIGION.

318. ***Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to passages in Shakespeare's "The Merchant of Venice" and Scott's "Ivanhoe" derogatory to the Jews and their religion ?

(b) Are Government aware that the Jewish subjects of His Majesty in India greatly resent these remarks ?

(c) If so, do Government intend to prohibit the entry of these books in India ?

The Honourable Sir Henry Craik : (a) No.

(b) No.

(c) Does not arise.

Mr. Sri Prakasa : Has not the Honourable Member read Shakespeare and Scott ?

The Honourable Sir Henry Craik : I don't think the Government of India as a body have read them. I have read them.

Mr. K. Ahmed : Will the Honourable Member say why such questions are not asked even in the House of Commons in England, and why my Honourable friends are allowed to ask such questions here, when none of the Members of this House are Jews and are in any way interested ?

Mr. Sri Prakasa : I ask those questions because such questions are commonly asked in this House, with a view to stopping the circulation of literature. I want to know if the Honourable Member opposite has ever heard of Shylock and had the innocent man been traduced on the score of his religion ?

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. The Chair cannot allow that.

GRANT OF PASSPORTS.

319. ***Mr. Sri Prakasa :** (a) In view of the Honourable the Home Member's statement that the granting of passports is a privilege, or a

sort of favour afforded by the executive and that the citizen as such has no right to get a passport, have Government the right to refuse to grant passports to retiring Viceroy and Governors ?

(b) Is it not the purpose of a passport to afford protection to a national travelling abroad ?

(c) Under what section of the passport laws is the grant of a passport regarded as a privilege afforded by the executive to an individual citizen ?

The Honourable Sir Henry Craik : (a) and (c). The Honourable Member has an incorrect impression of what I said. I explained clearly, in reply to questions Nos. 822 and 824 on the 25th February, 1936, that the issue of a passport, which is generally left to the discretion of Passport Issuing authorities in India, is regulated by instructions which are not statutory, but executive. The position is that each case is considered on its merits.

(b) Yes ; this is one of the purposes of a passport.

Mr. Sri Prakasa : Did not the Honourable Member say that the grant of a passport was a privilege given by the executive ?

The Honourable Sir Henry Craik : I don't remember using that expression. What I think I said was that nobody could demand a passport as a right. I don't think I used the word privilege.

Mr. Sri Prakasa : Am I to take it then that even retiring Governors and Viceroy have no right to get this passport ?

Mr. K. Ahmed : They have a right to go Home.

LAVATORIES IN THE NEW TYPE OF SECOND CLASS COMPARTMENTS OF THE CALCUTTA-KALKA MAILS OF THE EAST INDIAN RAILWAY.

320. ***Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to the new type of second class compartment that is being run on the Calcutta-Kalka Mails of the East Indian Railway, in which two small lavatories are provided, one for Indians and one for Europeans ?

(b) Are Government aware that the space provided is very small, making washing at the wash-tub and changing of clothes exceedingly inconvenient, and are Government prepared to recommend to the Railway the desirability of reducing the length of the main compartment by about a foot and including this extra space in the lavatories ?

(c) Are Government also prepared to draw the attention of the Railway to the very unsatisfactory arrangement made in the Indian lavatory and recommend that a proper pan should be fitted up and adequate foot-space provided ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes. The second class compartment referred to was introduced as an experimental measure in 1923.

(b) The size of the lavatories cannot be increased owing to the position of the carriage doors which prevents further extension into the compartment.

(c) The fitting of Indian pattern standard pans would occupy so much floor space that it would be impossible to use the wash basin without standing on the pans.

Mr. Sri Prakasa : In view of this answer, do Government propose to abolish this pattern of carriages ?

The Honourable Sir Muhammad Zafrullah Khan : I will send down the Honourable Member's suggestion to the Agent.

STOPPAGE OF CARNIVALS USED FOR GAMBLING.

321. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Are Government aware of the facts that the 'carnivals' held within the centrally administered areas are used mainly for gambling by which thousands of people are tempted to be cheated and ruined ?

(b) If so, are Government prepared to enact such laws as to stop all such carnivals at the earliest opportunity, so that millions of Indian families may be saved from the pernicious effects of these shows ?

The Honourable Sir Henry Craik : (a) Government are aware that gambling takes place to some extent at 'carnivals', but they have no reason to believe that it does so to the extent suggested by the Honourable Member. The carnivals undoubtedly afford perfectly innocent amusement to a great many people.

(b) No. Government are satisfied that the powers contained in the Gambling Acts and in the provisions of the Indian Penal Code are sufficient to deal with gambling in the Centrally Administered Areas provided the public co-operate with the Police. I have no doubt that if specific instances of gambling are brought to the notice of the proper authorities, they will be able to take effective action under the existing law.

Pandit Lakshmi Kanta Maitra : Are we then to understand that the Government of India view with approval the holding of carnivals in Centrally Administered Areas ?

The Honourable Sir Henry Craik : I imagine they have to be licensed by the local authorities, but as I say I have no doubt they afford perfectly innocent amusement to a great many people.

Pandit Lakshmi Kanta Maitra : Is it not a fact that a good deal of gambling is going on in these carnivals ?

The Honourable Sir Henry Craik : I have answered that.

Mr. Mohan Lal Saksena : Have Government made inquiries about the carnivals that are being held in Delhi ?

The Honourable Sir Henry Craik : As far as I remember, I did make inquiry.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that some of the Provincial Governments look on these carnivals with disapproval ?

The Honourable Sir Henry Craik : No, I am not aware of that.

PRIVATE BUSES AND LORRIES.

322. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state how many private buses and lorries are being run, province by province, all over India by private parties—the mileage covered by them, and state the comparative difference in the rate of passengers per mile and also difference in freights and rates of luggage and goods transported by them and the railways in India ?

(b) Will Government lay on the table the result of enquiries held regarding railway and motor transport, if it is ready ?

The Honourable Sir Frank Noyce : (a) Government have no information except that about the number of buses running in each Province which is contained in the fourth chapters of the Provincial reports which were published in 1933 at the end of the Mitchell-Kirkness Report, of which a copy is already in the Library.

(b) I would refer the Honourable Member to the following documents :

The Mitchell-Kirkness Report.

The Concise Statements of Policy adopted at the first and second meeting of the Transport Advisory Council.

Copies of the last two documents have been placed in the Library.

POLITICAL PRISONERS CONFINED IN THE CELLULAR JAIL IN THE ANDAMANS.

323. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state the number of Political Prisoners confined in the Cellular Jail in the Andamans ?

(b) Will Government be pleased to state the number of cells in the Andamans jail and the number of Political Prisoners confined in each cell ?

(c) Will Government be pleased to state the exact arrangement of light and air in the aforesaid cells and exact measurement of the length, breadth and height of the same ?

(d) Will Government be pleased to state if Political Prisoners only are confined in these cells ?

(e) Will Government be pleased to state if newspapers, weeklies, and monthlies, in English and vernacular, are supplied to the Political Prisoners in the Andamans, as are given to other classes of Political Prisoners in Indian jails ?

(f) Will Government be pleased to state if the Political Prisoners in the Andamans are allowed to have all sorts of indoor and outdoor games and apparatus of physical exercise ?

(g) Will Government be pleased to state the number of hours during which the Political Prisoners in the Andamans are kept confined in cells during day and night, and between what hours this is done ?

(h) Will Government be pleased to state the nature of food—its quality, quantity, and cost per head—supplied to the Political Prisoners in the Andamans?

(i) Will Government be pleased to state the number of Political Prisoners who fell ill in the Andamans and the nature of illness and duration of their illness, and if any of them died there due to the effect of such illness, or had committed suicide on account of ill-treatment or severity of punishment or out of disgust?

(j) Will Government be pleased to state if these prisoners are allowed to put on their ordinary dress or are obliged to put on convict dress?

(k) Are they allowed to associate amongst themselves?

The Honourable Sir Henry Craik : (a) The Honourable Member uses the term "political prisoners" throughout, but I presume him to mean the prisoners convicted of grave terrorist crimes who are now confined in the Cellular Jail. The number of these is at present about 300.

(b) The number of cells in the Cellular Jail is nearly 700. One cell is allotted to each prisoner.

(c) Each cell is 7½ feet wide and 13½ feet long: each has an iron-grated door in front and a window at the back. The ground-floor cells have also a ventilating shaft. Each cell has electric light.

(d) Volunteer convicts also are on arrival from India accommodated for a time in the Cellular Jail, but they are kept apart from the terrorist prisoners.

(e) The prisoners are supplied by Government with weekly papers in English and vernaculars.

(f) The prisoners are allowed to play indoor games and also outdoor games such as volley-ball and football. They have also apparatus for physical exercises.

(g) The prisoners are confined in the cells between sunset and dawn.

(h) The diet is given in the Rules which the Honourable Member will find in the Library. Recently we consulted the Nutrition Research Institute at Coonoor about the diet, and I understand that some changes have been made as a result. The Director of the Institute found that diet generally was satisfactory, but suggested an increase in its fat content. I have no precise information as to the cost of the diet.

(i) The Honourable Member has not stated the period for which he requires this information but I lay a statement on the table which gives in respect of illness the information required for the period July, 1933, to June, 1936. There were no deaths or suicides in that period.

(j) The prisoners wear the dress prescribed in the Rules.

(k) Yes, by day.

Statement showing the Number of Prisoners connected with Terrorist Crime who fell ill in the Cellular Jail together with the nature and duration of illness for the period from July, 1933, to June, 1936.

Number of prisoners connected with terrorist crime who fell ill and the nature and duration of illness.

July, 1933 to December, 1933.

Disease.				Number of patients.	Number of days.
Dysentery	..	..	..	2	42
Influenza	..	..	..	23	256
Malaria	..	..	..	23	175
Conjunctivitis	..	..	..	1	10
Coryza	..	..	..	2	10
Anæmia	..	..	..	2	35
Bronchitis	..	..	..	1	11
Asthma Bronchial	..	..	..	1	32
Pneumonia	..	..	..	1	25
Pulmonary Tuberculosis	..	..	..	3	45
Laryngitis	..	..	..	1	15
Dyspepsia	..	..	..	4	33
Diarrhœa	..	..	..	1	3
Colitis	..	..	..	4	30
Cholecystitis	..	..	..	2	45
Synovitis	..	..	..	1	10
Arthritis	..	..	..	2	33
Myositis Fibrosa	..	..	..	1	8
Inflamed Areolar Tissue	..	..	..	2	12
Eczema	..	..	..	2	27
Orchitis	..	..	..	1	5
Contusion	..	..	..	3	10
Multiple Injuries	..	..	..	1	11
Fracture	..	..	..	1	25

1934.

Dysentery	..	..	..	1	20
Influenza	..	..	..	49	342
Malaria	..	..	..	55	334
Rheumatism	..	..	..	2	15
Ankylostoma	..	..	..	1	5
Neuralgia	..	..	..	1	5
Conjunctivitis	..	..	..	3	18
Coryza	..	..	..	1	4
Tachycardia Neurosis	..	..	..	1	7
Anæmia	..	..	..	2	31
Debility	..	..	..	1	12
Lymph Adenitis	..	..	..	1	8
Bronchitis	..	..	..	3	21
Asthma	..	..	..	4	33
Pulmonary Tuberculosis	..	..	..	1	52
Dyspepsia	..	..	..	5	21
Colitis	..	..	..	13	92

1934—contd.

Disease.			Number of patients.	Number of days.
Diarrhoea	..	..	6	23
Intestinal Colic ..	..	..	1	4
Tonsillitis	..	..	3	20
Pyorrhoea Alveolaris ..	..	..	2	14
Gingivitis	..	..	2	9
Stomatitis	..	..	5	36
Gum boil	..	..	1	7
Piles	..	..	1	8
Pharyngitis	..	..	1	6
Synovitis	..	..	1	8
Myalgia	..	..	5	20
Lumbago	..	..	2	17
Cellulitis	..	..	2	22
I. A. Tissue	..	..	7	43
Herpes Zoster	..	..	1	3
Abscess	..	..	2	10
Eczema	..	..	1	8
Whitlow	..	..	1	5
Boil	..	..	2	6
Urticaria	..	..	1	5
Scabies	..	..	4	17
Stricture	..	..	1	6
Cystitis	..	..	1	15
Burns	..	..	1	7
Contusion	..	..	6	27
Abrasion	..	..	1	5
Fracture	..	..	2	21
Wounds	..	..	3	18
Injury multiple ..	..	..	1	7
No Appreciable disease ..	..	..	2	6
Neuritis Peripheral ..	..	..	2	15
Acute Mania	..	..	1	17
Sprain	..	..	4	18

1935.

Dysentery	..	..	2	32
Influenza	..	..	35	295
Malaria	..	..	67	454
Rheumatism	..	..	1	12
Syphilis	..	..	1	20
Ankylostoma	..	..	1	11
Oxyuris Vermicularis ..	..	..	1	5
Neuralgia	..	..	3	11
Sciatica	..	..	1	13
Hysteria	..	..	1	8
Hiccough	..	..	1	3
Conjunctivitis	..	..	2	22
Otitis Media	..	..	3	35
Coryza	..	..	41	201

1935—contd.

Disease.			Number of patients.	Number of days.
Lymphadenitis	..	..	2	30
Bronchitis	..	..	2	19
Asthma Bronchial	..	..	1	15
Pneumonia	..	..	1	22
Pulmonary Tuberculosis ..	..	..	2	138
Pyorrhoea Alveolaris ..	..	..	1	11
Tonsillitis	..	..	2	17
Dyspepsia	..	..	13	101
Enteritis	..	..	1	12
Fissure in Ano	..	..	1	30
Gastritis	..	..	2	14
Colitis	..	..	16	117
Diarrhoea	..	..	8	25
Constipation	..	..	3	13
Stomatitis	..	..	3	18
Piles	..	..	3	70
Pharyngitis	..	..	2	8
Hepatitis	..	..	1	16
Intestinal Toxæmia	..	..	2	31
Hernia Inguinal	..	..	1	24
Orchitis	..	..	1	9
Phymosis	..	..	1	13
Synovitis	..	..	1	13
Myalgia	..	..	3	12
Inflamed Areolar Tissue ..	..	..	9	62
Abscess	..	..	1	10
Urticaria	..	..	1	10
Boil	..	..	7	30
Dermatitis	..	..	1	7
Scabies	..	..	2	9
Renal Calculus	..	..	2	21
Contusion	..	..	5	22
Abrasion	..	..	1	4
Wounds	..	..	3	19
Sprain	..	..	10	53
Fracture	..	..	1	23

January, 1936 to June, 1936.

Dysentery	..	..	5	51
Influenza	..	..	9	67
Malaria	..	..	16	150
Sand Fly Fever	..	..	2	17
Pyrexia Uncertain Origin ..	..	..	2	42
Ankylostoma	..	..	1	9
Oxyuris Vermicularis ..	..	..	1	6
Hysteria	..	..	1	10
Mania	..	..	1	36
Neuralgia	..	..	2	11
Otitis Media	..	..	2	30
Coryza	..	..	31	145

January, 1936 to June, 1936—contd.

Disease.	Number of patients.	Number of days.
Bronchitis	4	27
Asthma Bronchial	1	13
Gingivitis	1	6
Dyspepsia	20	147
Fissure in Ano	1	30
Gastritis	1	7
Colitis	8	80
Diarrhoea	1	4
Constipation	1	3
Piles	2	60
Myalgia	2	9
Lumbago	2	14
Inflamed Areolar Tissue	7	61
Eczema	1	15
Urticaria	3	60
Boil	2	17
Nephritis	1	14
Renal Calculus	1	72
Contusion	3	18
Wounds	2	16
Sprain	9	97
Strain	1	9
Fracture	4	70
No Appreciable Disease	1	4

Pandit Lakshmi Kanta Maitra : Are these political prisoners compelled to wear jail uniform ?

The Honourable Sir Henry Craik : Yes, the dress is prescribed by the rules.

Prof. N. G. Ranga : Why are they not allowed to use their own dress ?

The Honourable Sir Henry Craik : Because they are convicts.

Sardar Mangal Singh : What is the scale of remission ?

The Honourable Sir Henry Craik : I must have notice of that question.

Pandit Lakshmi Kanta Maitra : Why are they permitted to read only the English weeklies and are not supplied with any vernacular dailies or weeklies ? May I know what papers are actually supplied to them ?

The Honourable Sir Henry Craik : I think there is a later question on that point in reply to which I shall supply the information.

Mr. Mohan Lal Saksena : Is the Honourable Member aware that in certain provinces daily papers are also supplied to A and B class prisoners ?

The Honourable Sir Henry Craik : In any event, daily papers are not supplied in the Andamans ; it takes at least a week for the papers after they are published to reach there, I am not aware whether daily papers are supplied to A and B class prisoners in the provinces.

Seth Govind Das : Is there any classification of prisoners in the Andamans ?

The Honourable Sir Henry Craik : Yes.

Prof. N. G. Ranga : Is there a separate switch for turning on or putting out the electric lights for each room ? We are told there are electric lights fitted in every room ?

The Honourable Sir Henry Craik : As far as I remember, there is a separate switch for every room, but it is outside the room, and not inside. Prisoners are naturally not allowed to keep the lights burning all night.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that there are frequent complaints that the health of the prisoners has broken down on account of the insalubrious climate of the place ?

The Honourable Sir Henry Craik : No, that is quite incorrect.

Mr. Mohan Lal Saksena : Is it not a fact that a daily bulletin is published in the Andamans ?

The Honourable Sir Henry Craik : A daily bulletin of Reuters and other telegrams received—that I believe is supplied.

Pandit Lakshmi Kanta Maitra : Is it not a fact that many of these prisoners are suffering from a malignant type of malaria ?

The Honourable Sir Henry Craik : That is quite untrue. As regards malaria the position is distinctly better than that in the average Indian jail.

Pandit Lakshmi Kanta Maitra : Is it not a fact that the facilities for medical relief of these prisoners are very meagre ?

The Honourable Sir Henry Craik : No. On the contrary, the Honourable Member's allegation is exactly contrary to facts.

Dr. N. B. Khare : Is it not a fact that the health of these prisoners has broken down owing to enforced celibacy ? (Laughter.)

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

AMNESTY TO STATE AND POLITICAL PRISONERS AT THE TIME OF THE INAUGURATION OF THE PROVINCIAL AUTONOMY.

324. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state if all Political Prisoners will be given general amnesty at the time of the inauguration of provincial autonomy ?

(b) Will Government be pleased to state if all the State Prisoners under Regulation III of 1818 will be given amnesty on the aforesaid occasion ?

The Honourable Sir Henry Craik : (a) and (b). No.

RELEASE OF CERTAIN CLASSES OF PRISONERS ON THE OCCASION OF THE CORONATION OF HIS MAJESTY THE KING EMPEROR.

325. ***Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state if all ordinary convicted prisoners, sentenced to

transportation for life or long terms of imprisonment, will be released on the occasion of the Coronation of His Majesty The King Emperor of India ?

The Honourable Sir Henry Craik : The answer is in the negative.

FACTS ENTERED INTO BETWEEN THE GOVERNMENT OF GREAT BRITAIN AND THE COMMUNISTIC GOVERNMENT OF SOVIET RUSSIA.

326. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state if the present Government of Great Britain have entered into pacts with the Communistic Government of Soviet Russia ?

(b) Do Government propose to declare a general amnesty for all Political Prisoners convicted or detained on account of their alleged or suspected or proved connection with the communist or labour movement and withdraw all bans against labour, socialistic or communistic literature and cases pending against persons connected with such movement ?

(c) Do Government propose to advise the C. I. D. not to set informers to watch their movements, not to shadow them, not to raid their houses, knowing them to be avowedly communists and not terrorists ?

The Honourable Sir Henry Craik : (a) It is common knowledge that the Government of Great Britain has entered into a trade agreement with the Government of the U. S. S. R.

(b) and (c). These parts of the question do not seem to me to arise.

Mr. K. Ahmed : If the Congress takes up the subject of educating illiterate passengers about observance of cleanliness and discipline during railway journey, Government will have no objection ?

Prof. N. G. Ranga : You come and join us....

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

CERTAIN IMPROVEMENTS ON THE EAST INDIAN, EASTERN BENGAL AND NORTH WESTERN RAILWAYS.

327. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state what improvements have been made during 1935 and 1936, on the East Indian, Eastern Bengal and North Western Railways regarding :

(i) overcrowding in the third and intermediate class compartments ;

(ii) lavatories and bathrooms ;

(iii) sleeping accommodation ;

(iv) electric fans ; and

(v) supply of pure and cheap food during journey ?

(b) What steps have been taken by the aforesaid Railway authorities to educate illiterate passengers about observance of cleanliness, and discipline during railway journey ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would invite the Honourable Member's attention to Chapter VII, pages 70 to 82 of the Railway Board's Report for 1934-35, Vol. I, which contains such information as is available on the points referred to. Similar information for 1935-36 has been called for from Railways and will be embodied in the report for that year now under compilation.

(b) This is not one of the functions of the Railways and Government do not understand in what manner they can undertake it.

ARRANGEMENTS FOR THE SUPPLY OF FOOD IN THE HOWRAH AND DINAPORE DIVISIONS.

328. ***Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state if the arrangement for food supply in the Howrah and Dinapore Divisions is under consideration of the authorities ?

The Honourable Sir Muhammad Zafrullah Khan : The question of the arrangements to be made for vending contracts at stations on the East Indian Railway has been discussed by the Administration with their Local Advisory Committee, but no action is being taken on the conclusions arrived at, pending a discussion with the Central Advisory Council for Railways of the question of catering on railways generally.

PROTECTION OF FEMALE PASSENGERS IN THE INTERMEDIATE AND THIRD CLASS COMPARTMENTS ON RAILWAYS.

329. ***Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state what arrangements have been made for the special protection of female passengers in the intermediate and third class compartments on railways against sudden attacks by *goondas* and thieves ?

The Honourable Sir Muhammad Zafrullah Khan : A communication chain, the pulling of which stops the train, is provided in each compartment for use in circumstances such as those referred to by the Honourable Member.

Pandit Lakshmi Kanta Maitra : Do Government propose to make arrangements for the provision of safety catches inside the compartment in the third and intermediate female compartments as they have in the first and second class compartments, so that at night they may travel in safety ?

The Honourable Sir Muhammad Zafrullah Khan : I will bring the suggestion to the notice of Railway administrations.

Pandit Lakshmi Kanta Maitra : Thank you.

RECOMMENDATIONS OF THE ROYAL COMMISSION ON AGRICULTURE GIVEN EFFECT TO.

330. ***Mr. M. Asaf Ali :** (a) Will Government be pleased to state in detailed chronological order (i) which of the recommendations of the Royal Agricultural Commission have been given effect to by legislation or executive orders, and (ii) when and with what effect ?

(b) Do Government propose to undertake to publish a periodical survey of the progress of such legislation and executive action along the same lines as the survey of labour legislation?

Sir Girja Shankar Bajpai : (a) Reports are issued by the Government of India biennially showing the progress made in giving effect to the recommendations of the Royal Commission on Agriculture in India, and the attention of the Honourable Member is invited to part I of the fifth report which gives complete information about the action taken up to the end of 1935 on the recommendations concerning the Government of India. As regards the action taken by Local Governments on recommendations which concern them his attention is invited to part II of the first four reports. All these reports are available in the Library of the House. The second part of the 5th report which will bring the provincial information upto date is in course of preparation and will be supplied to the Library as soon as it is ready.

(b) The suggestion is being considered.

Prof. N. G. Ranga : Will Government consider the advisability of publishing an annual report on the action taken on the recommendations of the Royal Commission instead of a biennial report?

Sir Girja Shankar Bajpai : The period was fixed after full consideration of the requirements of the case, and Government see no reason to revise their decision.

Mr. M. S. Aney : Cannot the Honourable Member say on what recommendations the Government are prepared to take no action at all?

Sir Girja Shankar Bajpai : I think the Honourable Member had better read the biennial report. He knows what a voluminous document the report of the Royal Commission on Agriculture is and what the range of the recommendations is, and I could not say offhand which recommendations have been acted upon and which not.

Mr. M. S. Aney : Will Government please prepare a statement and lay it on the table of the House?

Sir Girja Shankar Bajpai : That is a question of inference. You go through the biennial reports where you have a record of the progress as also of the lack of progress.

Mr. M. S. Aney : Will Government kindly save us this trouble by asking the Department to do this work?

Sir Girja Shankar Bajpai : No. I think if Honourable Members are really interested in the report of the Royal Commission on Agriculture, which is a very bulky document and which my Department is constantly taking the trouble of studying, they may give themselves the very much lesser trouble of reading the tabulated information given in the summary.

Mr. N. M. Joshi : Will the Honourable Member consider the advisability and practicability of supplying copies of the latest report on the action taken on the report of the Royal Commission on Agriculture?

Mr. M. A. Jinnah : Rs. 20 a day is not enough for that labour.

Sir Girja Shankar Bajpai : That raises a general question.

Mr. M. A. Jinnah : Also a particular question.

Sir Girja Shankar Bajpai : I was going to say that I shall answer the particular case by the general answer, which is that if Honourable Members who are interested in a particular activity of Government would like to have these publications I will be prepared to consider the question of complying with their request. And as to what fell from my Honourable friend, Mr. Jinnah, I may venture to submit that I hope that Honourable Members work not for Rs. 20 a day, but because they regard the work as a labour of love.

Mr. N. V. Gadgil : Will the Honourable Member speak a little slowly?

Mr. M. A. Jinnah : May I tell my Honourable friends on the Treasury Bench that they ought not to put an undue burden on us, but facilitate our work, especially when they have got high salaried officials on the other side and a tremendous staff, and that we expect them to give us information in a readable form, and I think they ought to help us.

Sir Girja Shankar Bajpai : I think if my Honourable friend will take the trouble of going through the document to which I have referred he will find that it does give the information asked for in as compendious and convenient a form as is possible, considering the volume and range of the information covered by the report.

Prof. N. G. Ranga : In view of the fact that reports on the action taken on the recommendations of the Royal Commission on Labour are supplied to every Member of this House, will Government consider the advisability of following the same practice in regard to the supply of reports on action taken on the recommendations of the Royal Commission on Agriculture?

Sir Girja Shankar Bajpai : I shall enquire into the question and if I find that that particular practice is followed in regard to the recommendations of the Royal Commission on Labour, I shall undertake to do likewise in regard to the recommendations of the Royal Commission on Agriculture.

Prof. N. G. Ranga : Thank you.

Mr. M. Asaf Ali : May I know what will be the extent of the Central Government's responsibility in this respect after the inauguration of provincial autonomy?

Sir Girja Shankar Bajpai : I do not think after the inauguration of provincial autonomy the extent of the responsibility of the Central Government would be any more or any less than what it is at the present moment because agriculture is already a transferred provincial subject.

INSUFFICIENCY OF AGRICULTURAL PRODUCE.

331. ***Mr. M. Asaf Ali :** (a) Is it a fact that the total agricultural produce of India is insufficient for the primary needs of the population? If so, to what extent?

(b) What steps, if any, have Government taken to make India self-sufficient as regards (i) adequate supply of foodstuffs, and (ii) other necessities of life?

(c) Are Government prepared to undertake to publish a quarterly survey of such statistics for public information?

Sir Girja Shankar Bajpai : (a) and (b). I would refer the Honourable Member to the reply given by me to Mr. Akhil Chandra Datta's question No. 158 on the 7th February, 1936.

(c) It is regretted that such statistical data as are available would not permit of compliance with the Honourable Member's request.

Mr. M. Asaf Ali : Is it not a fact that the Health Commissioner issued a report some time ago which contains some facts and figures to which I am making reference in my question, and can you draw an inference from them?

Sir Girja Shankar Bajpai : My Honourable friend has referred to a statement of Colonel Russell which is dealt with in my reply to Mr. Akhil Chandra Datta's question.

INDIAN FEELINGS REGARDING ITALY'S CONQUEST OF ABYSSINIA.

332. ***Mr. M. Asaf Ali :** Are Government aware of Indian feelings regarding Italy's conquest of Abyssinia? And have they communicated them to the British Government?

Sir Aubrey Metcalfe : The Government of India have received a few expressions of public indignation in the form of resolutions passed at public meetings. They have also observed some articles in the Press in the same sense. The resolutions have been brought to the notice of the Secretary of State.

Mr. S. Satyamurti : Are Government aware that, when they brought up their Italian Loans and Sanctions Bill, this House expressed itself very strongly on the attitude of Italy towards Abyssinia and on the impotence of the League of Nations? Did they bring that to the notice of His Majesty's Government?

Sir Aubrey Metcalfe : The debates on that Bill certainly went to the India Office.

TERMINATION OF THE SANCTIONS AGAINST ITALY.

333. ***Mr. M. Asaf Ali :** (a) Are Government aware that India regards the attitude of the League of Nations in respect of the Italo-Abyssinian dispute as a complete betrayal of a weak member of the League?

(b) Are they also aware that the proposal to terminate the sanctions against Italy is regarded by India as a humiliating confession of the defeat of the League of Nations, and a precursor of its dissolution as also an explosion of the policy of "Collective Security"?

(c) Have they communicated these views to the League of Nations and the British Government?

Sir Aubrey Metcalfe : (a) and (b). Government are aware that the policy of the League of Nations in regard to the Italo-Abyssinian dispute has met with vigorous criticism in India.

(c) No direct communication has been made by the Government of India to the League of Nations : but His Majesty's Government has been kept in touch with the criticisms expressed in India.

Mr. M. Asaf Ali : With respect to (b), may I know if the Government of India still believe in the principle of collective security, the policy of collective security and if so in what respect?

Sir Aubrey Metcalfe : That is a matter on which I can hardly give an answer in reply to a supplementary question.

Mr. M. Asaf Ali : It is not a supplementary question. I have asked a definite question and the Honourable Member has not answered it.

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

Mr. M. Asaf Ali : The question is :

"Are Government aware that the proposal to terminate the sanctions against Italy is regarded by India as a humiliating confession of the defeat of the League of Nations and a precursor of its dissolution as also an explosion of the policy of 'Collective Security'?"

Sir Aubrey Metcalfe : I have already answered that.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member is not in a position to express an opinion, the Chair cannot force him to do so.

Mr. M. Asaf Ali : Inasmuch as the question was admitted, I am expecting an answer.

Prof. N. G. Ranga : It is not a question of opinion. It is a question of their knowledge as to the kind of opinion prevailing in this country.

Mr. President (The Honourable Sir Abdur Rahim) : That has been answered.

VIEWS REGARDING THE BRITISH GOVERNMENT'S POLICY IN PALESTINE.

334. ***Mr. M. Asaf Ali :** Has Government's attention been drawn to the views of Pandit Jawaharlal Nehru, the President of the Indian National Congress, the Jamiatul Ulema-i-Hind and numerous other public bodies representing responsible opinion, regarding the British Government's policy in Palestine? If so, have they communicated these views to the British Government?

The Honourable Sir Henry Craik : Government are aware of the feeling expressed in India in this matter and have brought these expressions of opinion to the notice of His Majesty's Government.

Mr. S. Satyamurti : When did they send the last communication?

The Honourable Sir Henry Craik : We have addressed three or four communications. We are in constant correspondence with His Majesty's Government about it.

Mr. S. Satyamurti : What was the date of the latest communication?

The Honourable Sir Henry Craik : I cannot say without notice.

Mr. S. Satyamurti : May I know if the Government of India were consulted, before His Majesty's Government decided to send troops to Palestine to coerce the Arabs ?

The Honourable Sir Henry Craik : No.

Mr. S. Satyamurti : May I know if the Government of India have communicated to His Majesty's Government the strong feeling of India against the present policy of unrestricted immigration of Jews into Palestine, which is against His Majesty's Government's undertaking to the Moslems of India ?

The Honourable Sir Henry Craik : The despatch of troops took place only within the last day or two, but we will communicate the feeling in India to His Majesty's Government.

Mr. S. Satyamurti : Have they done anything so far in the matter ? Since the despatch of troops to Palestine to coerce the people there, have the Government of India done anything to bring to the notice of His Majesty's Government the strong feeling in India against this procedure ?

The Honourable Sir Henry Craik : The despatch of troops has taken place only yesterday or the day before.

Mr. S. Satyamurti : Are there no cables or other means available to the Government of India ?

The Honourable Sir Henry Craik : There has so far been no expression of opinion on that.

Mr. S. Satyamurti : There will be tomorrow morning.

Mr. M. A. Jinnah : May I ask the Honourable Member whether the Government of India are aware that during the last six months public meetings have been held by the Moslems of India ?

Prof. N. G. Ranga : By others also.

Mr. M. A. Jinnah : and by others also. Protest after protest has been sent to the Government. Have they taken any step and if so, what step ?

The Honourable Sir Henry Craik : The Government of India are quite aware of that fact and have reported to His Majesty's Government.

Mr. M. A. Jinnah : Have the Government of India got any reply from His Majesty's Government with regard to this matter ?

The Honourable Sir Henry Craik : I do not think they have.

Mr. M. A. Jinnah : Then His Majesty's Government have treated all the information that you have submitted with contempt ?

The Honourable Sir Henry Craik : I do not think that that inference can be drawn at all. I have no doubt that the state of affairs as reported to His Majesty's Government has received their careful attention.

Mr. S. Satyamurti : The result is the despatch of troops there.

Mr. Ram Narayan Singh : Have the Government of India sent any comment of their own and if so, what ?

The Honourable Sir Henry Craik : The Government of India have not been asked by His Majesty's Government to express their own views.

Mr. S. Satyamurti : Did the Government of India send this bald expression of public opinion, or did they add a note or comment or any expression of opinion of their own, as to the importance which His Majesty's Government ought to attach to this public opinion ?

The Honourable Sir Henry Craik : We have certainly sent them our own appreciation of the feeling in India.

Mr. S. Satyamurti : What is that appreciation ?

The Honourable Sir Henry Craik : I cannot repeat the exact words. It was in a confidential communication to His Majesty's Government. Naturally we have reported that there is a strong feeling in India on the subject.

Mr. S. Satyamurti : Have the Government of India advised His Majesty's Government to go slow, and to pursue a conciliatory policy and not to coerce the Arabs ?

The Honourable Sir Henry Craik : The Government of India do not proffer advice on a question of international policy unless they are asked for it.

Dr. N. B. Khare : Are they debarred from doing so ?

Pandit Krishna Kant Malaviya : Why do they call themselves the Government of India, would it not be better if they called themselves the subordinate branch of the British Government ?

Mr. President (The Honourable Sir Abdur Rahim) : That is not a proper question. Next question.

GRANT FOR BROADCASTING.

335. ***Mr. M. Asaf Ali** : (a) Will Government be pleased to state in what manner they have used Rs. 40 lakhs budgeted for broadcasting in 1935-36, and 1936-37 ?

(b) Have Government erected any new stations since these grants were passed ?

(c) If not, how were they justified in asking for a fresh grant of Rs. 20 lakhs in 1936-37 ?

The Honourable Sir Frank Noyce : (a), (b) and (c). A sum of about Rs. 4 lakhs for establishing the Delhi Broadcasting Station has been spent from the Rs. 40 lakhs broadcasting fund. A comprehensive scheme for the development of broadcasting is being drawn up and will be placed before the Standing Finance Committee shortly. The scheme will involve the expenditure of the bulk of the amount available in the fund.

Prof. N. G. Ranga : Are Government keeping in view the rural parts in connection with their broadcasting scheme ?

The Honourable Sir Frank Noyce : Government are keeping rural broadcasting in view.

Prof. N. G. Ranga : May I know how many stations have been so far established to cater to the needs of the rural classes ?

The Honourable Sir Frank Noyce : I should in any case have asked for notice of that question. There is a question on the subject further

down on the Order Paper and I hope to be able to give the Honourable Member the information he wants when I answer that.

Mr. M. Asaf Ali : I am afraid the answer to my question is not quite to the point. I should like to know why another 20 lakhs was asked for in 1936-37, when the twenty lakhs which was sanctioned in 1935-36 had not been exhausted ?

The Honourable Sir James Grigg : 20 lakhs was not asked for in 1936. They were allocated from the budget surplus because it was known that the original 20 lakhs would not supply the whole needs of India for broadcasting stations and because they were available.

Mr. M. Asaf Ali : It is very satisfactory that they were available but the point still remains unanswered. 20 lakhs were allocated to broadcasting in 1935-36. They were not utilised and another 20 lakhs were set apart. Why ?

The Honourable Sir James Grigg : The Honourable Member thinks that I have not answered his question. I think, I have and between these two opinions there is no possibility of reconciliation.

Mr. Ram Narayan Singh : I want to ask the Chair a question on this point. Sometimes the Government Members say they want further notice. Then a question has already arisen in the House, will it not be better, if they take three or four days' time and give the necessary information without any further notice ? They will thus save your time as well as the time of the Honourable Member from whom they want such notice.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair has no reason to think that the Honourable Members of Government do not give full answers to questions when they are in a position to do so.

CHANGE OF THE NAME "ALL INDIA BROADCASTING SERVICE" TO "ALL INDIA RADIO SERVICE".

336. ***Mr. M. Asaf Ali :** Will Government state why they have changed the name "All India Broadcasting Service" to "All India Radio Service" ? Does it signify any change of policy ? If so, in what way ?

The Honourable Sir Frank Noyce : The name "Indian State Broadcasting Service" has been changed to "All India Radio" not I should mention to "All India Radio Service", as the old name was cumbersome and misled some people into believing that the Service was run by an Indian State. The change of name signifies no change of policy.

REGULATION OR CONTROL OF BROADCASTING BY INDIAN STATES AND PROVINCIAL GOVERNMENTS.

337. ***Mr. M. Asaf Ali :** (a) In what constitutional way do Government propose to regulate or control broadcasting (i) by Indian States, and (ii) by Provincial Governments ?

The Honourable Sir Frank Noyce : Broadcasting is at present a central subject and expenditure on Broadcasting by Provincial Governments would need the approval of the Government of India. There is no power to control or regulate broadcasting in Indian States, but the Government of India hope to secure by agreement that development in States will conform to a suitable All-India plan. As regards the position which will subsist under the new constitution the attention of the Honourable Member is drawn to entry 7 of the Federal Legislative list and to the provisions of section 129 of the Government of India Act, 1935.

Mr. M. Asaf Ali : With reference to section 129 of the Government of India Act, 1935, may I take it that the Provincial Governments are perfectly free now to allow political broadcasts from their transmitting stations ?

The Honourable Sir Frank Noyce : No, Sir. Certainly not.

Mr. M. Asaf Ali : Why not, Sir ? Section 129 is perfectly clear on the point.

The Honourable Sir Frank Noyce : Section 129 is not now in operation.

Mr. M. Asaf Ali : May I take it then that as soon as section 129 comes into operation, the Provinces will be perfectly free to allow any broadcast, political or otherwise, from their transmitting stations ?

The Honourable Sir Frank Noyce : I would suggest to my Honourable friend that he should read section 129.

Mr. M. Asaf Ali : I have read it very carefully.

The Honourable Sir Frank Noyce : My Honourable friend is a lawyer and he is more capable of appreciating it than I a layman.

Mr. M. Asaf Ali : I have read it most carefully and that is why I want to know what the position of the Provinces will be as soon as section 129 comes into operation. I find, Sir, that today the Government refuses to allow any political broadcasts even by leaders of political parties, which is done in England at all elections. The Government here have refused to allow these political broadcasts, but I thought section 129 is perfectly clear on the point ?

An Honourable Member : Then, why ask ?

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. There is a short notice question by Professor Ranga, and one by Mr. Avinashilingam Chettiar.

SHORT NOTICE QUESTIONS AND ANSWERS.

STRIKE IN THE BEAWAR MILLS.

Prof. N. G. Ranga : Will Government be pleased to state :

- (a) if they are aware of the occurrence of a strike dispute in the Beawar Mills ;
- (b) if so, on what grounds the workers have gone on strike ;
- (c) if not, whether they are prepared to enquire into the matter ;

- (d) whether they are aware of the fact that the Chief Commissioner of Ajmer-Merwara has served an externment order upon Swami Kumaranand, the leader of the workers of the Beawar Mills, while he was engaged on negotiation with the employers with a view to bringing the strike to a speedy and honourable end ;
- (e) whether they are aware that this action of the Chief Commissioner has resulted in disabling the workers in their fight for the betterment of their conditions ;
- (f) whether it is their policy to take the side of the employers in this dispute between employers and employees ; and
- (g) if not, what action they propose to take to indemnify the workers for the losses incurred by them by the arbitrary action taken by the Chief Commissioner ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) I understand that the dispute relates to a reduction in the rate of grain compensation allowance and, in two mills, to a reduction in the piece-rates for weavers on certain classes of looms.

(c) Does not arise.

(d), (e) and (f). No.

(g) This does not arise ; but I might add that the Chief Commissioner has decided to appoint a Board of Conciliation under the Trade Disputes Act.

Mr. N. M. Joshi : May I ask why so much delay was made in appointing this Conciliation Board ?

The Honourable Sir Frank Noyce : The matter is one within the discretion of the Chief Commissioner and I presume he exercised that discretion at the time that appeared to him the most suitable.

Mr. N. M. Joshi : May I ask whether the Chief Commissioner is not acting under the orders of the Government of India in this matter ?

The Honourable Sir Frank Noyce : The Chief Commissioner has appointed a Conciliation Board on his own initiative. He had no orders from the Government of India to that effect, though I may add, for the Honourable Member's personal information, that I am glad that he has done so.

REPORTED MASSING OF THE MOHMAND TRIBES ON THE FRONTIER.

Mr. T. S. Avinashilingam Chettiar : Will Government state :

- (a) whether they are aware of the news in the *Hindustan Times*, dated the 9th September, 1936, with the heading 'Mohmand Tribes massing' ;
- (b) whether there is trouble brewing again on the Frontier ;
- (c) whether Mohmands are again gathering with hostile intent and whether Government are also gathering troops on the Frontier ;
- (d) if so, what are the reasons for this new trouble ; and
- (e) what is the latest situation ?

Mr. K. Ahmed : How are you interested in the Mohmands ?
(Cries of "Order, order".)

Sir Aubrey Metcalfe : (a) Government have seen the report referred to which according to their information is entirely without foundation.

(b) and (c). No.

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

Mr. T. S. Avinashilingam Chettiar : May I ask whether it is true that a number of Royal Air Force squadrons and bombing machines have been despatched to the frontier from Karachi ?

Sir Aubrey Metcalfe : That is entirely untrue. The report published in the *Hindustan Times* was, as far as I remember, to the effect that heavy bombers had been sent from Karachi to Peshawar. There are no heavy bombers in Karachi which could have been sent to Peshawar.

Mr. S. Satyamurti : Were any light bombers despatched ?

Sir Aubrey Metcalfe : No bombers of any kind were despatched.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to part (a) of starred question No. 1036 asked by Mr. S. Satyamurti on the 9th March, 1936.

NUMBER AND TONNAGE OF INDIAN SHIPS IN THE OCEAN-GOING TRAFFIC.

	Number.	Tonnage.
Indian-owned Steamships	52	96,776
Steamships chartered by Indian Shipping Companies.	16	55,769

In addition, there are a number of Indian-owned sailing ships in the ocean-going traffic, but detailed information regarding these ships is not readily available.

Information promised in reply to starred question No. 1312 asked by Dr. P. N. Banerjee on the 17th March, 1936.

LEAVE, HOLIDAYS AND PAY, ETC., OF INDUSTRIAL WORKERS OF RAILWAYS.

(a) (i) The grant of leave to industrial workers employed on State-managed Railways is governed generally by the leave Rules issued as annexures to the Railway Department (Railway Board) Resolution No. 8373-E., dated the 20th February, 1930, with the exception of workers recruited prior to the promulgation of these leave rules and who have not elected to come under these leave rules. A copy of the Rules referred to is in the Library of the House.

The holidays granted to industrial workers on State-managed Railways are governed by the instructions in force on the different railway administrations. As regards the holidays granted to staff, in Mechanical Workshops, the Honourable Member is referred to the information laid on the table of the House on the 19th July, 1934, in reply to unstarred question No. 59 asked by Mr. N. M. Joshi, on the 16th February, 1934.

(a) (ii) The Honourable Member is referred to the scales of pay for non-gazetted staff which includes scales of pay applicable to the industrial workers on State-managed Railways, copies of which will be found in the Library of the House.

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(b) The scales of pay and the number of paid holidays for industrial workers are not uniform on the State-managed Railways. Government consider that uniformity in these matters is neither practicable nor necessary.

Information promised in reply to parts (a), (b) and (c) of starred question No. 1361 asked by Pandit Sri Krishna Dutt Palwal on the 20th March, 1936.

CLERKS IN THE GOVERNMENT OF INDIA SECRETARIAT QUALIFIED FOR FIRST AND SECOND DIVISIONS NOT YET PROVIDED IN THOSE DIVISIONS.

(a) (i) Sixteen.

(ii) Twenty-nine.

(b) They qualified in different years from 1920 to 1929.

(c) 1st part.—Yes.

N. B.—The foregoing states the position on the 15th March, 1936.

Information promised in reply to starred questions Nos. 1756 and 1757, parts (a) and (b), asked by Mr. Kuladhar Chaliha on the 18th April, 1936.

TEA ESTATES WHICH APPLIED FOR SPECIAL TREATMENT UNDER THE TEA CONTROL ACT.

1756. (a) 87 in 1934-35 and 166 in 1935-36.

(b) In 1934-35, 44 from Indians and 43 from Europeans, and in 1935-36, 110 from Indians and 56 from Europeans.

(c) In 1934-35, 9 from Indians and 15 from Europeans and in 1935-36, 79 from Indians and 33 from Europeans.

INDIAN TEA ESTATES.

1757. (a) Government understand that there are 23 Indian-owned gardens on the membership of the Indian Tea Association.

(b) The number of Indian-owned tea estates which has been ascertained is as follows :

(i) Bengal	..	..	..	..	..	109
(ii) Assam	..	..	..	..	..	361
(iii) Elsewhere	..	..	..	..	..	693

In addition to (iii) there are 1,829 Indian small growers in the Nilgiris and 531 in the Kangra Valley and Mandi, a majority of which are probably Indian-owned.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion on the Bill further to amend the Indian Companies Act, 1913.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, before I resume my submissions on the provisions in this Bill—and I do propose to be too long—I would like to dispose of a side issue. Yesterday I was congratulated by one of the Members who had listened to my speech upon my “going for the Bombay shareholders” and for

referring to their report as the drain inspector's report. I would like to say, Sir (Voices : “Kindly speak up.” “We can't hear.”) Sir, I think, I am speaking up, but I am sorry an “upper” pitch is not possible ; however, I can make myself heard, if I am allowed to move down a little as I did yesterday.

Mr. President (The Honourable Sir Abdur Rahim) : That side of the House cannot hear the Honourable Member.

The Honourable Sir Nripendra Sircar : Sir, I think I made it perfectly clear yesterday that I acknowledged the great services which had been done by the Association. I acknowledge that the Association, and particularly two of their representatives, Mr. Kapadia and Mr. Davar, had on all occasions taken the trouble to come up and give me all the points of information which I wanted. There is no justification whatsoever for any inference like the one which was drawn by some from my speech. I acknowledge, Sir, that I did say it was the drain inspector's report, but immediately after that—I find that I am correct because I consulted the official copy—I said so because it was a one-sided report ; well, that it undoubtedly is, just as the reports or rather the representations of the Millowners' Association were entirely one-sided in minimising the abuses. I will leave it at that and will proceed to the provisions of the Bill.

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division : Muhammadan Rural) : Who are the millowners and the shareholders ?

The Honourable Sir Nripendra Sircar : The Ahmedabad millowners. I am referring to the opinions received from the Ahmedabad Millowners' Association.

Mr. N. M. Joshi (Nominated Non-Official) : They are not owners—they are agents.

The Honourable Sir Nripendra Sircar : That is their name ; I cannot call them by any other name. I am referring to the particular opinions received and which I have read in cold print.

An Honourable Member : That is a misnomer.

The Honourable Sir Nripendra Sircar : I hope my Honourable friend, Mr. Joshi, will compel them to correct it.

Sir, in connection with many of the provisions, criticisms have been made that the provisions do not go far enough. It is not possible to deal with all these provisions, especially as many of them are of comparatively minor importance, but one general observation I would like to make as explaining why we have not proceeded further in the sense in which that expression has been used by my critics. Sir, I will remind this House of what we all know to be a fact and which was re-affirmed by the Green Committee which sat in England for making recommendations for amending the company law. They said :

“Many suggestions show that the idea that fraud and malpractices can be removed by the simple expedient of prohibition by an Act of Parliament dies hard. Other suggestions for making malpractices impossible, advocate regulations and prohibitions, which are calculated not merely to put a stop to the activities of the wrongdoer, but to place intolerable fetters on honest business.”

That is a principle which has always got to be borne in mind. We may differ in the opinions or the inferences which we draw from

[Sir Nripendra Sircar.]

certain facts, but I can assure the House that every provision in this Bill represents the resultant of two opposing considerations. On the one hand, abuses having been proved, the nature of the abuse, its extent, its proportion to the total, and so on have got to be considered. On the other hand, we have got to see whether, if a provision is introduced which may stop some abuse somewhere in some cases, it will not place an intolerable burden on the innocent majority who will be affected by the measure. As I said, the resultant of these two opposing forces, in my estimation, may be one and in the estimation of other Honourable Members it may be somewhat different. But I think none of us will disagree from the general proposition which I have indicated and I assure this House that these are the points of view from which the provisions have been drafted. I now leave the managing agency system alone and proceed to the question of directors. I am purposely not discussing the question relating to the election of two-thirds by shareholders. My reason is that, although that point has been mentioned by some of the speakers, the point has not been developed. Possibly there are arguments which we have not heard and I do not think it is at all fair to proceed to demolish a single argument which may have been advanced in the course of a speech which did not purport to deal with this matter fully. I reserve, therefore, my comments if and when the relevant amendment is discussed in this House. I propose to follow the same course with what has been called the representation of minority. My Honourable friend, Mr. S. C. Sen, spoke on that subject, but it was obvious from the questions which were put to him that we have not exactly appreciated the points which have been made and it is also clear that there may be various other arguments in support of that contention or amendment which are not in our mind. I propose, therefore, to postpone that until the clauses are taken up. As to various other criticisms about the directors, leaving aside the question of election of two-thirds, I cannot possibly conveniently go into them now, but I would like Honourable Members to remember some of the general principles which are applicable to directors and which have influenced the framers of this Bill in drafting the provisions which are to be found in it. I do not desire to tire the House by referring to law cases or by making extensive quotations but I think it is necessary to clarify our ideas, and to place before this House some of the accepted propositions as regards the position of a director. The first matter to which I draw the attention of the House is to be found at page 723 of Buckley's Companies, Eleventh Edition. This is a quotation from a judgment :

" Even a resolution of a numerical majority at a general meeting of the company cannot impose its will upon the directors when the articles have confided to them the control of the company's affairs. The directors are not servants to obey the directions given by the shareholders as individuals ; they are not agents appointed by and bound to serve the shareholders as principals. They are persons who may by the regulations be entrusted with the control of the business and, if so entrusted, they can be dispossessed from that control only by the statutory majority which can alter the articles. Directors are not, I think, bound to comply with the directions even of all the corporators acting as individuals."

The next matter in connection with their position to which I may draw the attention of the House is to be found on the next page :

" Directors are agents of the company ; but not mere agents. The director, if he be a shareholder, is himself a member of the body of which he is agent. He manages

for himself and for others. He is a managing partner. The company cannot act in its own person, for it has no person ; it can act only through directors. Directors are described sometimes as agents, sometimes as trustees, sometimes as managing partners. But each of these expressions is used, not as exhaustive of their powers of responsibilities, but as indicating useful points of view from which they may for the moment and for the particular purpose be considered. It is not meant that they belong to the class, but that it is useful for the purpose of the moment to observe that they fall *pro tanto* within the principles which govern that class."

Sir, it has also got to be remembered that the director is not bound to give his continuous attention to the business nor is he bound to be acquainted with the details of the business. I may again refer to the same book at page 731 as to the nature of his duties and functions. I will read only four lines :

" Directors are not bound to give continuous attention to the company's affairs. Their duties are of an intermittent nature to be performed at board meetings or committee meetings ; and directors are not even bound to attend all such meetings, though they ought to do so whenever reasonably practicable."

Then, Sir, there is another point which has got to be remembered. If the director serves his own cause, it is not necessarily a wrong. It does not amount necessarily to a breach of trust if, as a matter of fact, he has served also his company and has not acted prejudicially to it. For that I will refer the House to page 729 :

" If an act is done in the true and reasonable belief that it is for the company's interest, the fact that in promoting the company's interests the directors also promote their own, does not of itself make them chargeable with breach of trust."

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : What is the date of the publication of the book ?

The Honourable Sir Nripendra Sircar : 1931. But so far as I know, there has been no change in the law in this respect. At least, I do not know of any. Some criticisms have been made about allowing directors to enter into contracts and so on. Now, that, again is a general subject with which I do not intend to deal just at this moment because I do not know what amendments will be moved and in what form. But I may again remind the House of the passage at page 743 for making the submission that what is stated there applies with greater force in India for reasons which I shall state in a minute :

" But a company may stipulate that the right to the exclusive services of their directors is a benefit of which they do not desire to avail themselves. It may be more advantageous to have directors who can advance the interests of the company by their connection, and, by allowing them a commission, to make it worth their while to introduce business to the company, than to have the benefit of their advice in every proposed transaction."

In India, as I have said competent men with experience in industry, men of ability are unfortunately limited and while it is necessary that the directors should be placed under some restrictions, we cannot if we really want to develop industry put such fetters on directors that the result will be that all good businessmen will keep out of the directorate and allow it to be run by incompetent men.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Like the Honourable the Law Member, Dr. Ziauddin Ahmad and Prof. Ranga !

The Honourable Sir Nripendra Sircar : We are not incompetent men. I think, Sir, it may be to the interest of the shareholders to

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encourage directors of substance, of ability and experience. If the director is allowed to contract with the company, the company has got to judge whether after all it is to the interest of the company to have the services of these men on these terms or to put in absolute prohibition which will prevent them from functioning on the board altogether. These are some of the general considerations which will have to be judged carefully by the House when they consider the merits of the individual provisions which will come up for discussion. Beyond that, I do not want to go into any of the proposed amendment not knowing exactly what will be pressed and what will not be pressed before the House.

I shall now conclude by referring to some of the remarks of some of the Honourable Members opposite and taking them in the order, I find the next in my list the name of Mr. Sri Prakasa. He was so entertaining that before he resumed his seat amidst well-merited applause, I did not realise that he had not spoken on the Bill at all. For quite a long time, most of us, many of us at any rate have been so obsessed with company law and its details that probably that digression for half an hour into fresh fields which have nothing to do with company law, and was very remote from it, was welcome in one sense. Next, I come to Prof. Ranga. I do not propose to meet all his arguments, but if I do not notice any of his remarks, I am sure my Honourable friend will feel rather slighted. The idea which was suggested about travelling allowance appealed to me most. I think if I buy a share in the Tinnevely electric works, another in Sind and a third in Darjeeling, I shall be allowed to move about the whole of India, of course in third class, without spending any money out of my pocket.

An Honourable Member : Have a first class ?

The Honourable Sir Nripendra Sircar : You move an amendment, we shall support it. Then, I come to my Honourable friend Seth Govind Das who complained that the Bill was silent as to key industries. He said that perhaps in France or Germany this has been done and we find the Government of India had not done anything in that direction in India. I asked my friend where he found out that information because I am not very familiar with French or with German language and all I can read is some of the lines which I find in menu cards in French. But that is the utmost limit of my knowledge of French. I have not read French law, I do not know what the French company law is.

Mr. S. Satyamurti : You understand what is the French menu itself ?

The Honourable Sir Nripendra Sircar : I can understand it in French. I must do so, because I cannot take something without knowing what it is. Now, Sir, I ask him whether in French law or in German law or in the law prevailing in Honolulu, that you find provisions in the company law making distinctions between one industry and another, a key industry and a minor industry, a national industry and an anti-national industry and so on. I did not get a very clear answer, but surely he may have a legitimate grievance that something has not been done about key industries. That is a matter which is beyond my jurisdiction when discussing company law. I am sure that it is completely outside the scope of the company law to introduce those provisions

which my Honourable friend has in mind. A question was put to Mr. Sen by my Honourable friend Mr. Satyamurti which he said I shall answer later on. That question was—if I have taken it down correctly and I hope my Honourable friend will correct me if I am wrong—whether Government have considered the question of prohibiting managing agents from canvassing.

Mr. S. Satyamurti : For auditors. What I meant was, managing agents canvassing proxies and votes for the appointment of “A” as an auditor, and not “B”.

The Honourable Sir Nripendra Sircar : I have considered it and I regret to say that that is thoroughly impracticable. It is not possible to prevent canvassing either in business or in politics. That cannot be done.

Mr. S. Satyamurti : Quite so, having got six Whips yourself in this House, you cannot prohibit managing agents, canvassing.

The Honourable Sir Nripendra Sircar : I now come to my Honourable friend, Mr. Suryya Kumar Som. He is apparently under some misapprehension. He said why not allow District Judges to try company law cases. But I think if my Honourable friend will turn to the existing section, he will see it can be done by the Local Government and, as a matter of fact, in four of the districts in Bengal, District Judges have been given authority by the Local Government in pursuance of section 3 of the Indian Companies Act to try company law cases and I think that is the proper course. There may be many difficulties in acquiring a knowledge of company law cases because company law cases are so few and far between that neither the practitioners nor some of the Judges there get a thorough grasp of the law which certainly is a specialised and technical law. I think the present provisions are quite sufficient for the purpose which my Honourable friend, Mr. Som, has in mind. The second point which he made was that a Board of Auditors or some other Board which he had in mind should be empowered to select auditors. It is strange that the shareholders will have no voice in the selection of the auditor at all. That is an idea which frankly speaking does not appeal to me at all. The position envisaged by my Honourable friend, Mr. Som, is that although the shareholders may ask that “A” should be appointed as an auditor, yet this Board, whether Government Board or a non-official Board, will say, “Oh ! no, you do not know what is good for you, we will not send down ‘A’, but we will give you ‘B’ as auditor”. I do not see why the rights of the shareholders should be encroached upon in this way by an extraneous body.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Shareholders take very little interest in the selection of auditors. The whole thing is managed by the managing directors or Agents.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot argue the matter now.

The Honourable Sir Nripendra Sircar : As regards the shareholder, I have had two inconsistent arguments, the one is that he cannot look after himself, he is something like an illiterate *purdanashin* woman who is off her head. On the other hand we are told that when it comes to restricting the powers of the managing agents, “Oh ! the

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shareholders know what is good for them, put it up before the shareholders and everything will be all right". But I think the real position is midway; it is neither the one extreme nor the other. We have recognised in this Bill that the shareholders are disorganised; they live apart and it is rather difficult for them to consult together and to combine. That disadvantage we have taken into consideration but that cannot be pushed too far for all purposes.

Then, my Honourable friend, Mr. Joshi, complained,—in fact I would have been extremely disappointed if my Honourable friend had not started by complaining against the Government of India and concluding by saying that he has the greatest faith in that Government which ought to be substituted for all other organisations,—my friend, Mr. Joshi's first complaint was that somebody had not prepared an index and a summary of the opinions which had been received. The answer is that there was hardly any time. Members of the Select Committee will remember that many of the opinions were coming as the proceedings were continuing before them; and surely it comes with ill grace from the representative of labour to suggest that he is the one person who cannot labour in this connection. Then, Sir, he made certain other suggestions. They are so utopian that it will be wasting the time of the House, in my humble submission, to discuss them and take them seriously. When he moves his amendments I shall deal with them, if that occasion arises. Then, Sir, as I said, my friend starts by complaining against Government and ends by making suggestions which involves giving all power to Government. He said Government should have inspectors to report about the companies, how they are behaving and what they are doing and how much they are cheating, etc. Sir, if Honourable Members of this House will compare Mr. Sen's report with the Bill which was introduced,—I claim responsibility and if there is a mistake it is my mistake,—they will find that I have not agreed with most of the suggestions of Mr. Sen about giving powers to these officials for interfering unduly with business of companies. They are more liable to abuse than any other function. I cannot imagine what the position of the companies will be if, as was practically suggested, the Registrar or Inspector or any other person without any information being laid, and on hearing any rumour proceeds to the office of the company, asks for their books, calls upon them to produce their accounts and so on. The damage which will be done to the company as soon as this news gets abroad will be irreparable; and even if after three months a report is made that there was nothing wrong with the company that damage would be incapable of being repaired. That is the reason, Sir, that wherever the suggestions the Court in between; that is to say, they should come up before the Court and before a judicial tribunal so that no mischief can be done. The least that could be given has been given to the Registrar, and I am on principle opposed to unnecessary interference with business by extraneous bodies, and I will not agree to anything beyond what is absolutely necessary for discharging the duty which undoubtedly lies on the State, to prevent fraud on shareholders. Those cases must be very limited in number.

Then, Sir, I think I have only one more point and I have done. As regards these amendments, of course we shall have to deal with them as they come up, but I think I ought to tell the House that as regards many of them which necessarily I cannot specify just now knowing that they are more than 500 in number by this time.... (An Honourable Member: "Some of them are overlapping.") Even then there must be about 300 effective amendments. I wanted to inform the House so that there may be no question of surprise that about some of them which I am unable to specify just now I shall have to take the objection that they are extending the scope of the Bill and therefore out of order. That will not apply to very many but I think Honourable Members ought to know, to avoid any complaint of surprise being made.

Sir, I am very grateful to some of my friends here who spoke appreciably of the trouble, if any, which I have taken over this Bill. I am neither too optimistic nor too pessimistic about this Bill; but I do think that the time for congratulation has not yet come. There are three hundred amendments and the shape in which the Bill will emerge from this House will decide whether it will be an occasion for congratulation or condolence for lost labour. Sir, that is all I have to say. (Loud Applause.)

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

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): As regards the amendments, as has been mentioned by the Leader of the House, the office has been able to prepare a consolidated list up till yesterday, but they have not been received back from the press, and I believe they are expected at about 2 o'clock. As soon as they are received, they will be distributed to Honourable Members. Today being Friday, we will adjourn now and meet again at 2-15 P.M.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock. **Mr. President** (The Honourable Sir Abdur Rahim) in the Chair.

Mr. President (The Honourable Sir Abdur Rahim): Clause 2 of the Bill is the definition clause, and there are some amendments to a new clause after clause 2. I think, in a matter like this, it will be a more convenient procedure if I take up the new clauses that are to be inserted after the amendments to the clauses that are in the Bill are disposed of, unless any new clause is so connected with the clauses already in the Bill that it ought to be discussed with the rest.....

Mr. S. Satyamurti: Or, if I may say so, unless the disposal of that clause is necessary for the disposal of the later clauses.

Mr. President (The Honourable Sir Abdur Rahim) : Yes ; quite. I thought that procedure would be more convenient to the House. Then, I will take up clause 3 now.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : May I ask you to reconsider the matter, Sir, in the light of this, that perhaps it will be much easier to follow the whole thing formally clause by clause instead of referring back to the clauses. As you put it on the ground of convenience, I respectfully suggest that perhaps it would be better both from the point of view of study and preserving the order.

Mr. President (The Honourable Sir Abdur Rahim) : Of course, if a new clause is not so connected with the previous clause after which it is sought to be inserted, then I think the better procedure will be to take it after the other clauses : but if any new clause sought to be inserted is so connected, it ought to be taken up after the clause with which it is connected has been disposed of.

The Honourable Sir Nripendra Sircar : On further consideration, Sir, I feel that it would be quite feasible and probably on the whole far more convenient if we proceed clause by clause. In clause 2, I have received amendments : it will create no difficulty to dispose of them all before we go on to clause 3. Because the definition of managing agent refers to so many sections that people cannot make up their minds as to what the definition will be.

Mr. President (The Honourable Sir Abdur Rahim) : If that would be more convenient, very well. The question is :

“ That clause 2 stand part of the Bill.”

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I move :

“ That in sub-clause (a) of clause 2 of the Bill, in the proposed clause (9A) of section 2, after the word ‘ Company ’, occurring in the fourth line, the following be inserted :

‘ by whatsoever name or style described, whether as Managing Director, Secretaries, or Secretaries and Treasurers, or any similar designation ’.”

I wish to say that this term has been either omitted by mistake or inadvertently because as this term is prevalent, mostly in Ahmedabad and Bombay, managing agents are sometimes called Secretaries, Treasurers and Agents. That is the reason why I want to include it in the definition of managing agent.

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

“ That in sub-clause (a) of clause 2 of the Bill, in the proposed clause (9A) of section 2, after the word ‘ Company ’, occurring in the fourth line, the following be inserted :

‘ by whatsoever name or style described, whether as Managing Director, Secretaries, or Secretaries and Treasurers, or any similar designation ’.”

The Honourable Sir Nripendra Sircar : Sir, I cannot accept the amendment, because I think it is wholly unnecessary. My Honourable friend wants to add these words “ by whatever name or style

described ”. But if you will kindly turn to the clause as drafted, it says there :

“ ‘ Managing agent ’ means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called.”

I invite attention to the last two lines. So, I submit that the amendment proposed is unnecessary.

Mr. Mathuradas Vissanji : If the Honourable the Leader of the House, as a most eminent lawyer, thinks that it includes it, I do not press it.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw it ?

Honourable Members : Yes.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

‘ *Explanation*.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act ’.”

Sir, this amendment is a purely formal one and does not involve any question of substance. I have put it in merely to avoid any possible misunderstanding. Some of our friends have advised us to make this Bill as fool proof as possible, and this is an endeavour in that direction. It is no more than an explanation, and as such.....

Mr. President (The Honourable Sir Abdur Rahim) : You mean lawyer proof ?

Pandit Govind Ballabh Pant : Layman's stupidity is as unbounded as lawyer's ingenuity.

Sir, I appreciate that every effort has been made to make the definition of managing agent as comprehensive as it can be, but the fact remains that we have got two expressions here.—‘ manager ’ and ‘ managing agent ’. The distinction between the two is somewhat subtle, and they may be very close to each other on the border line. It is just likely that a person who calls himself a manager and yet discharges the functions of the managing agent may sometimes succeed in persuading a Court into believing that he is only a manager, and not a managing agent. The two definitions should be exclusive. I know that we have a clause in 9-A at the end which says—‘ and includes any person firm or company occupying such position by whatever name called ’. So even if a person calls himself manager, he comes within the scope of this definition ; but the fact remains that the expression ‘ manager ’ finds distinct place in this Bill and has also been defined. I know we are not concerned here with the natural meaning of any expression. We may call a tool an elephant and perhaps water as solid. You may define an expression in any form

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you like in an Act. Such definition, however, has to be restricted to the particular Act and is intended for that purpose only. Sir, it is only with a view to avoiding the likelihood of this misapprehension I propose this *Explanation*. It is just possible that a person, though really he is a managing agent, may take the guise of a manager and by masquerading himself as such may argue before a Court that the provisions relating to a managing agent which are more stringent than those pertaining to a manager did not apply to him. It is with this view that I am proposing this amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

‘ *Explanation*.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act ’.

The Honourable Sir Nripendra Sircar : Sir, if I were convinced that by adding this *Explanation* it would really clear up the matter, I would not raise the slightest objection, but it strikes me in this way. As it has been drafted, as my friend himself has pointed out, the language, by whatever name you call him, is sufficient to rope in a person who, though he is in fact a managing agent, calls himself a manager. Now, my friend says that the position will be made clearer if we say that although he calls himself a manager, he is none the less a managing agent if he comes within the definition. Now, Sir, apart from this explanation being unnecessary, the other matter to be considered is this. Let us take a different case. I am not taking an imaginary case, because I find in one of the documents relating to managing agents that in a certain mill the persons who are really managing agents, and who have all the powers, describe themselves as Treasurers and Secretaries,—of course, they will be roped in,—let us take the case of such a person who is really the managing agent and who has all the powers and who describes himself as Secretary and Treasurer. Now, the question may be raised, I presume by a fool that the definition specifically says that if a man calls himself a manager he is nevertheless a managing agent,—what happens to the Treasurer ? Would it be argued that your explanation extends only to the manager and not to the person calling himself treasurer. I know the answer is you have not defined a treasurer, but you have defined a manager ; but I cannot see how a person who is really doing the duties of a managing agent can escape by calling himself a manager when the words are ‘ by whatever name called ’. Under the present Act, ‘ manager ’ is defined in this way—‘ a person, who is subject to the control and direction of the directors... of a company, and includes a director or any other person occupying the position of a manager by whatever name called and whether under a contract of service or not ’. We all know that under this definition managing agents have been brought in within the word ‘ manager ’, because they are actually occupying the position of a manager. So let us see how he can escape. If he is really a manager within the meaning of the definition as given in (9), he must be a person subject to the control and direction of the directors, he has the management of the whole affairs of the company ;

then he is not a managing agent ; but the managing agent is entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement. So, Sir, I do not yet realise what is the necessity for this amendment though I have no strong objection.

Mr. President (The Honourable Sir Abdur Rahim) : You mean a managing agent is entitled to management by agreement with the company ; a manager is not ? Is that so ?

The Honourable Sir Nripendra Sircar : I think the essential difference is this. In one case the manager is under the control of the Directors in all matters ; in the other case, that is to say in the case of the managing agents, they are under control in various matters which are not provided for in the agreement. The difference between the two as regards the freedom of the managing agent or the manager as the case may be, from the control of the Directors, is this. If he is under the control of the Directors, then he comes under para. 1—‘ subject to the control and direction of the directors and has the management of the whole affairs ’ ; but the managing agent has his agreement, and under that he says—‘ these are the things I am going to do and I am not under control ’. Therefore, I would ask my friend to really consider whether this explanation is at all necessary, whether it will really clear up matters as he thinks because I fear it may throw a doubt as to what is meant by whatever name called if we add an explanation like this. Therefore, Sir, I do not agree to accept this amendment.

Mr. Bhulabhai J. Desai : Sir, I do ask the leave of the House to reconsider the suggestion of my Honourable friend, Pandit Govind Ballabh Pant, and for a good reason. The new distinction between ‘ manager ’ and ‘ managing agent ’ is that the manager is entirely under the control of the directors. A managing agent is under a contract with the company to the extent to which his agreement so provides. The real distinction, therefore, is in one case he has complete control, in the other case the man has limited control. The word ‘ agreement ’ is really immaterial for this purpose, and for this good reason, that the employment of a manager also must involve an agreement. There is nothing to prevent a company from employing a manager by a resolution in an ordinary meeting. Ordinarily, I quite agree that under the powers of the directors a man may be so employed. Therefore, so far as the agreement is concerned, whether it is verbal or whether it is written, that is not the essence of the matter. The essence of the matter is that in one case there is complete control and in the other case there is limited control where some of the powers of the directors are, in fact, transferred to the managing agents. That is the real difference. But turning to the clause as proposed, ‘ by whatever name called ’ in the definition of a managing agent would really refer to alternative names for a managing agent, and I think it is not right to say that it is a mere fool’s idea, or that a point of this kind is not one of substance. I say that the expression inasmuch as ‘ manager ’ is separately defined in the earlier part, ‘ by whatever name called ’ would not include a person who calls himself a manager though he is really a managing agent. I therefore do press upon the Leader of the House to reconsider the position, and I think that an explanation of this kind would serve a very useful purpose.

The Honourable Sir Nripendra Sircar : I do not have any objection to this amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

Explanation.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act.”

The motion was adopted.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in sub-clause (1) (c) of clause 2 of the Bill, in part (b) of the proposed clause (13), after the word ‘ company ’ the words ‘ except in the case of Hindu joint families that convert themselves into private companies when the number of shareholders shall not be limited ’ be inserted.”

My purpose in moving this amendment is just this. So far as I know, there have been conflicting decisions of High Courts as to whether Hindu joint families can or cannot convert themselves into limited companies. I think it would be in the interest of most Hindu families to convert themselves into private companies for the safety of their property and the welfare of their members. I, therefore, think that some provision should be made to enable Hindu joint families to convert themselves into private companies ; and that some definite section should be added to this effect in this Bill at a suitable place. It may perhaps be said that this will interfere with the personal law of the Hindus. So far as I am aware, in this Bill itself there are sections which interfere with such personal law. For instance, the Honourable the Law Member the other day explained how not to enable a certain class of people to die at convenient times, he has inserted some provisions so that coparceners of Hindu joint families, who take by survivorship, may be made liable as heirs and successors in certain cases for the purposes of this Bill. I do hope that the Honourable the Law Member will either accept this amendment or make some sort of statement so that there may be an assurance that he will look into this point and insert at a convenient place some clause in the Bill so that Hindu joint families can be converted into private companies. I am moving this amendment so that in that particular case the number of members of a private company may not be limited to fifty, because it is quite possible that there may be a hundred coparceners of a Hindu joint family who at any particular moment desire to convert themselves into a private company. In this particular case only, an exception should be made as to numbers in a private company. I do hope that the Honourable the Law Member will be able to accept this amendment in this form or in some other form.

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

“ That in sub-clause (1) (c) of clause 2 of the Bill, in part (b) of the proposed clause (13), after the word ‘ company ’ the words ‘ except in the case of Hindu joint families that convert themselves into private companies when the number of shareholders shall not be limited ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, I very strongly object to this amendment for this reason. The words are, “ except in the case of Hindu joint families that convert themselves into private companies ”. What is the process by which that has been done ? Here is a Hindu joint family, and of course, all the trouble arises in the Mitakshara family. How can a Mitakshara family convert itself into a private company ? The cases which my Honourable friend is thinking of laid down this, that it involves transfer of property to the private company. That is the first thing. The property goes to the company and there the trouble comes in because under the Mitakshara law there cannot be any alienation except for legal necessity. The question may be asked, “ Where is the legal necessity ? Why do you want to turn yourself into a private company ? ” As I have said, my Honourable friend does not suggest how they convert themselves. My second point, this is a far more important point, is this. Let us assume that five families come in and say, “ We have converted ourselves ”. I do not know what the process is by which it is done, whether there is baptism with water or the registrar is called to bless the family, “ Now, you are a private company ”, but supposing there are 6 or 7 families. I do not think that my Honourable friend, Mr. Bajoria, will feel that I am casting any aspersion on the family—certain families may easily exceed 50, it may be 100, it may be 200, as they may have remained united for several generations. The whole spirit of a private company is violated if you allow any number of people simply because they belong to different Hindu joint families to convert themselves in this way. Sir, I object to this amendment.

Mr. Sri Prakasa : In that case, I ask for leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Sri Prakasa : Amendment No. 4 hangs on to the previous amendment. So I do not move it.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore cum North Arcot : Non-Muhammadan Rural) : I do not move No. 5.

Pandit Govind Ballabh Pant : Sir, I move :

“ That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

‘ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ’.”

Sir, this is an amendment to the last clause of sub-clause (1) of clause 2 of the Bill. The clause runs as follows :

“ to clause (14) the following words shall be added, namely :

‘ but shall not include any trade advertisement which shows on the face of it that a formal prospectus has been prepared and filed ’.”

The definition of the prospectus applies only to documents which invite the public to make offers for shares and that is the essential part of a prospectus. The reason why this clause has been introduced seems to me to be this, that there has been a case or there have been more than one case in which a pure trade advertisement has been treated as a prospectus. That is said to be the reason why this clause is necessary.

Now, Sir, the word prospectus is defined in clause 14 of the present Act and sections 92 to 100 of the existing Act relate to the prospectus.

[Pandit Govind Ballabh Pant.]

The present Bill has clauses 48 to 51 relating to prospectuses. Now, Sir, I submit that a prospectus is the foundation of the company's edifice. It is on the basis of the statements made in the prospectus that the public makes applications and offers for the shares of the company. Therefore the law is very stringent on the subject. Mr. Sen, I believe, has dealt with the question in Chapter II of his report and has given reasons therein as to why the provisions relating to the prospectus should be amplified, why information should be given in greater detail. He considers, and quite rightly, too, that one of the things necessary in order to protect the shareholder is to provide him with all relevant information that can bear on his mind in arriving at a decision as to whether he should or should not apply for shares in a company. Now, if this clause remains as it is, it is likely to cause misapprehension and to lead to an amount of litigation. Does it refer to cases where the trade advertisement actually invites the public to make offers for shares or are such cases to be excluded? For if it does refer to such cases, that is those cases where an invitation is issued to the public to make offers, then I submit it is a dangerous thing to have such a surreptitious method for overriding and getting over the provisions that have been now specified and prescribed for the prospectus. There is a great danger that companies may smuggle in something in the form of trade advertisements with a view to induce the credulous purchasers of shares to apply for these shares without furnishing full information on even the most vital points. Then, Sir, if you will be pleased to refer to clause 51 of this Bill, you will find there that in sub-section (1) it has been laid down that :

"Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company and all enactments, and rules of law as to the contents of prospectuses," and so on will apply to such a document.

Now, I do not say that there is an inevitable or essential conflict between the two but there is some likelihood of confusion. Section 51 relates to documents issued by underwriters when they offer the shares obtained by them for purchase to the public, and even for these cases the law has laid down that the rules pertaining to prospectuses which must in normal course have been filed primarily by the company itself will apply to any document that may be issued by the underwriter. Much more is it necessary to guard the public against any sort of undue latitude. I would not use the word fraud, that companies might take when they really use a trade advertisement as a prospectus. I may also state here that a prospectus has to be filed only when shares are offered to the public and this amendment that I am proposing will only apply to the cases where invitation is issued to the public for offers for the shares of the company. I hold that this is absolutely necessary. In fact, in the case of the shares relating to companies incorporated abroad it is laid down in this Bill, I think it is clause 98A, that the application for shares should also include the terms of the prospectus. I know the Company Acts in some countries make it a condition precedent to the allotment of a share to any applicant that he should have seen and also signed and filed the prospectus with the company before getting any shares. The reason is, this, that the information given in the prospectus is the

real basis on which a person applies for shares. In fact, it alone contains the material particulars on the basis of which this contract is entered into. I will not read or cite at length from Mr. Sen's report but he has enunciated with his usual lucidity the necessity of placing at the disposal of the applicants for shares all possible and relevant information so that they may guard against any possible subterfuge or fraud, but the very purpose will be defeated if a trade advertisement is allowed to be used for the purpose of asking the public to apply for shares. The mere fact that somewhere in a corner it is mentioned that "a prospectus has been filed" is not enough. If you will be pleased to look at the Act, you will find that even when an advertisement is put in in a newspaper after a prospectus has been filed with the registrar all the information that has to be given by means of a prospectus, except that contained in sub-section (1) of the clause relating to the prospectus, has to be mentioned fully. If Honourable Members will refer to clause 48 of this Bill, they will find that the particulars that have to be mentioned in a prospectus in addition to those mentioned in the original Act itself cover about 2 or 2½ pages of this printed Bill. I have no objection to a prospectus, to a trade advertisement, containing all particulars about the company, about its directorate, about its shares, about its income or anything that one may like to issue thereby or to publish in that form but I consider it dangerous to use a trade advertisement for the purpose of inviting the public to apply for shares. In fact that is the only operative part of a prospectus; the rest of it is a descriptive or narrative part, and any document which includes an invitation to the public for shares should be treated as a prospectus. Barring this particular clause or this particular safeguard that it does not amount to an invitation to the public, I have no objection to anything appertaining to the company being included in a trade advertisement. A trade advertisement, so far as its legitimate scope goes, should only relate to matters of trade or business conducted by the company, and its primary purpose should be limited to an appeal to the public for the patronage of the goods manufactured by the company or for its services. When it goes beyond that, when it asks the public to apply for the shares, then I submit it is not its proper function.

Sir, the amendment I am proposing is of some importance and I hope the House will deal with it, realizing and appreciating its importance. I am aware of the case reported in 52, Calcutta, and there too, the Judges have stressed the point that a prospectus is a very important document and it should not be smuggled into a trade advertisement lest the public should be defrauded by such dubious documents. So I suggest that this safeguard be introduced. I know the Honourable the Leader of the House thinks that there are very small companies which cannot publish these prospectuses in their full details and particulars. As I said, I have no objection to all particulars being given so long as there is no invitation to the public and there is no indication that the public are required or requested to apply for shares. If it is supposed or if there is an apprehension that the particulars that we have prescribed for a prospectus are too detailed for small companies, I would have no objection if in the form of the prospectus itself some sort of simplification is attempted and a provision is introduced to the effect that companies having say a share capital of Rs. 10,000 or an authorised capital of Rs. 20,000 need not mention in their prospectuses such particulars as

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may not be considered to be absolutely necessary ; but a clause like this, if it is to be used by way of a substitution for every prospectus, would work havoc. That is my apprehension and that is the reason, Sir, why I move this amendment. I hope the Honourable the Leader of the House will be able to accept this motion.

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

“ That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

‘ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ’.”

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, this amendment has been based upon a decision, as my Honourable friend, Pandit Govind Ballabh Pant, has rightly pointed out, of the Calcutta High Court, reported in 50, Calcutta. Sir, I do not know if my friend did observe all the facts of that case.

Pandit Govind Ballabh Pant : I did.

Mr. Susil Chandra Sen : If he had, he would have found that in that particular case the words which were held by the Court as amounting to an invitation for subscription were—something like “ shares are still available ”. The advertisement gave the capital, it gave the names of the directors, it gave the scope of the business of the company and there was a statement that a formal prospectus had been filed, and all that it stated was that “ shares were still available ”. Now, Sir, that was held to be an invitation to the public to subscribe for the shares and it was held that as that advertisement itself had not been filed with the Registrar, it offended against the existing section, and the publishers of the advertisement were penalized and fined. Sir, the point of view which led me to recommend this amendment was that once you have filed the formal prospectus, and once it is made patent in any trade circular or advertisement that there is a formal prospectus which has been filed which is available to the prospective subscribers, you ought not to apply to such a trade circular or advertisement the rigours of a prospectus. Now, Sir, my friend rightly said that in the case of small companies it may be difficult to publish prospectuses in their entire detail every time. It is undoubtedly difficult. They have got to be published in the newspapers and as my Honourable friend may know, if it is published *in extenso* each such advertisement would cost about Rs. 500,—a sum which a small company, or for the matter of that a big company which has not yet got a sufficient amount of capital, will find it difficult to find. That is why this amendment was suggested. Sir, what is the effect if my Honourable friend's suggestions are accepted. Sir, what is the amendment suggested in the Bill ? It is to the effect that a trade advertisement which mentions that a prospectus has been filed is not to be treated as a prospectus. Let us see what the addition of the words suggested by my friend would mean. Those words would entirely negative the amendment sought to be made, because it says, “ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ”. As my Honourable friend rightly pointed out, the essential

part in the definition of a prospectus is that it must amount to an invitation : and the addition of the words, “ provided there is no invitation ”, etc., can only mean that, the whole effect is gone. As I said, once it is made clear in the advertisement that a formal prospectus complying with all the rigours which the law provides has been filed, there is no point, in even small circulars and trade circulars and newspaper advertisements, being made subject to the provisions of a prospectus. That is the principle which underlies this amendment, it is intended by the amendment to take it out of the category of a prospectus, and as I have pointed out, the addition of the words which my Honourable friend wants will entirely nullify the amendment itself. Any other kind of advertisement is not required either by the law to be filed or to comply with any other provisions of the law. The words which my Honourable friend wants us to add, if added, will entirely render nugatory the amendment itself. For these reasons, Sir, I oppose the amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

‘ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ’.”

The motion was negatived.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I beg to move the following amendment :

“ That after sub-clause (1) of clause 2 of the Bill, the following sub-clause be inserted and the subsequent sub-clause (2) be renumbered as sub-clause (3) :

‘ (2) In section 2 as so renumbered, after clause (16) the following new clauses shall be inserted, namely :

‘ (17) ‘ Key Industry Companies ’ mean companies carrying on industries dealing with the production, extraction, manufacture into finished goods of raw materials and food stuffs, or the distribution and sale of such raw materials and food stuffs, and the owning, holding, controlling or exploitation of agricultural lands or mines out of which such raw materials and food stuffs are produced, and which are more fully described in the Schedule annexed to this clause ; likewise all industries or enterprises connected with or dealing in means of Transport and Communications including the materials and accessories required to equip and operate the same ; and all industries connected with the manufacture, supply or sale of Armaments and Munitions of War together with their accessories ’ ; ”

I will now read the Schedule relating to this :

“ THE FIFTH SCHEDULE.

(See section 2.)

- (i) Companies engaged in the owning, cultivation, or development of agricultural land, including tea gardens, coffee plantations, or special plantations for the cultivation of any drug, or medicine, or any forest produce ; or those providing water supply to such lands, whether by tanks, wells or canals ; or those engaged in the working up into finished goods ready for consumption of any raw material or food stuff produced from the cultivation of such lands.
- (ii) Companies engaged in the owning or exploiting of any mine or mineral, *e.g.*, iron, coal, gold, tin, aluminium, salt, copper, petroleum, or cognate material obtained from mines.

[Prof. N. G. Ranga.]

- (iii) Companies engaged in the development and supply of motive power, whether derived from coal, gas, electricity, or any other agent supplying energy, together with the manufacture and supply of all accessories and plant needed for the same.
- (iv) Companies engaged in the supply or working of means of transport and communications, whether by road, river, sea, air, together with the manufacture and supply of all the plant, equipment or accessories needed for the proper operation of these services, including telegraph material, postal requirements, road building and road material, accessories of television, broadcasting and radio, railways, railway workshops and materials, plant or equipment needed for railways, manufacture of ships, automobiles, aeroplanes and airships, as also their engines and parts.
- (v) Companies engaged in the production and supply of armaments and munitions of all kinds, including guns of all calibres, shots, shell or bullet needed for the same, chemicals required for the manufacture of high explosives; tanks and armoured cars, gun carriages, their parts and accessories, and the like, which may be declared as such Key Industries by an order of the Governor General in Council."

and

"(18) 'Public Utility Companies' mean all companies engaged in the production, supply, sale or distribution of such services or commodities as are essential for the continued existence of modern civilised life, and which are more fully described in the Schedule appended to this clause."

And then there is the Schedule relating to this :

"THE SIXTH SCHEDULE.

(See section 2.)

'Public Utility Companies' mean and include all companies engaged in the production and supply of essential services and commodities, together with the plant, material, equipment and accessories needed for the working of such services, more particularly—

- (i) transport and communications, local as well as provincial or national ;
- (ii) supply of lighting and other amenities of civic life ;
- (iii) supply of drugs and medicines, hospitals and sanatoria, sera or prophylactics, necessary for the proper care and maintenance of public health, including the care of the mother and the child ;
- (iv) banking and insurance of all kinds ;
- (v) education service, including the printing and supply of books, maps, graphs, etc., operation of printing presses ; provision of laboratory equipment and apparatus, including the manufacture of the same ; and
- (vi) any other service or commodity, the production, supply or distribution of which is declared by an order of the Governor General in Council to be a Public Utility Service."

And then the following amendment (No. 9) standing in my name should be considered to have been read, to facilitate the discussion :

"After clause 2 of the Bill, the following new clauses be inserted :

- '2B. (a) No Key Industry Company, nor any Public Utility Company, shall be registered under this Act, or under any Act amended or repealed by the present Act.
- (b) Every Company being a Key Industry Company, or being a Public Utility Company, shall be incorporated by special Charter, and the Companies Act shall not apply to them, except in so far as the provisions of the

Charter in each case, and the Rules and Regulations, bye-laws or Articles of Association made under the Charter, omit to provide for any matter affecting a Company, in which case the provisions of this Act shall govern each such Corporation, and to the extent of the omission to provide for such matters in the Charter, Rules and Regulations, Bye-Laws, or Articles of Association made under the Charter.

- (c) Companies already in existence, and engaged in Key Industries or Public Utility Services, shall, subject to the Government of India Act, 1935, be required, within not more than five years after the coming into operation of this Act, to reconstruct themselves as Chartered Corporations, as required by this section ; and shall thenceforward be governed, and regulated, by such Charter, Rules and Regulations, Bye-laws or Articles of Association made under the Charter.
- (d) Every Charter granted to a Public Utility Company or a Key Industry Company shall provide for—
 - (i) the right of the Government or the Public Authority granting the Charter to superintend and regulate the working and management of each such chartered Corporation ; and shall, to that end, reserve the right of the Government or the authority granting the Charter of Incorporation, to appoint a stated proportion of Directors to the Board of Directors or Management of each such Chartered Corporation ;
 - (ii) the holding, at the option of the authority granting the Charter, of shares in the Corporation ;
 - (iii) prescribing of the maximum and minimum rates, prices or charges to be levied by such Corporation ;
 - (iv) laying down conditions for the employment and dealing with the Labour engaged in such Corporations, including the minimum wage payable to such workers, then right to official recognition of their trade union or association, as also the right of the latter to make a collective bargain for the Labour engaged in the Corporation. Insurance against Accidents, old age, and disability ; and
 - (v) the right of the authority granting the Charter to acquire the entire enterprise built up and operated by the Chartered Corporation, subject to such compensation as may be found due.
- 2C. (a) Subject to the Government of India Act, 1935, no public or private company, engaged in any Key Industry or a Public Utility Service, shall be allowed to be registered under this Act unless—
 - (i) it is registered in India under a Charter by the Government of India, or a Provincial Government, or a Municipal Corporation or a District Board having the authority to grant such a Charter of incorporation ;
 - (ii) it has its head office and principal place of business in India ;
 - (iii) its capital is in rupees ;
 - (iv) it has not less than 75 per cent. of the total number of its directors or managers Indians ;
 - (v) not less than three-fourths of the total subscribed capital is owned and held by Indians ; and
 - (vi) it agrees to train a number of Indian apprentices, as prescribed in the Charter, in its factories, workshops, plantations, mines or other places of business.
- (b) Notwithstanding anything contained in this Act, no share in a Key Industry or Public Utility Corporation shall be transferred to a non-Indian, unless the Board of Directors of such a Corporation is, at the time when such a transfer is demanded to a non-Indian, satisfied that a minimum proportion of shares required to be held by Indians under this section or under the Charter will not be reduced by such transfer being permitted and registered.

[Prof. N. G. Ranga.]

- (c) In every Chartered Corporation engaged in a Key Industry or a Public Utility Service, the authority granting the Charter shall have the right, notwithstanding anything to the contrary stipulated in the Charter or permitted under this Act (1) to be given the first option to take up any additional capital issued by the Corporation : or (2) to acquire any shares which are required to be transferred to a non-Indian, provided that the authority granting the Charter shall not be called upon to pay for any such additional capital taken up by such authority, or any such shares acquired by that authority under the operation of this section, a price in excess of the nominal value of such capital or share taken up or acquired by the Corporation.
- (d) At the expiration of the first term of a Charter, the authority granting such a Charter to any Corporation engaged in a Key Industry or a Public Utility Service shall be at liberty to acquire the whole of that enterprise together with all its subsidiary or ancillary enterprises or corporations, subject to such price of acquisition as may be found justly due and payable at the time of such acquisition, having due regard to the profits earned during the period the Charter was in operation.
- (e) The authority granting the Charter shall acquire any Corporation engaged in a Key Industry or in a Public Utility Service at any time, if, in the opinion of a competent Court, the activities of the Corporation are becoming monopolist in effect, and are such as to prejudice unduly the small producer or penalise the consumer, or exploit the Labour engaged in such a Corporation ; and on such acquisition the proprietors of the Corporation shall be entitled to such indemnity, or compensation, or purchase price for their undertaking, as may be awarded by a competent Court, provided that, in calculating such indemnity, compensation or purchase price of the undertaking, no allowance shall be made for profits that might have been earned by the Corporation during the remaining period of their Charter."

The Honourable Sir Nripendra Sircar : Sir, for the convenience of the House, I have got to take an objection, and it is this. My Honourable friend has moved amendment No. 7 which is an attempted definition of key industry companies and of public utility companies. Then, there is amendment No. 9 which relates to what should happen to these companies. Is there any good of a definition unless we know whether this House is allowing anything to happen to these industries as proposed in amendment No. 9 ? Personally, I should take objection to it also on the ground that it is outside the scope of the Bill. I suggest, therefore, that either amendment No. 9 should be taken first or both amendments should be moved and taken together. Of course, the difficulty is that amendment No. 7 has taken 10 minutes to read and Amendment No. 9 will take 15 minutes to read.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not propose to insist on reading. It will allow Amendment No. 7 to be discussed first. If the House wants to refer to Amendment No. 9, it can do so. Honourable Members will then know what is intended.

Prof. N. G. Ranga : Sir, in support of my Amendment No. 7, I wish to state that, when extending the scope of this Bill to all companies in this country in all their activities and in trying to control and regulate their activities, it is the duty of the State to try to distinguish between companies and companies.

The Honourable Sir Nripendra Sircar : I take objection to that. I have a preliminary objection to that point because I said this is extending the scope of the present Bill.

Mr. President (The Honourable Sir Abdur Rahim) : I shall consider that objection, namely, the objection to the other amendment. I take it, the Honourable Member wishes to move that amendment. But the Honourable the Law Member can take the objection now.

The Honourable Sir Nripendra Sircar : My objection is this. I will first read the preamble of the Bill. It says :

" A Bill further to amend the Indian Companies Act, 1913, for certain purposes. Whereas it is expedient further to amend the Indian Companies Act, 1913, for the purposes hereinafter appearing."

Sir, in the existing Companies Act or in the amending Bill there is no distinction between a key industry and other industries. These two industries are not mentioned at all. All companies are treated in the same way. In this connection, may I draw your attention to ruling No. 137, which is to be found on page 103 of the First Volume of Decisions from the Chair ? What happened in this case was that by inadvertence of Government it was not said that the Bill was to amend for the purposes of Government it was not said that the Bill was to amend for the purposes hereinafter appearing. It was a Bill simply for amending the Land Acquisition Act. That is how the discussion arose :

" On the Land Acquisition (Amendment) Bill, Rao Bahadur T. Rangachari raised the point whether he would be in order in moving amendments to sections of the Act other than those dealt with in the Amending Bill. It was pointed out by the Government that that kind of procedure would be extremely inconvenient to the House as it would be entirely outside the scope of the Bill as drafted.

The President ruled :

" A somewhat curious situation has arisen. The amendment moved by the Honourable Member on my left is undoubtedly within the title of the Bill as drawn (*as I said, in that case the precaution was not taken*), and yet it is equally undoubtedly outside the scope of the substance of the Bill, which provides for an appeal to the Privy Council. Therefore, on the ground of practice, I think I am bound to rule it out of order. At the same time, I suggest to the Government that it will be wise to protect themselves by seeing that the title of a Bill is not wider than its substance'."

Now, Sir, we have profited by that warning and in this case as you see, the wording is :

" Further amend the Indian Companies Act, 1913, for the purposes hereinafter appearing."

I, therefore, submit that the amendment of Prof. Ranga is clearly outside the scope of the amending Bill.

Mr. S. Satyamurti : On that point, I should like to submit first of all that the title of the Bill is " A Bill further to amend the Indian Companies Act, 1913, for certain purposes ". I speak subject to correction. There is no purpose of the Companies Act, which is not within the scope of the present amending Bill, starting from the definition section leading to the winding up of companies, including banking companies, foreign companies, private companies, and various other items, balance sheets, and what not, are all dealt with in this amending Bill. In fact, every Chapter of the old Act is touched upon in this amending Bill.

Mr. President (The Honourable Sir Abdur Rahim) : In the original Act, is there any provision relating to key industries and public utility companies, and all that.

Mr. S. Satyamurti : I submit that is not the point at issue.

Mr. President (The Honourable Sir Abdur Rahim) : This is an amending Bill to the original Act.

Mr. S. Satyamurti : You will notice, Sir, that the proposed amendment of Prof. Ranga merely suggests the various restrictions that are to be placed before these companies are registered. He merely wants to restrict the application of this Act, to these companies in a particular manner. I am not speaking on the merits of this amendment at all. I am only submitting for your consideration that this amendment of Prof. Ranga merely wants a certain classes of companies to be treated in a particular manner, that is to say certain sections of the Act will apply in certain eventualities, otherwise not. Therefore, Sir, I submit that they are within the scope of the Bill, because the Bill undoubtedly deals with several classes of joint stock companies, prescribes conditions for registration, and so on, and so forth. I, therefore, submit that it will be intolerable, if, in a Bill of this comprehensive kind, amendments are to be ruled out of order, on the technical plea that they are outside the scope of the Bill. As a matter of fact, this Bill is so comprehensive that it should have been a consolidating Act, but that is another matter. But, taking the whole Bill together, one finds that it is really very comprehensive in its scope, and the clauses undoubtedly deal with different classes of joint stock companies, and the manner and conditions of their registration, etc. I, therefore, submit that the amendment is in order.

Mr. President (The Honourable Sir Abdur Rahim) : The point of order raised is whether the amendments No. 7 and No. 9, and other amendments of that kind which deal with what are called key industry companies and public utility companies are in order. The objection is that the amending Bill is limited to certain purposes, and the purposes of the amending Bill are to be gathered, as has been pointed out before, from the Preamble read with the clauses and the Schedules. My attention has not been drawn to any clause of the amending Bill or even in the main Act, VII of 1913, which deals specifically with key industries or public utility companies. Now, I am asked to decide whether the clauses dealing with these companies mentioned in amendment No. 7 and also amendment No. 9 and other similar amendments, if any, are within the scope of the Bill or not. I have no doubt whatever that having regard to the scope of the Companies Act as well as the amending Bill now before the House, these amendments are beyond the scope of this Bill.

The question is :

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Suryya Kumar Som : Sir, I beg to move :

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted ’.”

Sir, the definition of “ Court ” in section 3 of the present Act says :

“ The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situated.”

So that the word “ Court ” has been restricted only to the High Court and that word is mentioned in many clauses in the Act. In the amending Bill this section of the Act has not been touched, which means that this Bill also intends to give jurisdiction only to the High Court. Now, most of the mills are at present situated, not within the jurisdiction of the High

Courts, but in the mofussil as in the case of Ahmedabad and Dacca and other places, and there are many smaller mills which are generally situated outside the jurisdiction of the High Court. If an application under this Act has got to be made the company's man will have to go to the High Court of the district and as these applications will be on the Original side naturally he will have to go through an attorney. So that even for a petty application which may not be contested at all one has to run to the capital and to the High Court at a tremendous expense. I am sure many of my friends know how expensive is a litigation on the Original side of the High Court when one has to go through attorneys' offices. The attorney system is a crying evil in this country and in Bengal some attempt was made to do away with it but after all it has managed to survive. However, we shall try our best to avoid the jurisdiction of the attorneys as far as possible ; and in this view I ask the House to decide whether in the case of a small company with a capital of Rs. 2,000 or Rs. 5,000, for a petty application the company's man should go to the capital and to an attorney's office and then move the application through some Counsel which I think will mean spending a certain percentage of the whole capital of the company. I do not see why there should be objection on the part of Government to give power to the District Courts in whose jurisdiction the company may be situated. That is one aspect of the matter. Another aspect is, that the District Judges have to administer the most difficult Acts and there can be no objection to giving them jurisdiction under this Act. They are competent men and now they are selected from experienced Subordinate Judges. Moreover the present Civilian Judges are more well versed in civil law than the previous Judges were. Under the circumstances I do not understand why the jurisdiction should be restricted to the High Court alone.

There is another ground. We find in the proviso of that very section it says :

“ Provided that the Local Government by notification in the local gazette and subject to such restrictions and conditions as it thinks fit empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court.....”.

Now, it is very strange why the Local Government should be entrusted to empower a District Judge. Cannot this House decide it ? It is a point which can be decided by this House much better than the Local Government. The Local Government has been given the authority on the presumption that the District Judges are not incompetent. So I do not see any reason why District Judges should not be entrusted with this jurisdiction by this Act.

Therefore, Sir, firstly judged by the question of inconvenience and travel, secondly and most important the question of expenditure on litigation in the original side of the High Court ; and thirdly that District Judges nowadays are very competent persons, they can very well be entrusted with cases of this kind. For all these reasons I appeal to the Honourable the Leader of the House to accept my amendment. Sir, I move.

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

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted ’.”

Mr. S. Satyamurti : The original Act itself does not deal with these classes of companies ; it deals with certain classes of companies, as also this amending Bill, *viz.*, private companies, banking companies, foreign companies. It is not, as if either the original Act itself or the amending Bill deals only with one class of companies. Both the original Act and the amending Bill, to my knowledge, just now deal with three classes of companies, besides ordinary joint stock companies, namely foreign companies, banking companies and private companies. I submit, therefore, that my Honourable friend's amendment which seeks to bring within the scope of the Companies Act a new class of companies is undoubtedly within the scope of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : How undoubtedly ?

Mr. S. Satyamurti : Because it is open to the Companies Act normally speaking to define and lay down provisions with regard to different classes of companies. The Companies Act, original as well as this Bill, both deal with different classes of companies.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair has got to decide what is the scope of the Bill. That is the narrow issue before the House.

Mr. S. Satyamurti : The scope of the Bill is to amend the Indian Companies Act for certain purposes.

The Honourable Sir Nripendra Sircar : " Hereinafter appearing ".

Mr. S. Satyamurti : All the purposes of the Companies Act appear here, from birth to death and funeral ceremonies, and the Bill deals with winding up, prospectus, directors, managing agents, and in fact everything is there, in this amending Bill.

The Honourable Sir Nripendra Sircar : What about part VIII ? You say every Chapter is included.

Mr. S. Satyamurti : I want to draw your attention to some relevant passages in May's Parliamentary Practice. The practice in the House of Commons is summarised at page 404 :

" Amendments are out of order, if they are irrelevant to the Bill or beyond the scope of the Bill or of the clause under consideration."

I submit that the scope of this Bill undoubtedly is to deal with companies of various kinds.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair wants to draw attention to the Ruling appearing in Volume V of Legislative Assembly Debates, Part III.

" The scope of a Bill is defined in the preamble read with the clauses and the schedules."

I mean that is where you generally find the scope of the Bill.

Mr. S. Satyamurti : I submit, Sir, that the scope of the Bill, taking it in the light of the ruling which you have just now read out, is reading the title, the preamble, the clauses and the schedules together and undoubtedly this amending Bill deals with different classes of companies.

Mr. President (The Honourable Sir Abdur Rahim) : Can the Honourable Member put in another class of companies ?

Mr. S. Satyamurti : Why not, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : Only because they are joint stock companies ?

Mr. S. Satyamurti : The company proposed in the amendment of Prof. Ranga is going to deal with a particular class of joint stock companies. The Act deals with joint stock companies, and my Honourable friend wants to persuade the House to agree to putting certain provisions with regard to a particular class of joint stock companies. You will notice, Sir, from the same set of Rulings which my Honourable friend read out, there is another ruling.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member's contention is that he has given notice of an amendment containing suggestions or proposals as to how to deal with these companies.

Mr. S. Satyamurti : That is the next point. I submit the amendment really attempts to deal with one class of joint stock companies in a particular manner, whatever the House may think of it. I submit such an amendment is within the scope of the Bill. I want you to refer to Ruling No. 138 on page 104 where the Deputy President ruled :

" With regard to this question as to whether the whole Code of Criminal Amendment is open to amendment during the consideration of this Bill, my ruling is that it is not. No amendment is permissible in the course of the consideration of the present Bill which is irrelevant or foreign to or outside the scope of the subject-matter of this Bill. In the case of the present amendment, although it proposes to amend a section of the Code which is not touched by the Bill, I think it might be held not to be inadmissible under the ruling which I have just given, as it is intimately connected with other sections which are being amended. In this particular case, therefore, I allow the amendment to be moved."

I am relying in this ruling on the words :

" as it is intimately connected with other sections which are being amended."

My submission to you, Sir, is that, after all, this Bill and the original Act deal with various classes of joint stock companies. The amendment of Prof. Ranga deals with one class of joint stock companies. Lastly, I will draw your attention to the House of Commons Standing Orders which are printed as an Appendix to May's Parliamentary Practice. Standing Order 34 says :

" It shall be an instruction to all committees of the whole House to which Bills may be committed that they have power to make such amendments therein as they shall think fit provided they be relevant to the subject-matter of the Bill ; but that if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the House."

That is to say no amendments may be proposed which could not have been proposed in committee without any instruction from the House.

Mr. President (The Honourable Sir Abdur Rahim) : It really means within the scope of the Bill.

Mr. S. Satyamurti : The word " scope " is a very big word. What is the scope of the present Bill : to amend the law with regard to joint stock companies, and to lay down different provisions.

Mr. President (The Honourable Sir Abdur Rahim) : For the purposes hereinafter appearing.

Mr. S. Satyamurti : You will notice, Sir, that the proposed amendment of Prof. Ranga merely suggests the various restrictions that are to be placed before these companies are registered. He merely wants to restrict the application of this Act, to these companies in a particular manner. I am not speaking on the merits of this amendment at all. I am only submitting for your consideration that this amendment of Prof. Ranga merely wants a certain classes of companies to be treated in a particular manner, that is to say certain sections of the Act will apply in certain eventualities, otherwise not. Therefore, Sir, I submit that they are within the scope of the Bill, because the Bill undoubtedly deals with several classes of joint stock companies, prescribes conditions for registration, and so on, and so forth. I, therefore, submit that it will be intolerable, if, in a Bill of this comprehensive kind, amendments are to be ruled out of order, on the technical plea that they are outside the scope of the Bill. As a matter of fact, this Bill is so comprehensive that it should have been a consolidating Act, but that is another matter. But, taking the whole Bill together, one finds that it is really very comprehensive in its scope, and the clauses undoubtedly deal with different classes of joint stock companies, and the manner and conditions of their registration, etc. I, therefore, submit that the amendment is in order.

Mr. President (The Honourable Sir Abdur Rahim) : The point of order raised is whether the amendments No. 7 and No. 9, and other amendments of that kind which deal with what are called key industry companies and public utility companies are in order. The objection is that the amending Bill is limited to certain purposes, and the purposes of the amending Bill are to be gathered, as has been pointed out before, from the Preamble read with the clauses and the Schedules. My attention has not been drawn to any clause of the amending Bill or even in the main Act, VII of 1913, which deals specifically with key industries or public utility companies. Now, I am asked to decide whether the clauses dealing with these companies mentioned in amendment No. 7 and also amendment No. 9 and other similar amendments, if any, are within the scope of the Bill or not. I have no doubt whatever that having regard to the scope of the Companies Act as well as the amending Bill now before the House, these amendments are beyond the scope of this Bill.

The question is :

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Suryya Kumar Som : Sir, I beg to move :

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted.’ ”

Sir, the definition of “ Court ” in section 3 of the present Act says :

“ The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situated.”

So that the word “ Court ” has been restricted only to the High Court and that word is mentioned in many clauses in the Act. In the amending Bill this section of the Act has not been touched, which means that this Bill also intends to give jurisdiction only to the High Court. Now, most of the mills are at present situated, not within the jurisdiction of the High

Courts, but in the mofussil as in the case of Ahmedabad and Dacca and other places, and there are many smaller mills which are generally situated outside the jurisdiction of the High Court. If an application under this Act has got to be made the company's man will have to go to the High Court of the district and as these applications will be on the Original side naturally he will have to go through an attorney. So that even for a petty application which may not be contested at all one has to run to the capital and to the High Court at a tremendous expense. I am sure many of my friends know how expensive is a litigation on the Original side of the High Court when one has to go through attorneys' offices. The attorney system is a crying evil in this country and in Bengal some attempt was made to do away with it but after all it has managed to survive. However, we shall try our best to avoid the jurisdiction of the attorneys as far as possible ; and in this view I ask the House to decide whether in the case of a small company with a capital of Rs. 2,000 or Rs. 5,000, for a petty application the company's man should go to the capital and to an attorney's office and then move the application through some Counsel which I think will mean spending a certain percentage of the whole capital of the company. I do not see why there should be objection on the part of Government to give power to the District Courts in whose jurisdiction the company may be situated. That is one aspect of the matter. Another aspect is, that the District Judges have to administer the most difficult Acts and there can be no objection to giving them jurisdiction under this Act. They are competent men and now they are selected from experienced Subordinate Judges. Moreover the present Civilian Judges are more well versed in civil law than the previous Judges were. Under the circumstances I do not understand why the jurisdiction should be restricted to the High Court alone.

There is another ground. We find in the proviso of that very section it says :

“ Provided that the Local Government by notification in the local gazette and subject to such restrictions and conditions as it thinks fit empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court.....”

Now, it is very strange why the Local Government should be entrusted to empower a District Judge. Cannot this House decide it ? It is a point which can be decided by this House much better than the Local Government. The Local Government has been given the authority on the presumption that the District Judges are not incompetent. So I do not see any reason why District Judges should not be entrusted with this jurisdiction by this Act.

Therefore, Sir, firstly judged by the question of inconvenience and travel, secondly and most important the question of expenditure on litigation in the original side of the High Court ; and thirdly that District Judges nowadays are very competent persons, they can very well be entrusted with cases of this kind. For all these reasons I appeal to the Honourable the Leader of the House to accept my amendment. Sir, I move.

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

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted.’ ”

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have only to make a few observations with reference to this : the Honourable the Leader of the House said this morning that the special jurisdiction of the High Court is reserved with respect to matters arising under company law because local vakils and local judges are not very well acquainted with it.....

The Honourable Sir Nripendra Sircar : I said nothing of the kind.

Mr. M. Ananthasayanam Ayyangar : That is what I understood him to say—that because there are not a large number of companies in the districts and in those districts where there are a number of companies special power is given to the Local Government to empower the District Judges to do so. As far as I am aware, the Indian company law is the only law with respect to which the High Court is exercising a peculiar Jurisdiction. With respect to all other laws, whether enacted before this date or which may come into existence newly, I am not aware of a single instance where the Subordinate Judges Courts and District Courts do not deal with these matters arising under those laws before they go to the High Court for final decision by way of appeal or revision. I do not think therefore any exception should be made in the case of the administration of company law alone. As the Honourable the Mover of this amendment has justly pointed out, it is very inconvenient for small companies and it is highly expensive besides whenever such applications have to be made, before the High Court.

A new impetus is sought to be given to the formation of joint stock companies by this Act. It is sought to encourage the formation of companies on a broad scale, and therefore with a view to accelerate the growth of those companies every possible attempt should be made to make it easy for those who form a company in the mufassal to work them.

I shall make another observation. The seniormost district judges in the various districts of the presidency are drafted constantly for judgeships in the High Court. I do not see how it makes any difference. If they have not already had occasion to do anything with company law, how would they be better able to do it in the High Court. If that is the complaint, I am in a position to say that mufassal judges and mufassal vakils are as competent to do this as any others. I would therefore say there ought to be no impediment for the companies in the mufassal to make applications to the district judges : they deal with all other departments of law—divorce, matrimonial, probate succession, etc., etc. I would therefore ask the Honourable the Leader of the House to accept this amendment.

Mr. Husenbhai Abdullabhai Laljee : Sir, I rise to support the amendment moved by my friend. It is a fact that we have now mills and other factories in the districts, and it is the experience of those who have worked those mills and joint stock companies that it is much better to have justice there than to have to go to the High Court : as my friend said one thing is certain and it is very regrettable too that before we get justice in the High Court we run the risk of total ruination of the concern by the attorneys bills of costs, etc. So far as the Bombay High Court is concerned, I can cite many instances of litigation that have gone on for ten or twenty years by the help of attorneys and Court routines and that on small matters big concerns have been ruined. If it is said that in the

districts the judges are not competent, I say we cannot believe that. One-third of the judges of the High Court are taken from the senior civilians and they are mostly District Judges and they come to the High Court : and can it be said that the very next day they are brought from the District Courts to the High Court, they are competent to decide all these points ? Anyhow, I do believe in the interests of convenience and getting justice at a fair and reasonable cost, this amendment should be accepted.

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. I have it from my friend, Mr. Som, that one of his complaints is that for any petty matter the point has got to go up to the High Court. But what are the petty matters in which Courts have jurisdiction in connection with company law ? Speaking from recollection, there are four matters : (1) changing the memorandum : is that a small matter, a petty matter ? No. (2) is when the share register has got to be rectified, the point has got to go to Court. Does my friend think that it is a petty matter ? What is the kind of evidence that is led, and what are the kind of matters argued in matters connected with rectification ? The third is winding up of the company and the fourth is arrangements under section 153. None of these matters are petty matters as my friend seems to think. They are really important, vital matters, affecting the whole state of the company. In support of my objection, may I just read the opinion of Mr. Justice Coutts Trotter when this matter was referred to the Madras High Court ? I think my friend, Mr. Ananthasayanam Ayyangar, will show some provincial loyalty by respecting the opinion of Mr. Justice Coutts Trotter.....

Mr. M. Ananthasayanam Ayyangar : He is not allowed to change his mind !

The Honourable Sir Nripendra Sircar :

“ I am entirely opposed to the proposal not so much because of the present position as of the future. If company activity develops in this country on any large scale, it will be essential to have, as in England, a judge in charge of company matters, who is or who is prepared to make himself a specialist in company law. Obviously, this can only be done by a judge on the Original Side of the High Court. Company law is a highly specialised and complicated subject. In England.....”

I know that the word “ solicitor ” is rather a thorny subject, but may I inform my friend, Mr. Som, that however much he may deprecate Mr. Susil Sen, the Attorney, he is also a Vakil : you can admire him as a Vakil, if you do not admire him as a Solicitor !

“ In England, every provincial manufacturing town has in its midst Solicitors who know a great deal at any rate on the practical side of the company law. Nevertheless in the County Courts, though there are trained lawyers, they are not given jurisdiction in company matters which are reserved.....”

I do not know what happens in the Bombay High Court, but so far as the Calcutta High Court is concerned, a particular Judge, one of Senior Judges if not the senior most Judge, is always allocated for company law matters. The practice may differ in Bombay. I know nothing about it.....

Pandit Lakshmi Kanta Maitra : The Registrar of Joint Stock Companies in Bengal has also recommended that concurrent jurisdiction should be given.

The Honourable Sir Nripendra Sircar : The Registrar of Joint Stock Companies in Bengal has also recommended that he should have the power to walk into the office of any company at any time, and that the Local Government should have power to direct that additional books beyond those mentioned in the company law should be maintained by companies. Now, if we follow the advice of the Registrar of Joint Stock Companies of Bengal, I think every company, every business will be in danger.

Mr. S. Satyamurti : So much for Bengal !

The Honourable Sir Nripendra Sircar : As I said in the morning, Sir, under section 3, power is given to Local Governments. This power has been exercised. I do not know of other presidencies. I am told it has been exercised in Madras, but I am not sure, but it has been exercised in Bengal.....

Mr. Suryya Kumar Som : Not in Dacca ; not in bigger districts.

The Honourable Sir Nripendra Sircar : Well, Sir, that probably explains my Honourable friend's resentment.

Mr. Suryya Kumar Som : I am too old.

The Honourable Sir Nripendra Sircar : Four other districts have been chosen, but not Dacca as my friend says. For instance, Sylhet has been selected,—I don't remember the other districts. But if Dacca has such a strong case that surely the local authorities ought to recognise that at least there is one lawyer in Mr. Som who understands the company law, and I am sure there are others....

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : But he does not practise in Dacca.

The Honourable Sir Nripendra Sircar : Then, I am very sorry. Now, if any further extension is wanted, it can be done under the Act. Sir, I object to this amendment.

Mr. Suryya Kumar Som : Sir, I want to make a few observations by way of an explanation.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot make a second speech.

The question is :

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted ’.”

The Assembly divided :

AYES—45.

Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Azhar Ali, Mr. Muhammad.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chettiar, Mr. T. S. Avinashilingam.

Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Pandit Nilakantha.
Desai, Mr. Bhulabhai J.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.

AYES—contd.

Hans Raj, Raizada.
Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Kailash Behari Lal, Babu.
Khan Sahib, Dr.
Khare, Dr. N. B.
Laljee, Mr. Husenbhai Abdullabhai.
Maitra, Pandit Lakshmi Kanta.
Mangal Singh, Sardar.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Nageswara Rao, Mr. K.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Parma Nand, Bhai.

Raghubir Narayan Singh, Choudhri.
Raju, Mr. P. S. Kumaraswami.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Satyamurti, Mr. S.
Sham Lal, Mr.
Sheodass Daga, Seth.
Singh, Mr. Ram Narayan.
Sinha, Mr. Anugrah Narayan.
Sinha, Mr. Satya Narayan.
Sinha, Mr. Shri Krishna.
Som, Mr. Suryya Kumar.
Sri Prakasa, Mr.
Varma, Mr. B. B.
Vissanji, Mr. Mathuradas.

NOES—56.

Abdul Hamid, Khan Bahadur Sir.
Abdul Matin Chaudhury, Mr.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Ayyar, Diwan Bahadur R. V. Krishna.
Bajoria, Babu Baijnath.
Bajpai, Sir Girja Shankar.
Bhagchand Soni, Rai Bahadur, Seth.
Bhat, Mr. M. D.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Craik, The Honourable Sir Henry.
Dalal, Dr. R. D.
Das-Gupta, Mr. S. K.
DeSouza, Dr. F. X.
Dey, Mr. R. N.
Ghiasuddin, Mr. M.
Grant, Mr. C. F.
Griffiths, Mr. P. J.
Grigg, The Honourable Sir James.
Hidayatallah, Sir Ghulam Hussain.
Hossack, Mr. W. B.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Jehangir, Sir Cowasji.
Jinnah, Mr. M. A.
Khurshaid Muhammad, Khan Bahadur Shaikh.

Lloyd, Mr. A. H.
Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
Metcalfe, Sir Aubrey.
Mody, Sir H. P.
Morgan, Mr. G.
Mudie, Mr. R. F.
Mukherjee, Rai Bahadur Sir Satya Charan.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Noyce, The Honourable Sir Frank.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. S.
Roy, Mr. S. N.
Sarma, Sir Srinivasa.
Scott, Mr. J. Ramsay.
Sen, Mr. Susil Chandra.
Sharma, Mr. D.
Sher Muhammad Khan, Captain Sardar.
Singh, Rai Bahadur Shyam Narayan.
Sircar, The Honourable Sir Nripendra.
Spence, Mr. G. H.
Thorne, Mr. J. A.
Tottenham, Mr. G. R. F.
Witherington, Mr. C. H.
Yakub, Sir Muhammad.
Yamin Khan, Sir Muhammad.
Zafrullah Khan, The Honourable Sir Muhammad.
Ziauddin Ahmad, Dr.

The motion was negatived.

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

“ That clause 3 stand part of the Bill.”

(Mr. Muhammad Azhar Ali rose in his seat.)

The Honourable Sir Nripendra Sircar : On a point of order, Sir. I object to this amendment being moved, Sir.

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Pandit Govind Ballabh Pant : The amendment has not yet been moved, and how can a point of order be raised ?

The Honourable Sir Nripendra Sircar : I am objecting to its being moved at all. I submit that this is covered by your previous ruling if you substitute "manufacturing" for "key" industries, and secondly, a manufacturing company is nowhere mentioned in the Companies Act or in the amending Bill, nor is it defined anywhere. We do not know what is a manufacturing company. The section which relates to the registration of companies is not one of the sections which we are going to amend, that is not within the scope of this Bill. He really wants to say that a company under this Act shall not be registered unless certain things are done. The section about registration of companies is not in the scope of my Bill at all.

Mr. President (The Honourable Sir Abdur Rahim) : What are the sections of the Act relating to registration ?

The Honourable Sir Nripendra Sircar : Sections 22 and 23. They have not been amended by this Bill. Sir, this is not in any way intimately or even remotely connected with any section within the scope of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : You mean there is nothing in this amending Bill which affects registration ?

The Honourable Sir Nripendra Sircar : Yes. There is nothing in this amending Bill relating to registration. Sections 22 and 23 are the sections and we do not touch them.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I have not been able to hear a word of what my Honourable friend, the Law Member, has said.

Mr. President (The Honourable Sir Abdur Rahim) : What he says is this that sections 22 and 23 of the Act which deal with registration of companies are not amended in any way by this Bill, and therefore your amendment is outside the scope of the present Bill.

Mr. Muhammad Azhar Ali : In reply, I would say that the object of the Bill is to make the administration of companies efficient, and also to make them more useful to the public. My contention is that if that is the object of the Bill my amendment is in order. The Honourable the Law Member agrees that the managing agency system should continue. If the managing agency system is to continue, then where can we get men trained as managers unless we have trained people in the company itself. It is impossible to manage any company. My next point is we cannot get trained directors unless we train them, in companies as apprentices. My fourth point is that the word "auditor" is defined in the Act, where can we get trained auditors unless we have them as apprentices in the company trained as auditors ? My submission is that the substance of the Bill wants that there should be efficient, useful and competent men to work in the company.

Mr. President (The Honourable Sir Abdur Rahim) : I find there are other sections of the Act relating to registration, such as, for instance, section 17.

The Honourable Sir Nripendra Sircar : But none of them are within the scope of this amending Bill. May I also draw your attention to Ruling No. 135 at page 102 of A. Selection from the Decisions of the Chair :

"I have no doubt that Mr. Patel's amendment is out of order because it deals with a different and foreign subject altogether. The subject which he wants to introduce is protection of labour and this Bill is not for that purpose at all. It is for the protection of a particular industry and not for the protection of labour."

I say that the employment of labour, the employment of apprentices is completely outside the scope of this Bill.

Pandit Govind Ballabh Pant : I should like to say this. If you look at sub-clause (d) of clause 2 of the Bill you will find that a public company is defined as meaning a company incorporated under this Act or under the Indian Companies Act so this Bill relates to all those matters which govern the incorporation of a public company.

Mr. President (The Honourable Sir Abdur Rahim) : Has it anything to do with registration—under what conditions registration can take place ? This amendment deals with that.

Pandit Govind Ballabh Pant : It deals with many points bearing on that. There is this memorandum. A company can be registered only if it complies with this clause which deals with the printing and signature of a memorandum as described in clause 4 of the amending Bill. Then there is clause 5 laying down that companies will not be registered if they include certain names or titles, so the whole subject of the conditions governing the registration or incorporation is covered by this Bill and it is only one of the conditions that is being annexed to this matter by this clause that Mr. Azhar Ali has proposed. I submit that it is perfectly in order, but apart from this there is a larger question which arises out of this amendment and that is the reason why I have got up. I submit that the whole of this Bill is under amendment and only such parts of it have been included in this amending Bill as the Select Committee or the Government considered to be deserving of being placed before this House at this stage.

Mr. President (The Honourable Sir Abdur Rahim) : You cannot go on amending sections of the Act which are not dealt with by this Bill.

Pandit Govind Ballabh Pant : There is no specific subject dealt with by this amending Bill. Will the Honourable the Law Member tell us what it is that he wants to deal with under this Bill ? Is it not all the abuses relating to the administration of this Act which have been discovered or experienced so far in the administration of the Indian Companies Act of 1913 ?

Mr. President (The Honourable Sir Abdur Rahim) : All I want to know is whether this Bill seeks to amend the section which relates to registration. I am told that this has nothing to do with the registration of companies.

Pandit Govind Ballabh Pant : My submission is that this Bill amends the entire Act. Even if we amend a section in the Act, sometimes we retain three-fourths of the language of the original section.

[Pandit Govind Ballabh Pant].

The mere fact that sections are numbered serially should not be the test for holding whether an amendment is in or out of order.

Mr. President (The Honourable Sir Abdur Rahim) : This amendment makes registration conditional upon certain things which have got to be complied with. What I want to know is if any of the registration sections in the Companies Act which lay down the circumstances and conditions under which the companies can be registered are sought to be amended by this Bill.

Pandit Govind Ballabh Pant : Now, Sir, the memorandum should comply with the form prescribed in clause 4. If it does not conform to this form, then the company will not be registered. Then under clause 5, if the company bears certain names without the permission or consent in writing of the Governor General in Council, then the company will not be registered. Then in sub-clause (d) of clause 2, we have the definition of public company itself and it is open to us to prescribe the conditions which will entitle one to have a company incorporated or which will disqualify one from having such incorporation. Therefore I submit that the entire subject is covered by the previous clauses.

Mr. President (The Honourable Sir Abdur Rahim) : This amendment requires that a manufacturing company shall not be registered unless it complies with certain conditions. I have been asked to rule that it is outside the scope of this amending Bill. It was suggested by the Leader of the House that the amending Bill does not seek to amend any of the provisions of the Companies Act with respect to registration, but I do not think that contention is borne out by clauses 4 and 5, especially clause 5, which lays down that a company which is to be registered shall not bear certain names. On the whole, I am not prepared to say that the amendment is outside the scope of this Bill.

Mr. Muhammad Azhar Ali : Sir, I move :

“ That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

“(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time.”

I am obliged to you for your ruling in favour of the unemployed youth of India. I think I will be failing in my duty if I do not rise and appeal before this House that the youth of India is dying for employment—the youth whose birthright it is to be provided with employment by the State and their own countrymen. If today we do not enact this amendment, it will create great dissatisfaction in the whole country. I appeal to the elderly Members of this House who have got their own children and relations who have got to be found employment. I appeal to those on the Government Benches to beware of the unemployed youth of India. It is no use to increase the number of unemployed youth and I must say that the number has grown to a great extent and if these manufacturing companies will not take our young men as apprentices, where are these

men of the younger generation to go. The manufacturing companies derive a great benefit from these young men. They manufacture cloth and articles for the use mainly of the younger generation.

Sir, when they manufacture nice things, it is the youth of India that patronises them. Manufacturing companies generally get a great deal of profit from the younger generation and we shall fail in our duty today, Sir, if we do not support this amendment. Sir, my amendment is only this (which I was not allowed to read at the beginning) ; I say that “ in clause 3 ” of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

“(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time.”

Sir, there will be no hardship on the manufacturing company ; it will be very easy for them to provide for the younger people of their own district. I do not say, nor do I appeal, that Bombay should provide for Bengal or that Bengal should provide for Madras. My simple object before the House is that people in their own districts should be provided with employment,—and in what way ? They are to be taken as apprentices by the manufacturing companies of their own place. Has not the youth of India any claim on their own people, on their own Local Government, on their own manufacturing companies ? I submit, that is the first claim of the youth of India on its local manufacturing places. Sir, I need not dilate upon this particular point very much. I would simply say that the younger generation is simply groaning under the burden of unemployment, and if I rise today to ask this House to support this amendment, I am not I think doing any injustice to any part of this House, and I hope every Party will support this amendment. Sir, it may be said that our European friends are not interested in the youth of India or that the Anglo-Indians are not interested, but I would appeal to them that here is a chance under which their boys may also be provided as apprentices in manufacturing companies. Sir, I move my amendment.

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

“ That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

“(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time.”

The Honourable Sir Nripendra Sircar : Sir, I hope to point out to this House that if this amendment is carried, no apprentice is benefited in any way, because the language is, “ unless it guarantees to take in such number of apprentices from the district in which it is located....” Assume that this is law now, and it is decided by Local Governments that ten apprentices have got to be taken, what then ? Is the company going to say, “ yes, I am going to take you, but you must pay us Rs. 500

[Sir Nripendra Sircar.]

premium". Sir, the terms are not mentioned, neither anything to show at what premium, what should be the qualifications, what should be the personnel, nothing is mentioned as regards the age or any other such matter; nothing is stated here about any of these things. I submit, Sir, this is an absolutely futile amendment. If it is carried, it will not help the apprentices in any way.

Mr. Muhammad Azhar Ali : I suppose, Sir, the patriotic companies of India will not mind these small matters.

The Honourable Sir Nripendra Sircar : I am not now dealing with patriotic Indian companies; I believe there are patriots all over India. I am not for one moment suggesting that Mr. Azhar Ali's idea is not a good idea or that it is not a laudable thing. My Honourable friend will not take it in that spirit, but what I mean is this that, as the amendment has been drafted, it is really so vague, so pointless that no good will come to the apprentices. That is my point. I do not want to say anything more.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Sir, I rise to oppose this amendment. Mr. President, we are discussing the Companies Act and not the subject of unemployment in India. May I point out to my Honourable friend, the Mover of this amendment, that there is no Indian who does not sympathise with all he said about the unemployment in India and the desirability of giving opportunities to young men to serve as apprentices in factories in India and outside India. But I contend, Sir, that this Bill is not the place for making provisions of this character. In the first place this House has many opportunities of providing for apprentices in factories. You give certain industries protection, and you can provide that such industries that get protection from Government should also guarantee to take free of charge, under certain conditions that you may lay down, such apprentices. You give something by way of consideration. Now, Government may be giving out contracts in India and outside India to factories. They may then provide in the contracts that a certain number of apprentices shall be taken. But it is rather difficult for me to see how in an Act of this sort you can make it compulsory upon every factory to take in any number of apprentices, that the Government may dictate. That may prove, on certain occasions, an absolute nuisance.

An Honourable Member : Why ?

Sir Cowasji Jehangir : There may be young men among them who may bring in indiscipline. As a matter of fact, what has happened today? In Bombay, the Local Government has approached all factories with a request that a certain number of apprentices should be taken in, and so far as I know, very few factories have refused the request. Let this be, by all means, a voluntary system, but not compulsory, where no consideration is offered in return, and this House has so many opportunities of insisting and rightly insisting upon the Government to compel factories to take in apprentices that I do not think that this opportunity should be taken, when amending the Companies Act, of forcing upon companies, without consideration, apprentices whom they may not desire to take (**Prof. N. G. Ranga** : "Why not?") and who may be forced upon them

by the Local Government. As the Honourable the Law Member pointed out, there is no provision in this amendment which can compel the factories to take in apprentices without a premium. The companies can very well say to the Local Government, "we shall take a prohibitive premium" and that will nullify the intentions of my Honourable friend. I do not believe as a matter of fact that the companies will do such a thing, but the amendment, as worded, makes it perfectly possible for them to take up such an attitude, and therefore I would appeal to the House not to bring in provisions of this sort in the amendment of the Companies Act, but to take every opportunity that arises and will arise from time to time to compel the Government to make factories, with which they have dealings, to take in apprentices for the good of the youth of this country.

Mr. Sham Lal (Ambala Division : Non-Muhammadan) : Sir, I support the amendment, and I think there can be no better amendment than this. It is claimed for this Companies Bill that it is not only for the benefit of shareholders, directors and other persons concerned, but it is for the benefit of the public. That has been claimed in every speech. Now, when we come to put it to actual test whether it is for the benefit of the public, an amendment is moved in the interests of the public and that amendment is not accepted. The Honourable the Leader of the House has stated that it would be futile, because the age is not fixed and the conditions are not fixed as to what sort of apprentices the company is to take. All these things are in favour of the company. Let the company make any rules with regard to the age and the class of people it is going to take and also what educational qualifications they should possess. We leave it to the company, and we do not force anything upon it in that behalf. What we require is that there should be a certain number of apprentices and the number is only to be fixed by the Local Government. It is said that it is a very good idea, but there should be proper time for it. I do not know when that proper time will come. The Honourable Member, Sir Cowasji Jehangir, has said in his speech that it should not be forced, but it should be voluntary. It should not be without any consideration; we should have contracts and there should be protection before the apprentices can be taken. Sir, these manufacturing companies, these mills and factories cannot but have these apprentices in a bargaining spirit. What they want is that we should come to the Assembly and ask the Government to give protection to these manufacturing companies and to give contracts to these industries, and it is only then that they will take apprentices. That is not the thing. If these industries and if these companies exist for the benefit of the public, then I think they should accept this amendment. In India, if there is any problem which is waiting for solution, it is the problem of unemployment. Our youths are being forced out from all foreign countries; they are not taken in any industry; they are not taken in any manufacturing company. While legislating for the companies and laying down so many rules in the interests of the public, we should also lay down this condition that a manufacturing company, before it is registered, should give a guarantee that it will take a certain number of apprentices, so that they may be able to do some useful work and the problem of unemployment may be solved. I, therefore, heartily support this amendment.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, I beg to support this amendment. The arguments that have

[Qazi Muhammad Ahmad Kazmi.]

been advanced by Sir Cowasji Jehangir that most of the companies in Bombay have voluntarily acceded to the request of the Local Government and the refusal has been very rare go to support that this matter can, with safety to the companies themselves, be brought on the Statute-book. Sir, no argument has been advanced from the other side, so far, to the effect, that the companies would like to keep their secrets because they are started for particular purpose and certain secret processes have to be carried on, and therefore outsiders should not be allowed to go into the company. There is no such argument. But if an argument of that kind had been advanced, I could have replied to it also. As a matter of fact, in these days of manufacture there is no such thing as secret processes, especially in the kind of companies that are being generally run in India. At the same time, the spirit of modern times is absolutely different from the spirit of old days. Whatever is being done now by the science is for the benefit of the whole world. Sir, we are already giving encouragement to many companies especially those which are doing textile work and certain other works and there is no reason why those companies should not allow persons to come in as candidates and be trained by them. If the companies are prepared to take apprentices voluntarily, then what harm will be done if that is made compulsory and the right of fixing the number of candidates is given to the Local Governments. I think that the amendment that has been moved by my friend is a very modest one. He has given the power of selection to the company and he has given the Local Government the power to prescribe the number. So, it cannot be said that such candidates as will be going to the company will be going against the wishes of the managers of the company. Sir, I support this amendment.

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

“ That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

“(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

Sir, it is the provision in section 4 that lays down that no company which is started for banking purposes with more than ten persons shall be allowed to carry on its business unless it is registered. There is no penal clause as to what should happen in case it is not registered. No penal clause is provided in the existing Act itself. The law has laid down that if any company is started with more than 20 persons or any bank is started with more than 10 persons and the same is not registered under section 4 of this Act or any relevant section of the Act, it is illegal and with respect to the contracts entered into by that company with strangers, so far as *bona fide* strangers are concerned, who have lent money to that

company, they can enforce the recovery of that money in a Court of law against this company notwithstanding the fact that it is an illegal company. Those are the penalties that are provided at present. But if an unregistered company which is illegal under the Act lends to any stranger, it cannot enforce or obtain the recovery of the moneys that it has lent to other persons through a Court of law. These are the penalties which the common law imposes on companies which trade or carry on business, but which are not formally registered under this Act. But under this Bill some other penalties are sought to be imposed. Before I come to them, I might mention that there is one other enabling provision which is enacted in this Bill so far as the *bona fide* third parties are concerned. Hitherto, without a provision to that effect, third persons who lend such companies would not be entitled to recover moneys lent to the company because they are moneys lent for illegal purposes. But the provision of clause 3 of this Bill makes ample provision to enable third persons who have lent money to obtain redress against these companies even though they may be declared illegal. I request the Honourable Members of this House to refer to clause 3 (3) which says :

“ Every member of a company, association or partnership carrying on business in contravention * * * of this section shall be personally liable for all liabilities incurred in such business.”

Whatever doubts there might have been with respect to the transactions entered into by third persons with these companies under the present law, they can enforce their rights against these companies under this Bill. That is an additional disability that is imposed against such companies and an additional provision has been added in favour of third persons who enter into transactions with these companies. In fact, there are ample disabilities for such companies who carry on business. Ordinarily those provisions would be enough. A new provision is added in section 4 of the Act which makes it an offence for such companies that carry on business if they are not registered, under the Companies Act. It is to this provision that I take exception. The provision reads :

“ Any person who is a member of a company, association or partnership formed in contravention of this section shall be punishable with fine not exceeding one thousand rupees.”

Well, Sir, I read this Companies Act (Amending) Bill from beginning to end only recently and it reminded me of another Penal Act, namely, the Indian Penal Code. There is not one single clause in this amending Bill which does not impose some penalty or other. I can understand provision being made for punishing persons who knowingly transgress the law. But supposing some persons unwarily enter into this transaction without knowing that they come within the clutches of this law, this law will apply even to these persons. Recently a case was reported in 50 Madras, Indian Law Reports, page 175, where four independent partnerships, each having about four or five members—four independent firms—joined together into a company for the purpose of carrying on business. Later on they disagreed among themselves and three of them sought the help of the Court for winding up or enforcing certain rights of theirs against the fourth party. The Court declared that the company was illegal because the number of members in the several partnership taken together came to 22. They were under the impression that as persons and as firms, they were four individuals. Their misappre-

[Mr. M. Ananthasayanam Ayyangar.]

ension was made possible by the definition in the General Clauses Act that a person includes a firm or a company and not only an individual. They thought it was not necessary for them to have registration under this. If this Bill had been enacted before, they would not only lose their legal rights, but each member of the company, merely because it is not registered owing to a misapprehension of the provisions of the law, would be liable to a penalty of Rs. 1,000. I say, Sir, it is not necessary to impose such a heavy penalty. The ordinary disabilities they suffer under the law are sufficient. I would therefore suggest that as this smacks at every turn of some penal provision like the Indian Penal Code—even the Draconian Code would not be harsher than the Bill which we are now enacting—I suggest that this penal provision in sub-section (4) of the Act should go. I would appeal to the House to have this provision deleted.

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

“That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

Mr. Susil Chandra Sen : Sir, I oppose this motion for these reasons. My Honourable friend, Mr. Ayyangar, has said that the provisions in sub-section 3 of the proposed Bill are adequate and therefore no penal provisions are necessary. Sir, I would point out to you one concrete case which is possible from which you will at once find that the provisions of the sub-clause are not adequate. Of course this provision, as Honourable Members will observe, is intended to check the loss which third parties or outsiders may be put to by reason of having had to deal with an association formed in contravention of this section. Supposing 21 impecunious persons put their heads together and form an association and commence transactions with third parties and incur liabilities. Now, Sir, let us say that it is discovered that they had formed themselves into an illegal association. What is their liability supposing this sub-clause 4 was not there. They are personally liable to make good the losses which the third parties might have incurred. Now, Sir, they may be persons of absolutely no means from whom nothing could be recovered. Therefore sub-clause 3 may afford no relief and be a dead letter in a case like that. It is only to prevent this class of cases and to prevent losses occasioned to third parties by reason of their dealing with such associations that such a deterrent provision is necessary. I agree with my Honourable friend that in the draft Bill there have been many penalties provided, but I think a majority of my Honourable friends will agree that drastic maladies require drastic remedies and this is one of the things which require such a penalty. I say that sub-clause 3 is not sufficient. It imposes undoubtedly a civil liability which is a matter of no importance except to a man of substance. Therefore, I oppose this amendment.

Mr. Akhil Chandra Datta : Sir, in the proposed sub-clause, the punishment is only a fine. If he is a man of straw, how can you realise the fine ? Therefore, the same argument may be advanced for the deletion of this provision.

Mr. S. Satyamurti : In that case, the man will be sent to jail.

Mr. Susil Chandra Sen : My Honourable friend, Mr. Satyamurti, has already answered the point.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I support this amendment. The existing section 4 of the Indian Companies Act, 1913, was copied from the English Act of 1908 and the exact figure has also been taken from that Act without making any allowance for the conditions prevailing in India. It is common knowledge that partnerships between several firms are formed here and I think it is not necessary that they should be formed into a registered company. There are hundreds and thousands of firms here who are doing business and doing good business without forming themselves into a registered company, and as has been pointed out by my Honourable friend, Mr. Ayyangar, and as the Honourable the Leader of the House knows, partnerships have been declared illegal. This Act has already been working as a great hardship on Indian firms specially. Of course I have got separate amendment dealing with Hindu joint family and when I move that amendment, I shall speak on this point in detail. I submit this provision is very harsh and should be deleted.

Mr. Sami Vencatachelam Chetty (Madras : Indian Commerce) : Sir, in similar instances where innocent people might be punished for an offence that might be committed by designing people, the words ‘knowingly’ or ‘wilfully’ have been introduced. Supposing there are 15 persons who knew that they were acting illegally in contravention of the rules and yet roped in five innocent persons who do not know the penalties which they would suffer under this law, it would be really very hard with these five persons who are not guilty of any offence but who are merely roped in by the other 15 persons that they should also suffer this punishment, apart from the civil liability which they incur under the previous amendment. I hope that even as regards such instances that may come in hereafter in the Bill, the words ‘knowingly’ or ‘wilfully’ might be introduced, so that the really guilty people might be made punishable, while the innocent persons might be allowed to escape. I hope the Honourable the Leader of the House will see the justice of excluding the really innocent people from being punished.

The Honourable Sir Nripendra Sircar : I want to say a few words in reply to my Honourable friend, Mr. Chetty. I cannot imagine how 21 persons can go on with business in partnership without knowing who the partners are, at all. The example which Mr. Chetty gave was this. Suppose there are 15 persons who know who the partners are and the other five do not know.....

Mr. Sami Vencatachelam Chetty : I am afraid my Honourable friend has misunderstood me. Supposing there are 15 persons who know that they would be acting in contravention of this rule in case a company has been formed and not registered, whereas five persons do not know that it requires registration.

The Honourable Sir Nripendra Sircar : In that case, my answer is much shorter, that is to say, they must know the law.

Mr. Husenbhai Abdullabhai Laljee : Sir, I rise to support the amendment. I do not find that in many instances people are willing to join in a partnership unless and until they find that good business could be done. We have not had any instance in a city like Bombay where we have found an association of more than 20 people have robbed the people. Not only that ; it has often been found that great commercial firms join together for certain transactions and I do not know why they should be stopped.

[Mr. Husenbhai Abdullabhai Laljee.]

Is it necessary that everybody must become a limited concern because 20 persons are joined together? The only provision which is fair and equitable is that they must be made responsible for the losses or for the liabilities that they incur. But I do not see what harm there can be if four or five firms with four or five partners in each wish to join together for a certain business. We find that even in European countries mergers are formed, merchants meet together to bring up the market, and so on. It is not a gambling den that is always going to happen with the 20 persons. I do not know why Government have taken upon itself to force people not to join together.

The Honourable Sir Nripendra Sircar : Sir, I may point out that my friend is under a misapprehension. As regards different firms joining and so on, that is prohibited not by the amending Bill but by the previous Act. What my friend is complaining of is the penalty, but my friend is talking on a clause about which there has been no amendment.

Mr. Husenbhai Abdullabhai Laljee : I have got the original Act here and it is there but there is no penalty attached whatsoever and I do not know what has made my Honourable friend to take it up so seriously; really speaking, it has been brought up from the English Act and it has never been in use. In fact our people have never found out that 20 people join together and the liability is not paid, however if there is any fear then I welcome that provision. But the real fact is that this was put in as I have said in that old Act in such a manner as to be useless, and my Honourable friend, the Leader of the House, wants that useless thing should be of some importance. So far as the public liability is concerned I concede it, but furthermore to attack numbers of business men and other people is hardly fair at all.

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

“That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

The motion was negatived.

Babu Baijnath Bajoria : Sir, I beg to move :

“That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

“(5) Nothing in this section shall apply to Hindu joint family partnerships and firms.”

Sir, as I explained in my speech yesterday, this section 4 entails great hardship on Indian firms and specially Hindu joint family partnership firms and joint family firms. It is a common practice amongst Hindus that three or four firms each having 5 or 6 or 10 members join together and start business in partnership. A partnership deed is formed in which the share of each partner is mentioned, and so on. Now it is said that we cannot do business unless and until we form into a public or a private company. The formation of a public or private company means a lot of expenditure and inconvenience to an ordinary merchant. We Indians mostly keep our accounts in our own vernacular. It is generally the practice for one of the partners or one of the members of the family to act as cashier and accountant and thus business is done. Now under this

Act we will have to provide for a qualified accountant, which will mean a lot of expense. Then again it will mean that we will have to comply with certain requisitions which are provided in this Act. The ordinary merchant who is a layman is not expected to know all the complications of this law. I think this is violating our personal liberty of doing business. I do not understand what benefit will be gained by forcing us, when two or three families join in a partnership firm, to form limited companies. As was stated by the Honourable the Leader of the House a few minutes ago, when a few families join, there may be 50 or 100 people, and it will be a great hardship. Even the existing Act was very bad and now these penal sections will make it worse. I would appeal to the Leader of the House to exclude Hindu joint family partnerships and firms from the operation of this section.

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

“That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

“(5) Nothing in this section shall apply to Hindu joint family partnerships and firms.”

Mr. Bhulabhai J. Desai : Sir, while not entirely supporting the amendment in the language in which it is couched, I think it right to call the attention of the House to a real hardship in the application of section 4 with reference to joint Hindu families. There is a definition of “person” in the General Clauses Act, which runs as follows :

“a person includes, an individual or a group of individuals, incorporated or not.”

And, on one occasion, at all events, the Bombay High Court, in applying section 4, counted a joint family as one by applying the definition of “person” as a group of individuals non-incorporated. But that decision has not been followed in all cases, and difficulties did arise where three or four joint Hindu families carried on business as a firm and the actual heads of males who may be counted may easily exceed twenty. I therefore suggest to the Leader of the House that he will be good enough to accept a *via media* and that is that in computing the number under section 4 of the Act a joint Hindu family shall be counted as one.

The Honourable Sir Nripendra Sircar : Sir, any suggestion coming from the Leader of the Opposition is entitled to great respect, but I may point out the difficulties. If we count the members of a joint Hindu family as one, then apparently 20 families can carry on business together. Each family may consist of 10 or 20 or 30 or I do not know how many members. Therefore, it may be possible for 200 or 500 or 600 persons to carry on business although it is not a registered company. But the practical difficulty which I have felt and which I should place before the House in acceding to this request is this. The parties find it extremely difficult to sue such firms,—I am using the word “firm” in a loose sense. Assuming two Mitakshara families or four Mitakshara families carry on business together and assuming their number is 30 or 40 what happens is this. They cannot be sued in the firm name because it has been held that it is not really a contractual partnership but family trade, and so on. You do not sue them as a firm : you do not sue them as a company : you put in 300 or 400 persons—I take an extreme case—as defendants ; and from my own experience—I can inform my Honourable friend that in one

[Sir Nripendra Sircar.]

of the cases which was actually tried in the Calcutta High Court, it took three years to put the record in order, because in a Mitakshara family children were being born and they had to be joined as defendants as soon as information reached the Court : which meant appointing a guardian, serving the guardian, report within three months, etc., and I am not exaggerating or merely telling a rich story but in that case the moment we had used up our four months in getting one *koka* on the record of the suit, another boy was born : and I assure my Honourable friends we went on putting them in as *koka* No. 1, *koka* No. 2 and so on : you will find that reported in the case and it went to the Privy Council, and so on.....

Mr. Bhulabhai J. Desai : May I just say one word ? I do not want to make a speech : but in order to meet what you have said, a recent decision of the Privy Council has made it quite clear that so long as you sue the managing members of a family, there is no question of births or deaths in the family at all. That difficulty is avoided. I may also respectfully point out to the Leader of the House that though it is true that a Hindu Joint family firm cannot be sued in the firm's name, there is not the smallest objection to a firm consisting of four joint Hindu families being sued as a firm with the four managers as defendants.

The Honourable Sir Nripendra Sircar : May I point out another difficulty. As regards the family trade carried on by the Mitakshara families the position seems to be this : I do not want to go into authorities—I am reading from a collection of them in Sundaram's Income-tax Law :

“ The law regarding these families is slightly different from that regarding non-trading families. If the family carried on an ancestral trade or with the consent of all its members a new trade, it is governed not by the ordinary Hindu Law, but by such law as modified by the exigencies and usages of the trade. The partnership is not dissolved by the death of any of the members. No partner can, even when severing his connection with the family, demand accounts of profits and losses. Any member, not necessarily the senior male member, can be the manager of the business and as such can pledge the credit and assets of the family without being accountable for losses or gains. But a partnership based on only some of the members of the family whether with outsiders or among themselves, is not a business of the family.”

Then, the author proceeds to point that where the family business is carried on, and no one has got any definite share and so on. But in other cases where it is agreed that some member of the family will take three annas, or other members will take two annas and so on, then it is regarded as an unregistered partnership. Therefore, in each case we have to inquire as to what is happening in the family and how they are enjoying their income from the trade. I submit that apart from any other arguments which I may have advanced, if we count those persons as one, then to allow 20 families to carry on business without being registered will be against the spirit of this whole Bill.

Babu Baijnath Bajoria : May I ask one question of the Honourable the Leader of the House ?

The Honourable Sir Nripendra Sircar : Ask me an easy question.

Babu Baijnath Bajoria : It is very easy. I would like to know whether in your opinion business carried on by the Mitakshara families in partnership will be hit by this section.

The Honourable Sir Nripendra Sircar : I wonder if my Honourable friend is asking me this question, because, in the second year 5 P.M. of my practice, I got this case : seven Marwari families combining and carrying on business, and the question was illegal partnership and I think if my friend will turn up his old papers of 1908—it was my friend's family—and I think his solicitors were Messrs. Morgan and Company and the whole question in that suit was whether the seven families—the number having increased to 25, they were becoming an illegal partnership. I have nothing further to add. The answer to his question is they may be hit if two families join.

Pandit Govind Ballabh Pant : If there are 19 adults and one *koka* ?

The Honourable Sir Nripendra Sircar : As I read out just now, it is not regarded as an ordinary partnership, but as ownership.

The Assembly then adjourned till Eleven of the Clock on Monday, the 14th September, 1936.

LEGISLATIVE ASSEMBLY.

Monday, 14th September, 1936.

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

QUESTIONS AND ANSWERS.

BROADCASTING ON SHORT WAVES AND TRAVELLING RADIO SERVICE.

338. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Why have not Government published Mr. Kirke's Report and recommendations regarding broadcasting in India ?

(b) Are Government aware of the short-wave transmission controversy ? If so, will they state their conclusions regarding (i) establishing short-wave stations, and (ii) transmitting selected items on short-wave from all medium or long wave stations in India ?

(c) What is Government's policy regarding travelling radio service in rural areas, as adopted by the Nizam's Government ?

The Honourable Sir Frank Noyce : (a) The recommendations made by Mr. Kirke and the question of publishing his report are under the consideration of Government.

(b) Government are aware of the short wave transmission controversy, but no definite conclusion is possible without further experiment and research which have been commenced. Meanwhile in the scheme which is under their consideration for the development of broadcasting some short wave stations have been included in conjunction with stations operating on medium wave lengths.

(c) Government have no official information of the service given to rural areas in His Exalted Highness the Nizam's territories. The All-India Radio is trying several alternative methods of providing a service to rural areas and the results of these experiments are being carefully watched with a view to develop rural broadcasting.

Mr. S. Satyamurti : With regard to the actual research which is being carried on, is it done on both assumptions, that is to say, that ultimately we shall have short wave or medium wave stations, or long wave stations also ?

The Honourable Sir Frank Noyce : The immediate object of the research is to discover which of the methods, short or medium wave, is the more suitable.

Pandit Lakshmi Kanta Maitra : May I know how many short wave stations have been decided upon ?

The Honourable Sir Frank Noyce : There are none at present. Three have been included in the programme.

MANUFACTURE OF CHEAP RADIO SETS IN INDIA.

339. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Have Government investigated the possibility of manufacturing cheap radio sets in India ? If so, what are their conclusions, and in what way do they propose to encourage it ?

The Honourable Sir Frank Noyce : The attention of the Honourable Member is invited to the reply given by me on the 7th September, 1936, to parts (b), (d) and (e) of Mr. Satyamurti's starred question No. 168.

LISTENERS' LICENCES AND SUBSCRIBERS TO THE *Indian Listener*.

340. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : By how many has the number of (i) listeners' licences, and (ii) subscribers to the *Indian Listener*, increased since January, 1936 ?

The Honourable Sir Frank Noyce : The increase upto the end of June, 1936, is (i) 5,092 and (ii) 2,360.

Mr. S. Satyamurti : Is the *Indian Listener* now more or less self-supporting ?

The Honourable Sir Frank Noyce : Not quite. I understand the position is improving.

CUSTOMS REVENUE REALISED ON FOREIGN RADIO SETS.

341. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) How much customs revenue has been realised on foreign radio sets since the 1st April, 1935 ?

(b) Is the amount allocated to broadcasting service ?

The Honourable Sir Frank Noyce : (a) The customs revenue on wireless reception instruments and apparatus for the period 1st April, 1935, to the 31st July, 1936, amounted to Rs. 14,92,000.

(b) No.

Mr. S. Satyamurti : Does this amount go to the general revenues ?

The Honourable Sir Frank Noyce : Yes.

Mr. S. Satyamurti : May I know whether any portion of it is set apart for broadcasting ?

The Honourable Sir James Grigg : No, Sir ; the current expenditure is dealt with in accordance with the needs of the service, and it has no direct relation to the revenue from customs.

Mr. S. Satyamurti : May I know which country exports most of these radio sets ?

The Honourable Sir Frank Noyce : I should require notice of that question.

HOUSING OF RADIO STUDIOS.

342. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Will Government state if radio studios are housed in Government-owned or rented buildings ? If any of them are housed in rented buildings, what is the annual rent of such buildings, and are these buildings suitable for the purpose ?

(b) Will Government state why it has not been possible for them to build (out of the 1935-36 or 1936-37 capital grants) a suitable studio in Delhi ?

The Honourable Sir Frank Noyce : (a) The radio studios at Delhi and Calcutta are housed in private rented buildings at monthly rents of Rs. 285 and 635, respectively. The studio at Bombay is located in a building belonging to the Posts and Telegraphs Department for which a monthly rent of Rs. 456 is paid. The buildings at Delhi and Bombay are not entirely suitable.

(b) The studio at Delhi could not be constructed in 1935-36 as the selection of a suitable site and the preparation of plans and estimates required careful consideration. It is hoped to start work on the construction of the studio in the course of this year.

Mr. S. Satyamurti : May I know if when Delhi will have its own building, Calcutta and Bombay will also have their own buildings, considering the rents paid for rented buildings ?

The Honourable Sir Frank Noyce : No, Sir ; not at present. The point is that such funds as are available for constructing studios have been earmarked for building a studio in Delhi. Later on it may be advisable to build studios in Bombay and Calcutta, but that is a matter for future consideration.

Mr. S. Satyamurti : May I know if the Government are satisfied, in view of the financial implications involved, it is cheaper for them to continue in rented buildings ?

The Honourable Sir Frank Noyce : They are satisfied that, in present conditions, it is better to spend such funds as are available on receiving stations than on studios, with the exception, of course, of Delhi.

DEVELOPMENT OF A MINIMUM OF COMMON VOCABULARY OF "BASIC HINDUSTANI" IN BROADCASTING.

343. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Are Government prepared to consider the advisability of drawing the attention of the Controller of Broadcasting and the Indian Universities, to the desirability of co-ordinating efforts to develop a minimum of common vocabulary of "basic Hindustani" on the model of "basic English" ?

Sir Girja Shankar Bajpai : It is not part of the duties of the Controller of Broadcasting to co-ordinate efforts to develop a minimum of common vocabulary of "basic Hindustani". As regards Universities, I would suggest that the Honourable Member address his suggestion to the Inter-University Board.

Mr. S. Satyamurti : May I know, Sir, from the point of view of broadcasting, whether it is not necessary to have some kind of basic

Hindustani, so that there may be no variations or the people may not understand or may misunderstand what is spoken ?

Sir Girja Shankar Bajpai : Well, Sir, to the extent that there is such a thing as basic Hindustani, it is utilised by those who broadcast.

Mr. S. Satyamurti : May I know what are the tests by which the various speakers who broadcast in Hindustani are made to conform to a kind of basic Hindustani, so as to avoid misunderstanding or non-understanding ?

Sir Girja Shankar Bajpai : I do not think there is much scope for misunderstanding. There is a good deal of scope for non-understanding, and if I may venture to point out to my friend, generally the non-understanding occurs when Urdu of the type used by my Honourable friend in whose name the question stands is used for the purposes of broadcasting.

Mr. S. Satyamurti : May I know if the Honourable Member is aware that the translation of His Excellency the Viceroy's speech at least was not understood, because it was high flown Urdu, which the average Indian could not understand ?

Sir Girja Shankar Bajpai : That may be, but on the other hand, as I happen to know something about Hindustani which is my mother tongue I can assure him that the translation of a speech such as that of His Excellency the Viceroy into what is called common Hindustani is somewhat a difficult business.

CONSTITUTION OF ACADEMIES OF NATIONAL ARTS AND LITERATURE.

344. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Are Government prepared to consider the advisability of systematising and co-ordinating the results of the search and discovery of talent by the broadcasting service into properly constituted Academies of National Arts and Literature with headquarters in Delhi, and accordingly allocate a reasonable amount of money in the next year's budget ?

Sir Girja Shankar Bajpai : The All-India Radio is and has been endeavouring to discover artistic talent for broadcasting purposes but talent is not always a success at the microphone. It is not possible to constitute Academies of National Art and Literature merely as a result of the discovery of talent by the All-India Radio. The question of providing funds for the purpose in the Central Government's budget does not arise.

Mr. S. Satyamurti : Apart from discovering talent only through broadcasting, have Government considered, or will they consider the co-ordination of talents in certain lines of art or literature, with a view to constituting at least the beginnings of an Academy of National Arts and Literature ?

Sir Girja Shankar Bajpai : It seems to me that the initiative in this matter has to come from the provinces first. In the United Provinces they have an Academy of Music, and if the other provinces fall into line, and there is general development of activity in the provinces the question of co-ordination may be considered.

UTILISATION OF THE RURAL DEVELOPMENT GRANTS.

345. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Will Government state if they are in a position to say now how various Local Governments have utilised the rural grants of 1935-36 and 1936-37 ?

(b) What proportion of these grants has been spent by each Province up to the end of June, 1936, and with what results on, (i) the supply of drinking water (wells, tube-wells, etc.) to villages, (ii) health and hygiene, particularly measures for improving the sanitation of villages, excluding lectures and distribution of literature, (iii) facilities of transport—roads or transport services, (iv) relief of unemployment by encouraging cottage industries, and (v) medical relief ?

The Honourable Sir James Grigg : (a) Reports from all the Provinces have not yet been received. I hope, however, to lay before the House in a few days' time a statement of the progress made by Provincial Governments in the utilisation of the grants made to them in 1935-36. No grants have yet been made in the current year.

(b) In view of what I have just said, I am not in a position to give this information.

Mr. S. Satyamurti : With reference to the current year, may I take it that no money has been set apart for 1936-37 yet ?

The Honourable Sir James Grigg : Oh, yes, money has been set apart, and actually a provisional allocation has been made. I believe there is a question down a little later, and in reply to that I shall be laying on the table a statement showing the principles which the Government of India suggested for allocation for 1936-37.

Mr. S. Satyamurti : May I take it these are, therefore, block grants, and they can be spent, as and when the Local Governments choose ?

The Honourable Sir James Grigg : No, Sir, that is not so, if he will wait until he sees the statement he will understand the exact position.

Mr. S. Satyamurti : May I know whether the Government realise that not sanctioning schemes till so late as September is likely to retard the expenditure on these items ?

The Honourable Sir James Grigg : My general impression of the reports of last year is that there are still outstanding considerable amounts of those grants, so that I do not think there is likely to be any delay in consequence of the fact that the new set of grants have not been formally sanctioned ?

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know if the Honourable Member will say today or later when he gets all those reports especially with regard to items 1, 4 and 5, how much of it has been spent for the special benefit of the depressed classes ?

The Honourable Sir James Grigg : I cannot answer that without notice. I shall look into it, but my recollection is that the reports do not divide the expenditure into that on depressed classes and on other classes.

Mr. N. M. Joshi : May I ask whether the Government of India have enquired what was the expenditure of the Local Governments on rural development before 1935-36, and whether as a result of the grant given by the Central Government the Local Governments are not actually spending less on the rural development than they were doing before ?

The Honourable Sir James Grigg : I believe that is inaccurate because it was made quite clear in the conditions of grant that the money should be spent on new works and not merely on continuance of current activities, and that stands to reason seeing that the grants are non-recurring.

Mr. N. M. Joshi : May I ask whether the Government of India will give us some figures as to what was the actual expenditure of the Local Governments on rural development and what is their present expenditure ?

The Honourable Sir James Grigg : Those are contained in the Local Governments' budgets.

Pandit Lakshmi Kanta Maitra : Before allocating funds to the Provincial Governments, do Government propose to call from the Local Governments specific schemes on which these monies may be spent by them ?

The Honourable Sir James Grigg : I would be very grateful if the Honourable Member would await the communication of the Government of India to the Local Governments which I have promised to lay on the table in due course.

Pandit Lakshmi Kanta Maitra : Thank you.

Mr. N. M. Joshi : May I ask whether the Government of India will enquire and supply information to this House as to whether their grants for rural development have not resulted in an actual reduction of the Local Governments' expenditure on those services ?

The Honourable Sir James Grigg : I have answered that question already and I do not see why I should answer a repetition of an unfounded allegation.

TAX ON WELLS IN THE DELHI PROVINCE.

346. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Are Government aware that in the Delhi Province, wells dug and maintained by villagers at their own expense for purposes of irrigation are still subject to a tax ranging between Rs. 4 to Rs. 40 per well ?

(b) Are Government aware that at several conferences villagers of the Delhi Province have emphatically expressed their dissatisfaction with this tax ?

(c) Will Government state how much is annually realised in tax on wells ?

(d) Are Government aware that the peasants in the Delhi Province are disinclined to dig wells for irrigation on account of the tax on wells, which is discouraging improvement ?

Sir Girja Shankar Bajpai : (a) No. As I endeavoured to explain in my answer to the Honourable Member's question No. 91 on the 4th

September, 1935, the amounts mentioned by him represent the element of land revenue realised owing to the water advantage of the area irrigated from a well. According to the Settlement Reports this assessment which is in conformity with established principles and practice was accepted by the village elders.

(b) Government understand that there have been a number of conferences in which this assessment has been criticised.

(c) Government regret that no separate register of the *abiana* due for the whole Province is maintained.

(d) No. Government understand that a number of wells have been dug since the last settlement and that they are not assessed to *abiana*.

Mr. S. Satyamurti : In view of the answer to clause (b) of the question, may I ask if my Honourable friend will ascertain from the village elders, whether they now approve of this tax, or they have changed their opinion ?

Sir Girja Shankar Bajpai : The question would doubtless come up when the next settlement of Delhi takes place.

Mr. S. Satyamurti : When is that due ?

Sir Girja Shankar Bajpai : I could not say offhand. The last settlement took place in 1907-08 ; ordinarily the term is 30 years, and it would not be before 1938.

Prof. N. G. Ranga : Are Government aware of the fact that the area under irrigation in the Delhi Province has gone down during the last year ?

Sir Girja Shankar Bajpai : I do not know if that directly arises out of this question.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that in the Madras Presidency the taxation of tenants' improvements has been declared illegal...

Mr. President (The Honourable Sir Abdur Rahim) : It has nothing to do with the present question, nor has the Madras Presidency anything to do with it.

Mr. M. Ananthasayanam Ayyangar : My point is why in this province also the taxation of tenants' improvements should not be made illegal. What I am asking is, would similar steps be taken here to declare such things illegal ?

Sir Girja Shankar Bajpai : I do not see any reason why we should take into account a practice in Madras where conditions are different from what they are in northern India.

Prof. N. G. Ranga : Are Government aware that there was a G. O. published by the Government of India in 1905 or somewhere like when Lord Curzon was the Viceroy here, in which it was definitely stated that Government would try to see that no additional tax was imposed upon peasants for any improvements effected by them either in the way of digging wells, or improving the lands or manuring them, etc. ?

Sir Girja Shankar Bajpai : I am aware of that particular statement of policy, and if my Honourable friend would consider the implication of the reply to part (d) of the question, namely, that Government understand that a number of wells have been dug since the last settlement and that they are not assessed to *abiana*, he will find that the 1908 settlement did not in any way transgress the prescription of the resolution of 1905. Every well that has been constructed is not immediately assessed to *abiana*.

GRIEVANCES AND DEMANDS OF THE AGRICULTURISTS OF THE DELHI PROVINCE.

347. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Has Government's attention been drawn to the grievances and demands of the agriculturists of the Delhi Province, which they have reiterated at several conferences since April last ?

(b) Which of these have Government taken steps to redress ?

Sir Girja Shankar Bajpai : (a) and (b). I would invite the Honourable Member's attention to the statement laid by the Honourable the Home Member on the table of the House in reply to Mr. Ram Narayan Singh's starred question No. 1344 on the 20th March, 1936. Government are not aware of any conferences of the nature mentioned by the Honourable Member having been held since April last.

Prof. N. G. Ranga : Is it not a fact that a statement was issued to the press by the Government of India or the Publicity Bureau to the effect that the area under irrigation has gone down to a considerable extent during the last year and that the canals need very great improvement ?

Sir Girja Shankar Bajpai : My Honourable friend asked that question before and I pointed out then that it did not arise, and it does not arise now either. (At this stage, Prof. N. G. Ranga interrupted.) If my Honourable friend will listen to me, this question relates to grievances urged at a certain conference. I submit that there has been no conference since the answer which was laid on the table of the House on the 20th March, 1936. It follows that what has appeared in the press now could not have been taken into account at a conference which took place in March, 1935.

Prof. N. G. Ranga : Is it or is it not a fact, as the Government communique itself has stated, that the area under irrigation has gone down in 1935-36 and that the canals need good repair ?

Sir Girja Shankar Bajpai : I could not say. If my Honourable friend will put down a question, I will try to answer it.

Mr. S. Satyamurti : Since April last, have any steps been taken to redress any of these grievances ?

Sir Girja Shankar Bajpai : If my Honourable friend will peruse the statement which was placed by the Honourable the Home Member on the table of this House in March, 1936, he will find that such action as could have been taken by the Government in regard to grievances which were genuine has been taken.

AGRICULTURAL INDEBTEDNESS IN THE DELHI PROVINCE.

348. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Are Government aware that agricultural indebtedness has increased in the Delhi Province since the operation of co-operative banks, and there is a general feeling of dissatisfaction with their methods of realisation of debts ?

(b) What steps, if any, have Government taken to relieve agricultural indebtedness ?

(c) Is it proposed to extend the Punjab and the United Provinces Moneylenders' and Relief of Rural Indebtedness Acts to Delhi Province ? If not, why not ?

Sir Girja Shankar Bajpai : (a) No.

(b) and (c). The question of extending the Punjab Relief of Indebtedness Act, 1934, to the Delhi Province and of setting up one or more Debt Conciliation Boards thereunder is engaging the attention of the Chief Commissioner.

FIRES IN CERTAIN PARTS OF DELHI.

349. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Has Government's attention been drawn to a large number of disastrous fires which broke out in Delhi, during May and June, this year, and particularly, (i) the fire in the coolie camp in *Babbar Ka Takya*, and (ii) the fuel depôt near Motia Khan ?

(b) Is it a fact that there were no hydrants within easy distance of the last mentioned scenes of fire, and a considerable amount of avoidable damage resulted on that account ?

(c) Have any hydrants been provided now near the fuel depôt of Motia Khan ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) No. One hydrant exists on the site of the coolie camp. The fuel depôt has a hydrant and a reservoir tank.

(c) The Government have provided funds for laying sewers and water pipes in the fuel depôt and the scheme includes the provision of half a dozen more hydrants.

Mr. S. Satyamurti : Have they since been provided ?

Sir Girja Shankar Bajpai : I said that the scheme includes provision for the construction of half a dozen hydrants, but whether they have been actually installed or not I could not say.

Mr. S. Satyamurti : Will Government try to find out, in view of the danger to life and property by the non-provision of these hydrants, whether they have been laid ?

Sir Girja Shankar Bajpai : I will certainly do that.

CONTAMINATION OF CERTAIN WATER RESERVOIRS IN DELHI.

350. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Has Government's attention been drawn to the complaints of the Delhi Municipal Committee that for several weeks some of the reservoirs of the

Joint Water Board, particularly the Jhandewala, Hindu Rao, and Mutiny Memorial Reservoir, continued to be contaminated, and the supply of contaminated water to old Delhi resulted in an epidemic of cholera, diarrhoea, etc. ?

(b) Have Government instituted any inquiry into the truth of these allegations ? If not, are they prepared to do so now ?

Sir Girja Shankar Bajpai : (a) No complaints from the Delhi Municipal Committee have been received by the Delhi Administration.

(b) A careful investigation was made by the Superintending Engineer, Health Services, and the Assistant Director of Public Health at the instance of the Chief Commissioner. The results indicated that there was no contamination of water in the Joint Water Board reservoirs to which the diarrhoea, etc., cases could be attributed. Nor was there any epidemic of cholera, diarrhoea or dysentery.

REPORTS OF THE SPECIAL OFFICER (MR. HUME) AND KILOKHRI SEWAGE FARM COMMITTEE.

351. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Will Government place the reports of the Special Officer (Mr. Hume) and Kilokhri Sewage Farm Committee in the Library and be pleased to state :

(a) how long they will take to give effect to the proposals for relieving congestion ; and

(b) what benefit they propose to derive by acquiring fruit and vegetable gardens round about Delhi at fabulous prices, and how they propose to recompense a large population which is engaged in fruit-growing at present, and further insure the supply of equally cheap fruit to the poor ?

Sir Girja Shankar Bajpai : The question whether and if so when the two reports referred to by the Honourable Member should be published has not yet been decided by Government. Mr. Hume's report, which deals with the question of congestion, has reached Government only recently and is under examination, pending completion of which they cannot answer parts (a) or (b). I would add that no fruit and vegetable gardens have been acquired by Government so far.

ESTABLISHMENT OF AN IMPROVEMENT TRUST IN DELHI.

352. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Will Government state why the Delhi Municipal Committee's resolution, asking for the establishment of an Improvement Trust ten years ago, was turned down by the Local Government ?

(b) Are Government now considering the advisability of establishing an Improvement Trust to deal with the problem of congestion ?

Sir Girja Shankar Bajpai : (a) The Local Administration decided in 1927 not to proceed with the action on the resolution of the Delhi Municipal Committee, partly for financial reasons and partly because it was of the opinion that the Municipal Committee was capable of carrying out a steady policy of sanitary and other improvements without recourse to the formation of a trust.

(b) This point will receive consideration in connection with Mr. Hume's report on the relief of congestion in Delhi.

DRAINAGE SYSTEM OF NEW DELHI AND OLD DELHI.

353. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Will Government be pleased to state how much money has so far been spent on the construction of the drainage system of (i) New Delhi, and (ii) Old Delhi, since 1911 ?

(b) Is it a fact that some Rs. 52 lakhs were spent on constructing the drains and connected works, intended to carry sewage to the Kilokhri Sewage Farm ?

(c) Is it also a fact that the floor of these drains was allowed to remain *kachcha*, and consequently these drains are not free from the inrush of subsoil water ?

(d) Is it not a fact that the capacity of these drains was originally overestimated on account of the omission to make allowance for flooding by subsoil water, and consequently the maximum period of 50 years for which they were constructed, has been reduced by half ?

(e) Are new drains being constructed in New Delhi, and if so, is provision being made against this defect ?

(f) Will Government satisfy themselves that these drains have got *pucca* floor to prevent flooding by subsoil water ?

Sir Girja Shankar Bajpai : (a) The expenditure on the Sewage System of New Delhi excluding the Kilokhri Sewage Farm was Rs. 23,86,558 to the end of 1935-36. Information about old Delhi has been called for and will be supplied to the House in due course.

(b) The expenditure on the sewage works in New Delhi and the sewage farm was Rs. 40,26,946 to the end of 1935-36.

(c) and (f). No. The sewers were built *pucca* throughout and were laid above the subsoil water level, which has in certain areas risen since their construction. All sewers now under construction have *pucca* floors.

(d) No branch sewer has been found to be of insufficient size. It is the increase in the load that the sewers have to carry owing to the growth of population and the larger volume of water used that have led to the result mentioned by the Honourable Member.

(e) Yes. Every precaution is being taken to see that new sewers will be watertight in any area where the subsoil water is likely to rise.

Mr. S. Satyamurti : May I know whether, in laying these drains, engineers were consulted and why they did not take account of the inevitable increase of population in a city like Delhi ?

Sir Girja Shankar Bajpai : They did take into account what was then expected to be the likely increase of population. The estimate was that by 1955 the population of Delhi would have increased to 418,000. Actually by 1931, the population had increased to 4 lakhs and 40,000.

Mr. S. Satyamurti : What steps are being taken to cope with this extra population, and the greater consumption of water ?

Sir Girja Shankar Bajpai : I do not think any action in connection with the existing drains is going to solve the problem. What is really needed is the enlargement of facilities for dealing with the sewage of a large city like Delhi.

Mr. S. Satyamurti : In working out these schemes, are Government considering not only what they consider the inevitable increase of population, but also the other facts which have emerged now ?

Sir Girja Shankar Bajpai : I was going to say that this question of sewage arrangements for Delhi was investigated by a committee only recently and I have reason to believe that their estimate of the probable increase of population is on a much more generous scale than that of those who were responsible for the earlier scheme.

HOLDING OF THREE OR FOUR POSTS BY THE DIVISIONAL ENGINEER OF THE CENTRAL PUBLIC WORKS DEPARTMENT.

354. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Will Government be pleased to recall the fact that, their attention being invited, during the last Session to the anomaly of the Divisional Engineer of the Central Public Works Department, Delhi, holding three or four different posts, it was promised that the anomaly would not be allowed from April last ? Are Government aware that the anomaly has not ceased to exist ?

Sir Girja Shankar Bajpai : The Honourable Member apparently refers to the employment of the Superintending Engineer, Construction Circle, in certain other capacities. The officer, who held this combination of posts formerly, ceased in April to hold them and it was our hope that it would be possible to avoid a repetition. Actually, however, two possible incumbents of one of the posts had to go on leave and to meet the convenience of the Chief Commissioner and the administration in general, it was necessary as a purely temporary measure to repeat the combination of the posts.

Mr. S. Satyamurti : May I know how long this temporary measure will last ?

Sir Girja Shankar Bajpai : I hope that it will be possible to make more satisfactory arrangements in the course of the next two or three months.

IRREGULARITIES CONNECTED WITH THE ACCEPTANCE OF TENDERS FOR THE IRWIN HOSPITAL, NEW DELHI.

355. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) What was the final result of the inquiry which Government ordered into the series of irregularities connected with the acceptance of tenders for the Irwin Hospital ?

(b) Is it a fact that one of the officers concerned has been promoted, or holds a higher post now ?

The Honourable Sir Frank Noyce : (a) The enquiry into the irregularities connected with the acceptance of tenders for the Irwin Hospital, New Delhi, showed, briefly, that a number of mistakes had

occurred in the computation of the tenders, and that these mistakes were fairly attributable to petty miscalculations, the haste with which the proceedings relating to the call for and examination of tenders were conducted, and a deficiency of staff. There was, however, no evidence of dishonesty on the part of any person, and after making full allowance for all mistakes and miscalculations the relative position of the successful tenderer was not altered. Instructions have been issued which will it is hoped put an effective check to the recurrence of the irregularities which came to light in this case.

(b) Consequent on the permanent Chief Engineer, Central Public Works Department, having proceeded on leave in April last, certain officiating promotions were made in the Department in which the officers concerned with the construction of the Irwin Hospital were included.

Mr. S. Satyamurti : May I know if in all cases the lowest tenders were accepted ?

The Honourable Sir Frank Noyce : I should require notice of that question.

Mr. S. Satyamurti : May I know how then the Government say (I do not remember the exact words) that, as a result of the inquiry, they were satisfied that there was nothing wrong about it ?

The Honourable Sir Frank Noyce : A departmental enquiry was conducted and a very full report was submitted. I can assure my Honourable friend that I examined that report personally with the utmost care and that it was also examined by the Finance Department and the Auditor General's Department.

Mr. S. Satyamurti : May I know if my Honourable friend is aware that the Auditor General in his report has made very serious remarks about the carrying out of this work and the matter was also gone into by the Public Accounts Committee ?

The Honourable Sir James Grigg : If I may anticipate the report of the Public Accounts Committee, which will be laid on the table tomorrow, I hope, I think my Honourable friend will recollect that the Auditor General did express himself as satisfied with the explanation that was offered.

Mr. S. Satyamurti : May I know if my Honourable friend is aware that the Auditor General merely stated that there was no loss to the Government or the tax-payer, but that there were irregularities ?

The Honourable Sir Frank Noyce : No doubt there were irregularities. I have stated that in my reply. I have said that instructions have been issued which will, it is hoped, prevent further irregularities of this kind in future.

Mr. S. Satyamurti : May I know if my Honourable friend is aware that it is the general belief that corruption was rampant, in respect of this work, on the part of high and low officials alike ?

The Honourable Sir Frank Noyce : My reply to that question is that it is very easy to make allegations of corruption and extraordinarily difficult to obtain evidence of it. If any evidence in support of such allegations is forthcoming, it will be very carefully examined. No such evidence has at any time been brought to my notice.

Mr. S. Satyamurti : May I know if my Honourable friend is aware that the lowest tenders were not accepted, and that no satisfactory reasons had been given as to why they were not accepted ?

Mr. President (The Honourable Sir Abdur Rahim) : He wanted notice.

Mr. S. Satyamurti : What is the answer to clause (b) of the question ? Is it a fact that one of the officers has been promoted to a higher post now ?

The Honourable Sir Frank Noyce : I said that certain officiating promotions have been made in which the officers concerned in the construction of the Irwin Hospital were included.

Mr. S. Satyamurti : Do those changes involve and mean the promotion to a higher post of one or two or more officers, who were concerned in the construction of the Irwin Hospital ?

The Honourable Sir Frank Noyce : That is exactly what I said.

Mr. S. Satyamurti : How is it that Government reward their officers for incompetence ?

The Honourable Sir Frank Noyce : Because there was no evidence of incompetence. There were certain irregularities, as I have already explained, owing to various circumstances. It does not necessarily follow that there was evidence of incompetence. We all of us make mistakes.

Mr. S. Satyamurti : What, in the judgment of the Government, were the irregularities due to ?

The Honourable Sir Frank Noyce : They were, as I said in my reply to the question, due to petty miscalculations, the haste with which the proceedings relating to the call for and examination of tenders were conducted and a deficiency of staff.

Mr. S. Satyamurti : Who was responsible for the haste in the disposal of the tenders ?

The Honourable Sir Frank Noyce : The Government of India.

Mr. S. Satyamurti : Was any member or servant of the Government of India punished for this haste in the disposal of tenders ?

Mr. President (The Honourable Sir Abdur Rahim) : I do not think you can go into all this now.

Mr. S. Satyamurti : This is an important matter, involving lakhs of rupees of the tax-payers' money.

Mr. President (The Honourable Sir Abdur Rahim) : As regards that, the Honourable Member will have further opportunities when the demand comes up. This is not the proper time for further discussion of this matter.

Mr. S. Satyamurti : May I put one more question ? What are the new rules by which the Government propose to prevent a recurrence of these irregularities ?

The Honourable Sir Frank Noyce : I must ask for notice of that.

NEW RULES OF THE CENTRAL PUBLIC WORKS DEPARTMENT ABOUT TENDERS.

356. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Will Government be pleased to place on the table the new rules of the Central Public Works Department about tenders ?

(b) Is it a fact that according to the new rules the Central Public Works Department will only supply bare outlines of projected works and the actual specification of material, etc., will be left to contractors ?

The Honourable Sir Frank Noyce : (a) No new rules about tenders have been issued by the Central Public Works Department.

(b) Does not arise.

Mr. S. Satyamurti : May I know, Sir, why new rules have not been issued, in view of the irregularities connected with the matter in the last question ?

The Honourable Sir Frank Noyce : This question relates to calling for tenders. No new rules in regard to the calling for tenders have been issued by the Central Public Works Department.

LICENCE UNDER THE INDIAN ELECTRICITY ACT APPLIED FOR BY THE DELHI MUNICIPAL COMMITTEE.

357. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : Are Government aware that the Delhi Municipal Committee applied to the Local Government for a licence under the Indian Electricity Act some time ago ? If so, will Government state why the licence applied for has not been granted yet ?

Sir Girja Shankar Bajpai : The Delhi Municipal Committee indicated to the Deputy Commissioner their desire to obtain a licence but have not so far submitted an application in the form required by the Act.

PROVISION OF DRAINAGE, ETC., IN THE DEVELOPED AREAS OF DELHI.

358. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Are Government aware that the maintenance grant of Rs. 25,000 which Government pay to the Delhi Municipal Committee for essential services in the developed areas of which Government are the landlords falls short by nearly over Rs. 40,000 annually, which the Delhi Municipal Committee has to spend on essential services in these areas, and the Committee has sustained a loss of over four lakhs in this respect since 1925 ?

(b) Are Government aware that Western Extension (Karol Bagh) area with over 20,000 population (all of whom are Government's tenants) is without any drainage or sufficient water supply, and its sanitation cannot improve owing to this fact ?

(c) What steps, if any, have Government taken to provide necessary amenities in this and other developed areas, since their last replies to my questions on this subject ?

(d) When do Government propose to start utilising the grant of rupees ten lakhs for improving this area, and why has it not been possible for them to do so during the past three years ?

(e) What steps, if any, besides appointing a Special Officer, have Government taken during the past two years to provide drainage, etc., in their other estate in Daryaganj, and other so-called developed areas of Delhi ?

Sir Girja Shankar Bajpai : (a) The Municipal Committee have made a claim to this effect.

(b) and (d). The Western Extension is in need of drainage and other improvements. As the Honourable Member is aware Government agreed in 1934 to spend Rs. 10 lacs on this settlement. Actual expenditure, however, has had to wait for the submission and sanction of detailed schemes which, it is regretted, are not yet complete. Government hope that it will be possible to make a start soon with the improvement of this area.

(c) and (e). Government have agreed to advance a loan to the Delhi Municipal Committee to finance city drainage and water works reorganisation schemes. Action will depend upon the result of the consideration of the special officer's report which has been recently received and is under examination.

Mr. S. Satyamurti : In view of the fact that a considerable sum of money has been spent on New Delhi, and that its health and amenities will depend on the health and amenities of the surrounding areas, have Government considered, or will they consider, on a comprehensive scale, the conditions of life not only in New Delhi but of all neighbouring areas, so that the new city's health may not deteriorate ?

Sir Girja Shankar Bajpai : I may explain to my Honourable friend that the problem of congestion, which really is at the root of what my Honourable friend has stated just now, has been the subject of study by a special officer and his report is under the consideration of the Government now.

Mr. S. Satyamurti : I should like to know specifically whether Government are considering the question of improving the health and amenities not only of New Delhi, but of all neighbouring areas which are very intimately connected with the health and other conditions of life in New Delhi ?

Sir Girja Shankar Bajpai : Mr. Hume's report relates to insanitary conditions arising out of congestion in old Delhi and other neighbouring areas ?

Mr. S. Satyamurti : Is my Honourable friend aware that mosquitoes make their appearance much to the discomfort of many of those living in the new city ?

Sir Girja Shankar Bajpai : I have suffered from that discomfort myself. I have already answered questions as to what Government are doing in regard to anti-malarial measures for Delhi as a whole.

ABOLITION OF THE MILITARY CONTROL OF THE FORT ZONE AREA IN DELHI.

359. ***Mr. S. Satyamurti** (on behalf of Mr. M. Asaf Ali) : (a) Are Government aware that the so-called Fort Zone area in Delhi is under a dual municipal and military control and tenants living within the Fort Zone are constantly interfered with by military authorities, even when building a compound wall ?

(b) Are Government prepared to take up this matter with the military authorities and secure the abolition of the military control of this area ?

Mr. G. R. F. Tottenham : (a) and (b). Most of the land in the Fort Zone belongs to Government and is under the control of the Chief Commissioner, Delhi. The military authorities possess certain powers of control over building in the Fort Zone and this is necessary for military reasons so long as the Fort remains a Fort.

Mr. S. Satyamurti : Sir, according to modern warfare, do Forts play any part or effective part at all ?

Mr. G. R. F. Tottenham : I would have to write the Honourable Member an essay on that subject. An answer to a supplementary question would not be enough.

Mr. M. Ananthasayanam Ayyangar : Sir, in preventing the construction of walls, do the military authorities consult the municipal council while taking any steps or advising that the walls should be demolished ?

Mr. G. R. F. Tottenham : I should like notice of that. I do not know what the procedure is.

REFUSAL BY THE POST OFFICE TO DELIVER A POST CARD CONTAINING MR. GANDHI'S PICTURE.

360. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to a message reported in the *Indian Express*, dated the 17th June, 1936, under the heading :

"Letter bearing Gandhiji's portrait",

"Alleged refusal to deliver",

"Krishna District Congress Committee's Protest" ?

(b) Will Government be pleased to state on what grounds the Post Office can refuse to deliver a picture post-card containing the picture of Mahatma Gandhi ?

(c) Why is there any difference made between Mahatmaji's picture post-card and other cards ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) On the ground stated in Rule 46 of the Indian Post Office Rules.

(c) No distinction has been made between Mr. Gandhi and any other prominent leader of the civil disobedience movement. I should, however, add that as that movement is not being actively pursued at present, postal

officials have been instructed that no action need be taken in present circumstances to interfere with correspondence of the kind to which the Honourable Member's question refers.

Mr. S. Satyamurti : Have Government considered, or will they consider, the effect on the revenues of the Postal Department of such orders ?

The Honourable Sir Frank Noyce : I am sorry I did not follow my Honourable friend's question ; I cannot imagine that the effect on postal revenues is serious.

Mr. S. Satyamurti : I want to ask whether Government, before they make themselves responsible for such orders in the future, will consider not only the general " political aspect " of the Postal Department, as a department of the Government of India, but also its being a commercial department, and get as much revenue as they can get ?

(No answer.)

ABOLITION OF THE TARIFF BOARD.

361. ***Mr. M. Ananthasayanam Ayyangar :** (a) Will Government be pleased to state if the Tariff Board has been abolished, and, if so, on what grounds ?

(b) Have the claims of all industries for protection been considered and disposed of ?

(c) Is it the intention of Government to set up a permanent Board of Trade on the lines of the Board of Trade in England ?

(d) If not, through what agency do Government propose to consider the claims of other industries and further tariff modifications ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (c) and (d). The attention of the Honourable Member is invited to the statement I made during the course of the debate on the adjournment motion regarding the abolition of the Tariff Board, on the 1st September, 1936.

(b) The Honourable Member is referred to the reply given by me to part (ii) of Mr. Akhil Chandra Datta's starred question No. 403 on the 13th February, 1936.

Mr. M. Ananthasayanam Ayyangar : Sir, is it the policy of Government to wait until industries call for protection, or, of their own accord to investigate the claims of various industries with a view to making India self-supporting in regard to a particular commodity ?

The Honourable Sir Muhammad Zafrullah Khan : The usual procedure is that the industry concerned has to move the Government in the matter.

Mr. S. Satyamurti : Apart from any move on the part of the industries, have Government considered, or will they consider, the desirability of setting up a permanent Tariff Board, in the light of the recommendations of the Indian Fiscal Commission, particularly with a view to watching the effects of protection on the industry itself, on the consumers, and on various other relevant interests ?

The Honourable Sir Muhammad Zafrullah Khan : I believe I have answered that question already in the course of the Session.

Mr. S. Satyamurti : May I know if Government have any such intention of appointing a Board ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no present intention of making any change.

Pandit Lakshmi Kanta Maitra : Have Government got now any agency which ordinarily investigates the question of local cottage industries and the question of whether they require protection in relation to foreign trade ?

The Honourable Sir Muhammad Zafrullah Khan : I believe that question has also been already answered.

Mr. S. Satyamurti : Are there any requests pending with the Government of India by various industries for protection ?

The Honourable Sir Muhammad Zafrullah Khan : There are one or two and I think that a question with regard to it is already down on the agenda.

BILATERAL TRADE AGREEMENTS WITH ENGLAND AND OTHER COUNTRIES.

362. ***Mr. M. Ananthasayanam Ayyangar :** (a) Have any negotiations been started for entering into bilateral trade agreements with England and other countries ?

(b) If so with which countries, and on what lines, and at what stage are the negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The Honourable Member is referred to my reply to Mr. Satyamurti's starred question No. 35 during the current Session.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable Member aware that England is entering into bilateral arrangements with Turkey and other countries, and only this Government is not entering into bilateral arrangements with other countries until the arrangement with England is completed ?

The Honourable Sir Muhammad Zafrullah Khan : That is an argument.

Mr. M. Ananthasayanam Ayyangar : May I know why, whereas England is negotiating bilateral agreements with other countries, the Government of India are not also negotiating for entering into bilateral agreements with other countries even though the matter may be pending ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that question several times.

Mr. S. Satyamurti : May I ask if, in negotiating a treaty with England for replacing Ottawa, there will be any irrevocable commitments on the part of India, which will prevent the conclusion of favourable bilateral trade agreements with other countries, as and when the opportunity arises ?

The Honourable Sir Muhammad Zafrullah Khan: I believe the Honourable Member has already put that question and that I have told him that that aspect of the question would be kept in view.

STUDENTS TRAINED IN THE INDIAN TERRITORIAL FORCE.

363. ***Mr. M. Ananthasayanam Ayyangar:** (a) How many students underwent training in the Indian Territorial Force, since its inception in India, and how many of them have been discharged?

(b) How many of those discharged are in the regular forces?

(c) Are there any facilities provided for the discharged Indian Territorial Force men for practising military drill and other military practice?

(d) If any facilities are provided, what is the number of discharged men who are availing themselves of these facilities? And for how many are these facilities provided?

(e) Are Government contemplating any further measures to provide adequate opportunities for all discharged Indian Territorial Force men to practice?

Mr. G. R. F. Tottenham: I have had some difficulty in understanding the Honourable Member's question, but I presume from his use of the word student that he is referring to that portion of the Indian Territorial Force which is known as the University Training Corps. On this assumption the answers are as follows:

(a), (b) and (d). Government have no information and the collection of the statistics required would involve an expenditure of time and labour which would be incommensurate with the value of the results.

(c) *Ex-members* of the University Training Corps can join the Urban battalions of the Indian Territorial Force where such battalions exist. They are also eligible for commissions in the Indian Territorial Force, in the Army in India Reserve of Officers, or in the regular army if they can succeed in passing through the Indian Military Academy.

(e) Not at present.

Mr. M. Ananthasayanam Ayyangar: May I know what difficulties, if any, exist in the Madras Presidency,—whether any facilities for further training and drill exist in the Madras Presidency?

Mr. G. R. F. Tottenham: I have answered that question just now.

Mr. M. Ananthasayanam Ayyangar: Are there any facilities in the various centres in the mufassil?

Mr. G. R. F. Tottenham: I have answered that question too.

Mr. M. Ananthasayanam Ayyangar: I did not follow it.

Mr. G. R. F. Tottenham: I said that "*ex-members* of the University Training Corps can join the Urban battalions of the Indian Territorial Force where such battalions exist. They are also eligible for commissions in the Indian Territorial Force, in the Army in India Reserve of

Officers, or in the regular army if they can succeed in passing through the Indian Military Academy". These opportunities are open to people in Madras as much as anywhere else.

Mr. M. Ananthasayanam Ayyangar: Are there any particular fees, or is it all free?

Mr. G. R. F. Tottenham: I do not quite understand.

Mr. M. Ananthasayanam Ayyangar: Is the further training and drill given free of cost, or they have to pay any sum?

Mr. G. R. F. Tottenham: I do not think the Honourable Member really can understand the position. We do not charge fees to officers.

Mr. M. Ananthasayanam Ayyangar: Not officers, but to those who have been discharged?

Mr. G. R. F. Tottenham: If they can get employment in the Army, they get their pay; we do not charge them fees.

DETENUS UNDER REGULATION III OF 1818.

364. ***Mr. M. Ananthasayanam Ayyangar:** With regard to the detenus under Regulation III of 1818, will Government be pleased to state:

- (a) the number of detenus (i) below 15 years of age, (ii) between 15 and 25, (iii) between 25 and 35, and (iv) above 35 years of age;
- (b) the number of detenus, according to the trade and occupation in which they were engaged when first they were detained;
- (c) the number of detenus (i) detained for more than six months, and (ii) detained for more than a year, for two years, for three years, for four years and six years, and more;
- (d) the number of detenus released each year during the past five years;
- (e) the number of detenus who got mad, developed disease or died while under detention during each of the past seven years; and
- (f) the amount spent during each of the past seven years, on (i) maintaining the detenus and (ii) maintaining their families?

The Honourable Sir Henry Craik: The information which I am giving refers only to persons detained in jails under Regulation III of 1818 because of their connection with subversive movements in British India:

- (a) (i) Nil.
- (ii) One.
- (iii) Nine.
- (iv) Seventeen.

(b) I have no complete information about the trade and occupation of these State Prisoners.

(c) The figures are :

(i) for more than six months but less than 1 year	2
(ii) for more than one but less than two years	None.
(iii) for more than two but less than three years	2
(iv) for more than three but less than four years	3
(v) for more than four but less than six years	19
(vi) for more than six years	None.

(d) 1930—nil, 1931—nil, 1932—nil, 1933—3,
1934—9, 1935—2, and 1936—1.

(e) One died in 1934. None have gone mad and none have developed disease as a result of being in detention.

(f) I regret that separate figures showing the amounts spent on State Prisoners and their families are not available, and cannot be ascertained without undue labour. The total actual expenditure as shown in the budget estimates under the head "Other Refugees and State Prisoners" for the six years from 1929-30 to 1934-35 are, respectively, Rs. 2,08,000 odd ; 2,12,000 odd ; 1,88,000 odd ; 2,52,000 odd ; 2,54,000 odd and 2,10,000 odd. The revised estimate for 1935-36 is Rs. 1,66,500.

Pandit Lakshmi Kanta Maitra : Are their cases reviewed from time to time ?

The Honourable Sir Henry Craik : Yes.

Pandit Lakshmi Kanta Maitra : By whom ?

The Honourable Sir Henry Craik : In the case of Regulation III Prisoners, by the Government of India.

Mr. S. Satyamurti : Did I understand the Honourable Member to say that there was one below 15 years of age as a detenu ?

The Honourable Sir Henry Craik : No. I said none below 15.

LABOUR CONDITIONS ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

365. *Mr. M. Ananthasayanam Ayyangar : (a) Have Government investigated the labour conditions on the Madras and Southern Mahratta Railway ?

(b) Are Government aware that low and ill-paid railway servants are not given free quarters, nor are they given house allowance ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No.

(b) The grant of free quarters or house allowance in lieu thereof is governed by the rent rules of the Madras and Southern Mahratta Railway. Government have no reason to believe that these rules are not followed on that Railway.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that a ticket collector, who draws only Rs. 19 a month, is not given rent free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir ; Government are not aware.

Mr. M. Ananthasayanam Ayyangar : Will Government make inquiries ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : It is not necessary.

Mr. M. Ananthasayanam Ayyangar : Are Government aware that when the labour leader in Madras went to make an investigation from the Madras and Southern Mahratta Railway he was not afforded facilities. As a matter of fact, the Agent, Madras and Southern Mahratta Railway, chastised his servant for giving him information.

The Honourable Sir Muhammad Zafrullah Khan : You mean to say he beat him ?

Mr. M. Ananthasayanam Ayyangar : Yes.

The Honourable Sir Muhammad Zafrullah Khan : I am not aware of it. I believe there is a question about this which will be answered in due course.

Pandit Lakshmi Kanta Maitra : May I know if it is the policy of the Government not to provide low paid officers with rent free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Pandit Lakshmi Kanta Maitra : Up to what scale, the railway officials are entitled to free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : Conditions are different on different railways.

Pandit Lakshmi Kanta Maitra : What is the position on this particular railway ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I must ask for notice.

Prof. N. G. Ranga : In view of the fact that most of the highly paid officials are getting free quarters and the low paid officers are not given free quarters with the result that these low paid officers are obliged to undergo very great inconvenience, may I ask the Honourable Member why he thinks that it is unnecessary to provide them with free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : I did not say that it was not necessary to provide them with free quarters.

Pandit Lakshmi Kanta Maitra : Why is it that Government do not consider it necessary to provide officials drawing Rs. 19 a month with free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : I have not said that.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say that the Government did not propose to give rent free quarters.

The Honourable Sir Muhammad Zafrullah Khan : I was not asked that question. I was asked whether I was aware that rent-free quarters were not given and I said, 'No'. Then, I was asked to make inquiries in the matter and I said it was not necessary.

Pandit Lakshmi Kanta Maitra : In view of the fact that there is a large number of these low paid officials who are undergoing a great

hardship because they are not allotted rent free quarters, I should like to know why Government thinks it unnecessary to inquire into the conditions of these low paid officers and find out whether it is a fact or not that they are not provided with free quarters ?

The Honourable Sir Muhammad Zafrullah Khan : It is possible that some of them are not, but sums are set apart for the provision of quarters every year and it is for the Agent to decide which claims should have priority to the extent to which funds are available in his hands for this purpose.

Prof. N. G. Ranga : I want your ruling, Sir, on this matter. We have asked in the question : " Are Government aware that low and ill-paid railway servants are not given free quarters ? " The Government Member said he was not aware of it. Then we asked whether he would be pleased to make inquiries. He said, ' No '. Then we asked him, ' Why ' ? He replied that he did not think it necessary. I take it that it is the duty of the Honourable Members on the other side to make these inquiries.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had an answer.

The Honourable Sir Muhammad Zafrullah Khan : Honourable Members are entitled to information in reply to their questions. They cannot force me to accept the suggestions which they make.

Prof. N. G. Ranga : Is it not a fact that it is open to Honourable Members of this House to ask the Government to make inquiries and ascertain facts in regard to certain matters ?

Mr. President (The Honourable Sir Abdur Rahim) : It is open to Honourable Members to ask the Government to make inquiries in certain matters, and it is equally open to Government Members to say that no inquiries are needed.

Mr. M. Ananthasayanam Ayyangar : The Honourable Member has said in reply to part (b) of my question that he is not aware. Could he not get the necessary information from the Agent, Madras and Southern Mahratta Railway ?

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

APPOINTMENT OF COMMITTEES TO ADVISE THE INDIAN NAVIGATION COMPANY REGARDING THE COMPLAINTS OF THE PASSENGERS.

366. ***Mr. Mohan Lal Saksena :** Are there any advisory committees appointed similar to Railway Advisory Committee, to advise the various Indian navigation companies regarding the complaints of the passengers ? If not, are Government prepared to consider the feasibility of appointing such committee at an early date ?

The Honourable Sir Muhammad Zafrullah Khan : In the case of companies engaged in *Inland navigation*, section 54B of the Inland Steam Vessels Act, 1917, empowers Local Governments to make rules providing for the appointment of Advisory Committees. The Government of India have no information whether any Local Government has

exercised this power. Government have no similar powers in respect of maritime navigation.

Mr. Mohan Lal Saksena : Will Government draw the attention of the Local Governments to this question ?

The Honourable Sir Muhammad Zafrullah Khan : I do not think there is any necessity to draw the attention of the Local Governments to this question. They have a certain power under a certain Statute and I have no reason to think that they are not fully aware of it.

Prof. N. G. Ranga : In view of the fact that the deck passengers who travel between India and Burma have protested again and again against the inhuman conditions of travel provided by the Steam Navigation Companies, will Government consider the advisability of drawing the attention of the Madras Government and also of the Burma Government, who are interested in this matter, to take necessary action under that particular section of the Statute to which he has referred ?

The Honourable Sir Muhammad Zafrullah Khan : The particular section of the Act, to which I have referred, does not apply to maritime navigation.

Prof. N. G. Ranga : Will Government consider the advisability of taking necessary steps, whatever they may be, to see that Advisory Committees are constituted to protect the interests of these deck passengers ?

The Honourable Sir Muhammad Zafrullah Khan : There is no such provision under the present Statute law.

ABSENCE OF SHEDS ON THE PLATFORMS OF THE BALAMAU JUNCTION AND NIMSAR STATION ON THE EAST INDIAN RAILWAY.

367. ***Mr. Mohan Lal Saksena :** Are Government aware that there are no sheds on the platforms of Balamau Junction and Nimsar stations on the East Indian Railway and that the very large number of passengers and pilgrims who visit Nimsar and Misrikh, which are important places of Hindu pilgrimage, have consequently to experience great hardship, specially during summer and rainy season ? If so, are Government prepared to consider the advisability of putting up sheds at an early date ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information.

It is left to the discretion of Railway Administrations to provide sheds on platforms at stations where the traffic offering justifies their provision, and the best method of dealing with such matters of local importance is through the Local Advisory Committee who will bring specific cases of hardship to the notice of the Railway Administration.

Mr. M. S. Aney : May I know whether the Honourable Member has, after receiving notice of this question, made inquiries from the proper officers and has got no information ?

The Honourable Sir Muhammad Zafrullah Khan : I have made no inquiries.

Mr. S. Satyamurti : Sir, when an Honourable Member puts a question and it has been admitted by you, is it right on the part of the Government Member to say that he has made no inquiries? The question is "Are Government aware.....". I can understand, if the Government Member says that he has not been able to make inquiries, but he cannot say "I am not aware". They cannot say they have no information about it.

Mr. President (The Honourable Sir Abdur Rahim) : The question is : "Are Government aware that there are no sheds on the platforms.....". The Government Member has replied that they are not aware, which means that they are not aware that there are no sheds. But if the Honourable Member asks them to make inquiries, that is another matter.

Mr. S. Satyamurti : I submit it is necessary for them to make inquiries.

ACTION TAKEN ON THE RESOLUTION *re* CONSTRUCTION OF LOCOMOTIVES IN INDIA.

368. ***Mr. Mohan Lal Saksena :** Will Government state what action, if any, has been taken on the Resolution passed by the Assembly regarding construction of locomotives in India?

The Honourable Sir Muhammad Zafrullah Khan : No action has been taken.

Mr. Mohan Lal Saksena : Why no action has been taken?

The Honourable Sir Muhammad Zafrullah Khan : For the reasons I explained during the course of the debate.

Mr. Mohan Lal Saksena : Has this question been considered by the Governor General in Council after the Resolution was passed by the Assembly?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. V. V. Giri : Was any special officer appointed last year to enquire into this matter and make a report to the Government?

The Honourable Sir Muhammad Zafrullah Khan : After the Resolution was adopted?

Mr. V. V. Giri : Before.

The Honourable Sir Muhammad Zafrullah Khan : Sometime before that, yes.

Mr. V. V. Giri : Will that report be placed on the table of the House?

The Honourable Sir Muhammad Zafrullah Khan : I explained the reasons in last year's debate why the report was not being placed on the table of the House inasmuch as all that the report contained was explained by me during the course of my speech in the debate.

Mr. V. V. Giri : What is the difficulty in placing the report on the table of the House? We might see what it contains about the matter.

The Honourable Sir Muhammad Zafrullah Khan : There was no regular report. A memorandum was in the course of preparation when

notice of the Resolution was given. That memorandum was not proceeded with because it was decided that in the course of the debate all the available material should be placed before the House and this was done.

Mr. S. Satyamurti : What was the decision of the Governor General in Council on this Resolution?

The Honourable Sir Muhammad Zafrullah Khan : The decision was that the proposition was neither an economical one, nor a feasible one.

Mr. S. Satyamurti : Have Government had any recent information, in their possession, which they collected as to the cost of the locomotives manufactured here, as compared with imported locomotive, and have they come to the conclusion, on those facts, that it is economically not feasible to manufacture them here in India?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

Mr. S. Satyamurti : Will the Honourable Member place on the table of the House all relevant information?

The Honourable Sir Muhammad Zafrullah Khan : I gave all the information in my possession.

Mr. President (The Honourable Sir Abdur Rahim) : As regards question No. 367, the ordinary form in which questions are to be asked is :

"Is it or is it not a fact, etc., etc."

If a question is framed in that form, you will get information.

STATE CONTROL OF THE BENGAL AND NORTH WESTERN AND ROHILKUND AND KUMAON RAILWAYS.

369. ***Mr. Mohan Lal Saksena :** Will Government state what action is being taken to take over the management of the Bengal and North Western and Rohilkund and Kumaon Railways by the State?

The Honourable Sir Muhammad Zafrullah Khan : A decision has not yet been arrived at on the question of the termination or otherwise of the contract in 1937.

Mr. S. Satyamurti : What is the latest date, on which they ought to give notice for taking over the management?

The Honourable Sir Muhammad Zafrullah Khan : 31st December, 1936.

Mr. S. Satyamurti : When are Government expected to come to a decision on this matter?

The Honourable Sir Muhammad Zafrullah Khan : Government are now actively considering the question.

Mr. S. Satyamurti : What are the questions under the consideration of Government, for taking over the management? The question of the finance being available only, or are there any other considerations?

The Honourable Sir Muhammad Zafrullah Khan : All the considerations that were put forward by Honourable Members are being taken into consideration.

Mr. S. Satyamurti : Apart from financial difficulties—I do not consider there are any difficulties on the question of finance—are there any other difficulties in the taking over of the management of the railways ?

The Honourable Sir Muhammad Zafrullah Khan : The main consideration is whether it would be profitable to take over the management.

Mr. S. Satyamurti : Are these railways now profitable to the companies that run them ?

The Honourable Sir Muhammad Zafrullah Khan : All the information available on that point has already been placed before the House during the course of the debate on the Resolution last Session.

Mr. S. Satyamurti : May I take it, therefore, that the only question will be that of finance and profit and no other considerations ?

The Honourable Sir Muhammad Zafrullah Khan : As I have said that is the main consideration.

INCREASE IN THE PRICE OF THE EAST INDIA RAILWAY TIME TABLES.

370. ***Mr. Mohan Lal Saksena :** (a) Will Government state the reasons for increasing the price of the East Indian Railway time table from four annas to six annas ?

(b) Will Government lay on the table a comparative statement of the number of time tables sold during the last two years ?

(c) Is it a fact that the cost of the time table, five years ago, used to be two annas only ?

(d) Will Government state if the cost of printing has risen ? If so, by how much ?

(e) Are Government prepared to reduce the price of the time-table ?

(f) Will Government lay on the table a statement showing the cost of publishing the provincial time-tables, published this year and that of smaller time-table published before, and the respective amounts of their sale proceeds ?

(g) Are Government aware of the great amount of inconvenience experienced by the public by this innovation, and are they prepared to consider the advisability of reverting to the old practice ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The increase was made to meet the cost of publication.

(b) and (f). A statement is laid on the table.

(c) Prior to September, 1930, the time table was priced at two annas ; from September, 1930, the price was increased to four annas.

(d) Yes, by more than 6 per cent.

(e) This is a matter of administrative detail, the responsibility for which rests with the Railway Administration. Government see no reason for their interference.

(g) The reply to the first part is in the negative : as regards the second part, I will convey the Honourable Member's suggestion to the Agent, East Indian Railway, for consideration.

Statement.

(b) No. of Time Tables sold during the last two years :

1934 52,914 copies.
1935 51,727 ..

(f) Particulars regarding one anna and two anna Time Tables :—

One anna Time Table.					
	Date.	Copies printed.	Copies sold.	Cost.	Sales.
				Rs.	Rs.
	1-10-35	50,000	47,810	5,304	2,988
Two-anna Provincial Time Table.					
				Rs.	
Bengal	1-4-36	15,000	*	1,324	*
United Provinces	1-4-36	12,000	*	1,143	*
Total		27,000	..	2,467	

* Figures are not available as publications are still on sale at stations and Bookstalls.

Mr. Sri Prakasa : Are Government aware that the additional bulk of the E. I. R. time table is due to the fact that they have re-arranged the tables giving the railway timings, have not put both the up and down trains on the same page, with the result that there is much inconvenience caused to the persons who consult these time tables, and moreover most pages are left half-blank ?

The Honourable Sir Muhammad Zafrullah Khan : I am not so aware, but the information given by the Honourable Member may be correct.

Mr. Mohan Lal Saksena : What is the answer to part (d) ?

The Honourable Sir Muhammad Zafrullah Khan : I said, yes, by more than six per cent.

Mr. Mohan Lal Saksena : The printing cost has risen by six per cent. while the cost of the time table has risen by 50 per cent. ?

The Honourable Sir Muhammad Zafrullah Khan : The exact proportion of increase can be arrived at by studying the figures I have given.

RETRENCHMENT ON RAILWAYS.

371. ***Mr. Mohan Lal Saksena :** (a) Is it a fact that Government have been contemplating to make retrenchment amongst railway employees ? If so, will Government be pleased to make a statement, giving the broad lines on which retrenchment is proposed to be made ?

(b) Are Government prepared to consider the advisability of appointing a small committee of the Assembly which may advise them in the matter of retrenchment ?

(c) Will Government state the number and total amount of pay of posts which carry a salary of Rs. 1,000 and above as well as the number and amount of those that carry salaries between Rs. 500 and Rs. 1,000 ?

(d) Will Government state how many of these have been created during the last three years ?

(e) Are Government prepared to consider the advisability of retrenching these posts before axing lower hands ?

(f) Are Government also prepared to consider the advisability of effecting a ten per cent. cut in the salaries of these posts before retrenching the petty posts ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have advised State-managed Railways, sending at the same time copies to Company-managed Railways for information, that employees surplus to requirements may now be selected for discharge on the basis of comparative efficiency instead of on the rule of length of service which was adopted in 1932, the selection being made by Committees consisting of two or three officers and the staff being allowed to appear before them personally should they so desire.

(b) No.

(c) The available information will be found in the Classified List of State Railway Establishment and Distribution Return of Establishment of all Railways and in the Classified Lists of subordinate staff on pay of Rs. 250 and above or on scales of pay rising to Rs. 250 and above, copies of which will be found in the Library of the House.

(d) The information in respect of superior gazetted posts created during the last three years will be found in the proceedings of the Standing Finance Committee for Railways, copies of which are in the Library of the House. Eleven posts were created in the Lower Gazetted Services on the State-managed Railways in the scale, Rs. 425—20—525. Government have no information in respect of the non-gazetted posts.

(e) and (f). No. These posts were created to meet accepted requirements and their creation does not prejudice the retention of lower posts which are not surplus to requirements.

Mr. V. V. Giri : Are Government aware that the All-India Railwaymen's Federation made a request to the Railway Board at the last half yearly meeting that the issue of retrenchment may be referred to a Court of Enquiry under the Trade Disputes Act and are the Government aware if the All-India Railwaymen's Federation requested the Railway Board to join with them in their request ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that question.

Mr. S. Satyamurti : With reference to part (f), may I know the reason for the negative monosyllabic answer ?

The Honourable Sir Muhammad Zafrullah Khan : I explained that in the course of the budget debate.

Mr. S. Satyamurti : May I ask whether, before retrenching these smaller men, the Government will consider the question of effecting some economy, or at least a large part of the economy, by imposing a

ten per cent. cut in the salaries of higher paid officials, and thus save these unfortunate men who are paid low salaries ?

The Honourable Sir Muhammad Zafrullah Khan : Even if a cut of 10 per cent. or a higher or a lower percentage were possible and feasible, the railways could not carry on the staff that was surplus to their requirements.

Pandit Lakshmi Kanta Maitra : With reference to part (a) what is the rank of the officers before whom the staff will be allowed to appear and give evidence ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member would put down a question on the subject, I shall endeavour to get the information. I should imagine it would be different on different railways and also different for different categories of staff.

Pandit Lakshmi Kanta Maitra : I want to know whether the Railway Board will have any of its nominees there ?

The Honourable Sir Muhammad Zafrullah Khan : No. The nomination of these officers will be left to the respective Agents.

Mr. N. M. Joshi : With reference to part (b), may I ask whether the Government of India will consult the Railway Advisory Committee on this subject of retrenchment of surplus staff ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. N. M. Joshi : Why should not the Government consult the Central Advisory Committee on this important question ?

The Honourable Sir Muhammad Zafrullah Khan : Instructions have already been issued and I believe the different railways are proceeding on that basis.

Mr. N. M. Joshi : May I ask why Government issued instructions without consulting the Central Advisory Committee ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know whether that would be one of the proper functions of the Central Advisory Committee. In any case it is too late now.

Mr. N. M. Joshi : What is the economy which Government propose to effect by retrenching the staff proposed to be retrenched ?

The Honourable Sir Muhammad Zafrullah Khan : As I have said the retrenchment proposed is due to there being men surplus to requirements, but with regard to the actual economy to be effected, I can give no figure until the retrenchment has been effected.

Pandit Lakshmi Kanta Maitra : Do Government consider the advisability of nominating one of their own men from the Railway Board or any other State Railway officer on this Committee of Enquiry ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

PERMISSION TO INTERMEDIATE CLASS PASSENGERS TO CARRY ATTACHÉ CASES AND HANDBAGS FREE OF CHARGE.

372. ***Mr. Mohan Lal Saksena :** Is it a fact that in the East Indian Railway in the case of first and second class passengers, attaché cases and handbags are allowed free, while it is not done in the case of intermediate

class passengers? If so, are Government prepared to amend the rules, so that similar privilege may be allowed to intermediate class passengers?

The Honourable Sir Muhammad Zafrullah Khan: The reply to the first part of the question is in the affirmative. Government are not prepared, under present conditions, to suggest to railways any increase in the amount of luggage which passengers may be allowed to carry free.

I may, however, draw the attention of the Honourable Member to the fact that in 1929, the free allowance of luggage for intermediate class passengers was increased by 50 per cent.

Mr. Mohan Lal Saksena: Are Government prepared to modify the rules so that the first and second class passengers may also not be allowed handbags and attachés free.

The Honourable Sir Muhammad Zafrullah Khan: That is a concession which they had enjoyed long before 1929 when the additional concession was allowed to intermediate class passengers.

SHORT NOTICE QUESTIONS AND ANSWERS.

SHORTAGE IN THE NUMBER OF VOTERS FOR THE REFORMED LEGISLATIVE ASSEMBLY OF MADRAS.

Mr. S. Satyamurti: Will Government be pleased to state :
12 NOON.

(a) whether their attention has been drawn to the fact that, in the Madras Presidency, the number of voters on the preliminary electoral rolls of the reformed Legislative Assembly is short by more than ten lakhs of the number expected by Parliament;

(b) whether they have taken or propose to take any steps to impress upon the Madras Government the need for bringing up the strength to the Parliamentary expectations; and

(c) what the results of any such action are?

The Honourable Sir Nripendra Sircar: (a) The electorate for the Madras Legislative Assembly according to the expectation of Parliament, based on an enrolment of 15 per cent. of the population, was 66,19,251. The actual enrolment is 57,35,097. According to the preliminary rolls the deficiency therefore is 8,84,154.

(b) Immediately the deficit came to their notice the Local Government issued instructions to Registration Officers urging upon them the desirability of adding further names by the adoption of the following measures:

(i) a liberal interpretation of the additional qualifications for scheduled castes laid down in paragraph 9 (a) of part II of the Sixth Schedule of the Act of 1935 inserted by the Government of India Provincial Legislative Assemblies Order of 1936;

(ii) requiring village officers to encourage joint proprietors to apply for enrolment;

(iii) requiring Registration Officers themselves to exercise their powers under the rules and adding to the preliminary rolls names of qualified persons who have been omitted.

(c) It is believed that the adoption of these measures and the consideration of formal claims preferred before the revising authorities which sit on the 28th September will assist to make up the deficiency.

Mr. S. Satyamurti: With regard to the scheduled castes may I know if, taking the scheduled castes alone, the preliminary or the final figures are expected to reach 15 per cent. of the population?

The Honourable Sir Nripendra Sircar: All that I have got before me is this that what was expected was 66,19,251 and what has been got is 57,35,097—a deficit of about 9 lakhs; and I have indicated the three methods which have been followed to make up the deficiency. I have no other information.

Mr. S. Satyamurti: May I know if Government are aware that, with regard to the voters who get their franchise by literacy alone, Government insisted on applications being presented in person, and thereby prevented a large number of literate voters who would otherwise have got their franchise, from getting their names on the electoral rolls?

The Honourable Sir Nripendra Sircar: I am not aware, but I am quite willing to forward this question to the Local Government with a request that the same may be considered.

BRITISH POLICY IN PALESTINE.

Sir Muhammad Yakub: (a) Are Government aware that there is a great feeling amongst the Musalmans all over India on account of Britain's policy in Palestine, and particularly the recent announcement of the British Government to inaugurate an aggressive military campaign in that country has extremely perturbed and agitated the Muslim mind in India?

(b) Will Government be pleased to inform the British Government accordingly?

The Honourable Sir Henry Craik: (a) The Government of India are aware that the Palestine situation is a source of concern to Indian Moslems. A study of the announcement recently issued in London will make it clear that the sole object of His Majesty's Government is the restoration of law and order in fulfilment of their duty as the mandatory power, and that they have emphasized their anxiety to maintain an impartial attitude, and specially to maintain relations of friendship and confidence with the Muslim peoples throughout the world. The announcement also made clear the conviction of His Majesty's Government that the restoration of law and order at the earliest possible date is in the interests of all parties concerned.

(b) The Government of India have been in constant communication with His Majesty's Government on this matter, and they will of course continue to keep them informed of Moslem feeling in India in regard to it.

Mr. M. A. Jinnah : Are the Government of India aware that Great Britain as the mandatory power is carrying out its mandate in a way which must result in the destruction of the Arabs ?

The Honourable Sir Henry Craik : That does not arise out of any answer that I have given. It is not my duty to interpret the mandate or the manner in which it is being carried out.

Maulana Shaukat Ali : Will the Honourable Member tell us whether the land in Palestine is capable of accommodating 400,000 Jews instead of 60,000 Jews that were living there before war and whether Sir John Chancellor, the former High Commissioner, and Lord Passfield, the Secretary of State for the Colonies, had to resign on this account because they knew that there was no room for these 400,000 Jews unless you did injustice to the Arabs ?

The Honourable Sir Henry Craik : Neither of those questions arise out of any answer I have given. Both parts deal with matters for which the Government of India are in no way responsible and they contain inferences.

Maulana Shaukat Ali : Is there any chance of law and order being established if the Arabs know that they will be wiped out in the interest of the Jews and the mandate is being run more in the interest of the foreign Jews than in the interest of the original inhabitants of Palestine ?

The Honourable Sir Henry Craik : That is clearly a hypothetical question.

Mr. K. Ahmed : Is it a fact that the aggression has begun on account of the undue arrival of these Jews in Palestine and their action in the matter of lending money and usurping all the lands of these Arabs illegally and against the policy which the Government adopt in the matter of the Moneylenders' Act in India, and in contravention of solemn pledges and declarations made by the Government ?

Pandit Lakshmi Kanta Maitra : Has the Honourable Member understood the question ? I have not understood it.

The Honourable Sir Nripendra Sircar : Has anybody understood the question ?

MOTION FOR ADJOURNMENT.

BRITISH POLICY IN PALESTINE.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion of adjournment from Mr. S. Satyamurti to consider a definite matter of urgent public importance, namely, the failure of the Government of India to invite the attention of the British Government to the danger of pursuing a policy of denying the indigenous population of Palestine the realisation of their legitimate aspirations and enforcing Jewish immigration against the principle of self-determination, in violation of Article XXII (4) of the Covenant of the League of Nations, and the repeated pledges of the Government of India, which policy is calculated to have disastrous repercussions throughout India.

Is there any objection to this motion ?

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, there is no legitimate objection which I can take in this forum.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, on a point of order, I should like to have some elucidation of this matter. My Honourable friend said that there is no legitimate objection which he can take in this forum. May I know what is involved in that ?

The Honourable Sir Nripendra Sircar : I will just explain. There have been rulings that the objection that the matter is not primarily the concern of the Governor General in Council is a matter for the Governor General to decide and the Chair will not rule it out on that objection. Therefore that objection, if it is intended to be taken, we have got to take before the Governor General and not here. That is what is involved in that statement.

Mr. President : Has the Honourable Member leave of the House to move his motion ?

(No objection was taken.)

The motion will be taken up at 4 P.M. today.

MOTION RE EXPUNCTION OF CERTAIN PASSAGES FROM THE PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY.

Mr. President (The Honourable Sir Abdur Rahim) : I understand Mr. Sri Prakasa wishes to make a statement with reference to certain questions which he put the other day.

Mr. Sri Prakasa : Mr. President, the Secretary of my Party, my esteemed friend, Mr. Satyamurti, informed me late on the afternoon of last Thursday that one of the supplementary questions that I put in connection with the death of bulls and cows in India was not in good form and in good taste and that I should take the opportunity of requesting you to order the deletion of that portion of the supplementary question from the proceedings.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must read the question. (Laughter.) It will not be possible for me to order the expunction or deletion of any passage unless I know what it is.

Mr. Sri Prakasa : The question was, Sir :

† [* * * * *]

And the reply of Sir Girja Shankar Bajpai was :

† [* * * * *]

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House that these passages should be deleted ?

Honourable Members : Yes.

† These portions were ordered to be expunged from the proceedings of the Legislative Assembly.
L260LAD

THE INDIAN RUBBER CONTROL BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I move for leave to introduce a Bill to amend the Indian Rubber Control Act, 1934, for certain purposes.

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

“ That leave be granted to introduce a Bill to amend the Indian Rubber Control Act, 1934, for certain purposes.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I introduce the Bill.

THE BANGALORE MARRIAGES VALIDATING BILL.

Sir Aubrey Metcalfe (Foreign Secretary) : Sir, I move for leave to introduce a Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

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

“ That leave be granted to introduce a Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore.”

The motion was adopted.

Sir Aubrey Metcalfe : Sir, I introduce the Bill.

THE RED CROSS SOCIETY (ALLOCATION OF PROPERTY) BILL.

Mr. G. R. F. Tottenham (Defence Secretary) : Sir, I move for leave to introduce a Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.

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

“ That leave be granted to introduce a Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.”

The motion was adopted.

Mr. G. R. F. Tottenham : Sir, I introduce the Bill.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee. The motion before the House is :

“ That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

‘ (5) Nothing in this section shall apply to Hindu joint family partnerships and firms ’.”

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : I have given notice of another amendment which is intended to meet the objections which were raised by the Honourable the Leader of the House, and I ask leave.....

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands Mr. Bajoria wants leave to withdraw his amendment ?

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw his amendment ?

Honourable Members : Yes.

The amendment was, by leave of the Assembly, withdrawn.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : We have not got a copy of the amendment that the Honourable the Leader of the Opposition is going to move.

Mr. Husenbhai Abdullahhai Laljee (Bombay Central Division : Muhammadan Rural) : Sir, I have got an amendment which is more comprehensive than Mr. Bajoria's—I do not know what will be my position. It is No. 2 in the Supplementary List No. 2.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member wish to move it ? He can if he wishes to do so.

Mr. Husenbhai Abdullahhai Laljee : I want to move it, Sir. I move :

“ That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

‘ (5) Nothing in this section shall apply to family partnerships and firms, which comprises of partners who are all members of the family ’.”

Sir, the amendment moved by my Honourable friend, Mr. Bajoria, restricted this exemption to the Hindu Joint family. I have no objection to that ; but I do wish that it may also be extended to other *bonâ fide* families.....

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Bajoria has withdrawn his amendment.

Mr. Husenbhai Abdullahhai Laljee : Yes, Sir ; but I am moving this : when I say I have no objection, I mean this amendment would certainly include the desire of my Honourable friend, Mr. Bajoria. My object is that in section 4 we have got four clauses : the first clause restricts people to do business in banking if they are more than ten ; the second clause restricts us from doing any other business if we are more than 20. Now, throughout India there are very many families who do business jointly, and it is not at all the condition that prevails in Europe, that as soon as the family members become major they separate. There are many families at present in India who have been for years trading together ; and I do think that if eight or ten or more people of the same family are doing their honest business they ought not to be forced to take to joint stock companies and be mulcted with the cost of adopting all this procedure that has been laid down, but should be treated as members of one family. We have just passed clause 3 which clearly

[Mr. Husenbhai Abdullabhai Laljee.]

shows that those who belong to joint families will be bound to pay for the liabilities incurred. I would not have moved this amendment if it were not clear that it would not be possible for those who join together for any kind of business of banking to shirk their liability. Having passed clause 3, I feel that there is now need to exempt family from other clauses of this section and if exemptions are to be given to any, then, Sir, all those who are *bonâ fide* members of a family must also be in all fairness given exemption. In India thousands and thousands of family firms are carrying on business. Now, Sir, I have said already all that I had to say, and I now leave it to Government Benches and the Honourable the Leader of the Opposition to find out a way which would be applicable to all of us, as I understand an attempt is being made in this direction.

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

“ That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

“(5) Nothing in this section shall apply to family partnerships and firms, which comprises of partners who are all members of the family.”

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I have no objection to the substance of the amendment moved by my friend, Mr. Husenbhai Laljee, but I ought to explain to the House that I was willing, as a result of the discussions I had yesterday with some of the gentlemen who came to me, to concede a little further. And may I explain my position, Sir ? I heard Mr. Bajoria's speech, and I am agreeable first of all to have what Mr. Husenbhai Laljee has moved, namely, if it is one family, then whether the number is 20, 25 or 30, they need not form themselves into a company as provided by section 3. That is the limited form of Mr. Husenbhai Laljee's amendment. That of course I am willing to accept, but I am willing to concede further, that is to say, where there is partnership between two families or three families, in counting the number of 20, the infants should not be included. That would bring substantial relief in many cases. As a result of the discussion, my friend the Honourable the Leader of the Opposition was trying to move his amendment, and that explains why no copies of the amendment could be supplied. If the Honourable the President will allow him to move that, then I would make my submission. In fact, I shall have nothing further to add when both motions have been placed before the House. What my friend wanted to move,—I am sorry he could not give copies to others, is this : “ This section shall not apply to a joint Hindu family carrying on trade or business ” ; that is exactly the same as Mr. Husenbhai Laljee's amendment, and “ where two or more persons for the purposes of this section, the minor members of such families shall be excluded ”. As I have explained, if there are three families including minors, that may come to thirty, but if there are twenty....

Mr. President (The Honourable Sir Abdur Rahim) : As regards suspending Standing Orders, the Chair has received notice of other amendments in the same form....

The Honourable Sir Nripendra Sircar : I am entirely in the hands of the Chair. If Mr. Desai's amendment is not allowed to be moved,

then I accept Mr. Husenbhai Laljee's amendment. If the former is allowed to be moved, then I shall accept it, which is more comprehensive. That is the position of the Government, and then it will be for the Chair to decide whether, copies of the amendment not having been supplied, the rule can be waived or not....

Mr. M. A. Jinnah : May I respectfully point out to the Honourable the Law Member that it will be much better that such amendments as there are on this particular question on the list should be carefully examined and that the Government should submit a definite draft of such amendments which they are prepared to accept. Then we can consider them, and if the House has no objection, we can pass them. May I also point out that I am much obliged to my friend the Honourable the Leader of the Opposition for supplying me with a draft copy of the amendment which he proposes to move. May I further point out for the consideration of the Honourable the Law Member that when you say : “ This section shall not apply to a joint Hindu family carrying on joint family trade or business and where two or more such joint families form a partnership in computing the number of persons for the purposes of this section minor male members of such families shall be excluded ”. Does it mean that the whole section is not defined, and the minor members will be excluded not only from the penalty clause but also from the liability.....

The Honourable Sir Nripendra Sircar : Yes. That is correct.

Mr. M. A. Jinnah : Whereas the minor members, if there is a profit, will be entitled to a share, but if there is a loss and there is a liability, the minor members of their shares in the joint family will not be liable. That is also a question which I would like the Honourable the Law Member to consider.

The Honourable Sir Nripendra Sircar : That is the position.

Mr. President (The Honourable Sir Abdur Rahim) : The best course for the Chair would perhaps be to allow this clause to stand over till tomorrow so that the Honourable Members may consider the position.

Now, we shall pass on to the next clause. Clause 4.

I hope in the meantime the amendments will be circulated.

Babu Baijnath Bajoria : I have an amendment before that, Sir, Nos. 13 and 14, after clause 3.

Mr. President (The Honourable Sir Abdur Rahim) : I think you better wait till tomorrow.

Babu Baijnath Bajoria : I will move No. 14. It reads thus :

“ That after clause 3 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

“ 4. After sub-section (3) of section 6 of the said Act, the following new sub-section shall be inserted, namely :

“(4) The Memorandum shall not contain any matter or statement that does not come under any of the heads mentioned in clauses (i) to (v) of sub-section (1) ”

[Babu Baijnath Bajoria.]

Sir, the aim of my amendment is this, to restrict the memorandum to the definite matters which are stated in the Act. Section 6 of the Act says :

"In the case of a company limited by shares—

(1) the memorandum shall state—

(i) the name of the company, with 'Limited' as the last word in its name ;

(ii) the province in which the registered office of the company is to be situate ;

(iii) the objects of the company ;

(iv) that the liability of the members is limited ;

(v) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount ; "

It is often found that in the memorandum of many companies extraneous matters not contemplated by this section, like the managing agency term, the promoters' interests, etc. are incorporated into the memorandum with a view to render these things more difficult of alteration later on by shareholders. This thing is never conducive to the interests of the company. If it benefits anybody it benefits the managing agents and the promoters of the company. I do not want that these extraneous matters should be incorporated into the memorandum. I am supported in this view of mine by my Association, the Marwari Association, by the Calcutta Shareholders' Association, and by the Registrar of Joint Stock Companies in Bengal. I will read out some passages from the opinion of the Registrar of Joint Stock Companies in Bengal. He says :

"A sub-section should be added to the effect that 'No memorandum shall contain any matter other than those mentioned in sections 6, 7 or 8 of the Act, and other than the minimum subscription.' There has been a growing tendency of late to include in the memorandum clauses relating to the appointment of managing agents and terms and conditions thereof. The object is that a clause in the memorandum cannot be easily changed and the terms will not be easily alterable. As a matter of fact, such terms, if inserted in the memorandum, will become absolutely unalterable, because the only changes which may be effected in the memorandum are given in sections 11 (change of name) and 12 (change of situation from one province to another and change of the objects).

The public consider that the provisions of sections 6, 7 and 8 are the minimum. But this is clearly not the intention of the Act. If any other matters are permitted to be inserted, there must be provision for their alteration also."

I do not want to add anything further. I think it is not desirable that extraneous matters should be included in the memorandum and I hope that the Leader of the House will give due consideration to my amendment and that the House will accept it.

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

"That after clause 3 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

"4. After sub-section (5) of section 6 of the said Act, the following new sub-section shall be inserted, namely :

"(4) The Memorandum shall not contain any matter or statement that does not come under any of the heads mentioned in clauses (i) to (v) of sub-section (7) ;"

The Honourable Sir Nripendra Sircar : There is another amendment on the same subject, and I agree to the substance, but not to the form of Mr. Bajoria's amendment. That other amendment stands in the name of Mr. Ayyangar and I am prepared to accept it. It is No. 1 in the Supplementary List No. 1 to Final List.

Babu Baijnath Bajoria : I do not worry about the form, and, in view of the assurance given by the Leader of the House, I beg leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

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

"That clause 4 stand part of the Bill."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittor : Non-Muhammadan Rural) : I do not move my amendment No. 15 in the Final List.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

"That after clause 4 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

"5. To section 10 of the said Act, the following proviso shall be added, namely :

"Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition."

I have a few words to submit with respect to this matter. I myself and my Honourable friend, Mr. Bajoria, wanted that in section 6 an addition should be made that only the items mentioned in section 6 ought to be stated in the memorandum. But the same object is served if this proviso is added to section 10 of the Act. Section 10 says :

"A company shall not alter the conditions contained in its memorandum except in the cases and in the mode and to the extent for which express provision is made in this Act."

Instead of limiting the memorandum only to the particular matters which are set out in section 6 of the Act, even if the memorandum should contain various other matters, such as, the names of the managing agents or the terms of the contract or other terms relating to remuneration, etc., by this proviso to section 10 those other matters which relate to the appointment of a managing agent or which relate to other matters of a like nature which are incidental or subsidiary to the main objects of the company, may be modified by a resolution of the company later on. They do not form part of the memorandum in such a manner that only by an extraordinary or special resolution of the company they could be modified. If the terms of the memorandum have to be modified, first there must be a special resolution, and thereafter it has to be confirmed by the Court.

[Mr. M. Ananthasayanam Ayyangar.]

But by this proviso those parts of the memorandum relating to the appointment of managers, if any alteration has to be made with respect to those parts,—the same procedure that has to be adopted for the modification of the other portions of the memorandum, such as, share capital, etc., need not be adopted. That need not be confirmed by the Court and there need be no special resolution. The object which the amendment of my Honourable friend, Mr. Bajoria, had, as well as that which my amendment No. 15 in the Final List had is served without modifying section 6, if a proviso is added to section 10 as I have urged in my present amendment. Sir, I move.

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

“ That after clause 4 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 5. To section 10 of the said Act, the following proviso shall be added, namely :

‘ Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition ’.”

Mr. Sami Vencatachalam Chetty (Madras : Indian Commerce) : I want to know more definitely the purport of this amendment. At the first instance, it might look that the amendments of Mr. Bajoria and Mr. Ayyangar are more or less the same, but it appears to me that the present amendment of Mr. Ayyangar goes farther than what might have been intended by Mr. Bajoria. Mr. Bajoria only wanted that mention of things other than those specified under sections 6, 7 and 8 should be omitted in the memorandum whereas Mr. Ayyangar's amendment appears to me to indicate that even in case other matters are specified in the memorandum, which are not covered by the conditions of 6, 7 and 8, they are liable to be changed by means of a general resolution. The security of conditions being put in the memorandum of the association, I thought that they might not be varied or changed by the ordinary general resolution of shareholders meeting, but under this amendment that security is taken away, and though the conditions with regard to the appointment of managing agents and managers are specified in the memorandum of association, on which the shareholders subscribe to the company, those conditions might be changed at the very first meeting after the formation of the company. If that be so, it naturally follows that the security of service or the conditions of the agreement of the manager or managing agent will be greatly affected. I am merely placing my point of view before the House in order to get a clear statement whether the intention of this amendment would be to affect the position of managing agent or manager who enters into an agreement with the shareholders, even before the formation of the company.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : This matter was certainly not considered in the Select Committee and it appears to me to have a more far reaching effect than the Mover asked us to believe. The whole idea of a memorandum is being changed. What we understand by a memorandum is that certain terms and conditions laid down in it could not be changed otherwise than by a special general resolu-

tion, and approval of the High Court. Now, you are making the memorandum a document in which, though there are certain conditions which you can change by a general resolution, there are other conditions which you cannot change. The whole idea of a memorandum will therefore not be what it used to be. The Honourable Member who just sat down said that you will be able to put down in the memorandum certain terms and conditions of a managing agent that can be changed by a mere ordinary resolution of the company. Is that what the Law Member desires should be done ? After all, the memorandum is a document which carries greater weight and which is of greater importance than an agreement. The whole of that aspect will be changed. I would ask the Honourable the Law Member to consider this point of view before he would agree to this amendment. I think it will make a very big difference.

Mr. M. S. Aney (Berar Representative) : I find some difficulty in understanding this amendment. The object of the Honourable Member who wants to move this amendment is to allow certain things mentioned in this proviso to be changed by a resolution and not by the procedure that has been laid down for the purpose. My difficulty is to understand the proviso itself. What the proviso says is this :

Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature.

What I do not understand is what is meant by “ other matters of a like nature ”. It means that matters should be akin to the appointment of manager or managing agent. It necessarily restricts the matters only to either the appointment of a manager or managing agent. The second condition is “ incidental or subsidiary to the main objects of the company ”. These are the two conditions which shall govern the matters on which a general resolution shall be deemed competent for bringing about a change. I do not think that was the limited scope that Mr. Bajoria had in mind in moving the amendment which he wanted to move. He definitely wanted the memorandum to be confined only to those conditions which are mentioned in sections 6, 7 and 8 and nothing more.

Mr. M. A. Jinnah : It is very difficult to have to deal with these amendments which suddenly spring up, and it is very difficult to weigh the effect of such an amendment. No doubt, the Law Member, who has gone so deeply into this question, will be able to deal with it, and, therefore, I would only put before him what strikes me on the spur of the fore, I would only put before him what strikes me on the spur of the moment. In the first instance, what is the use of putting anything in the memorandum. When you do put a thing in a memorandum, it is important. Otherwise, there is no meaning in putting it in the memorandum. Section 6 definitely compels you to put certain matters in the memorandum. Now, you are not restricting the memorandum to those matters only. You can put some other matters. When you say you may put other matters or add to the items specified in section 6, I take it that they will be important, and if they are important, then, why should they be altered except in the way in which section 10 says it should be altered ? That is the first question. As the Honourable Member just now pointed out, you may put various things in the memorandum of association, and,

[Mr. M. A. Jinnah.]

immediately thereafter, by a special meeting, delete that item from the memorandum. The idea that it should receive the sanction of the Court is a great check, and, therefore, it seems to me in the first instance that if you put in something in the memorandum of the association of your company which you consider is important or vital, it should not be altered except as it is laid down by section 10. Further, it seems to me that if you accept the amendment in the form in which it is drafted, I do not know where it will lead us to. It says :

“ Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition.”

Well, I do not know, under this clause, how much of it can be exempted from the rigours of the conditions of section 10.

Sir Cowasji Jehangir : It changes the whole meaning of the term “ memorandum ” as we have understood it.

Mr. M. A. Jinnah : You may also take into account section 12 of the Act which lays down the alterations,—of how the memorandum can be altered. That also has got to be taken into account, but I submit, Sir, that my first point is one which I do ask the Law Member to consider very carefully.

Mr. Bhulabhai J. Desai : Sir, I rise to support the amendment and I will try to explain the difficulties which have been presented by the Honourable Members who have addressed this House upon it. It is common knowledge that in the memoranda of many companies matters are mentioned which are not included in section 6 of the Act and a most common feature of several of the memoranda of association of companies prior to the eighties was that the appointment of managing agents and the terms of their appointment were usually included. In course of time such inclusion created considerable difficulties by reason of section 12 of the Act. Section 12 of the Act allowed a change in the memorandum in such a limited manner that it became impossible to deal with that change in the memorandum so far as the appointment of the managing agents and their remuneration were concerned. Companies which started with a capital of a lakh of rupees have grown from time to time to larger and larger proportions, and in fact in ignorance of the fact that the memorandum or the matter that was put into it was unalterable, resolutions have been passed by companies laying down terms of remuneration, as the volume and the quantity of the business grew. It has not been unusual three or four companies which must be within his knowledge as they have been within mine),—for example, to find a company, which started with a capital of a lakh, which has now a block account of a crore, and, many years after, when the remuneration had been altered to suit the conditions of business, it occurred to a shareholder to file a suit for the purpose of recovering from the managing agent all remuneration drawn in excess of what was originally provided in the memorandum some thirty or forty years before,—on an argument that, inasmuch as the matter was included in the memorandum and inasmuch as clause 12 did not allow its alteration, the payment was *ultra vires* of the company. There were other matters which similarly came up before the Bombay High Court in which, when an attempt was made to alter the conditions which were subsidiary

to the main objects of the company, the Judge found himself unable to accede to that request, and in order to be able to persuade him, it was necessary to call attention to the terms of section 12 of the Act :

“ Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from one province to another, or with respect to the objects of the company, so far as may be required to enable it,”

and then follow four provisions which are designed to enable it to carry on its business more economically and so on.

Difficulties have been met with not only in India but they have been met with also in England and there is a report of a Commission presided over by Lord Wrenbury which is a useful matter to be read in this connection. It is known that a memorandum is distinguishable from the article inasmuch as the memorandum is the charter of the company, but it is also known that many matters are crowded into it which ought not to be made unalterable as they would be made if section 12 applied, and therefore in England as in India, a difficulty has arisen where matters have cropped up which are not the objects of the company but subsidiary to the objects of the company, that is to say, the appointment of the managing agent or the mode of carrying out the objects of the company necessitated by the nature of its business, and, therefore, in the leading case in the House of Lords, *Their Lordships* have had to distinguish between the main objects of the company and the subsidiary or the ancillary matters mentioned in the memorandum which should not be regarded as unalterable conditions, and it is following, Sir, the language used in those judgments and knowing the practice that occurs both in India and in England, that I rise to support this motion. That motion really brings out the distinction between the two things, *viz.*, main objects of the company and the manner or the mode or the media through which those objects have to be carried out. The latter need not be unalterable, whereas, in so far as the objects are concerned, they should be subject to alteration only if they comply with the provisions of section 12.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I desire to point out the danger of splitting up the memorandum into two parts as suggested in the amendment moved by my Honourable friend, Mr. Ayyangar,—one part which is to be sacrosanct and which cannot be touched, and another part on which rude hands can be laid by the shareholders at a general meeting by an ordinary resolution. It is possible that my Honourable friend, in moving the amendment, was obsessed with the idea of trying to prevent managing agents from altering memoranda in order to suit their own purpose. But it is quite possible that a contrary effect may be produced, in some instances, at any rate. Supposing I have put down in the memorandum of association Rs. 10,000 as my remuneration as managing agent. If, later I find that I have got a sufficient majority of votes, I put forward a proposal for increasing my remuneration to Rs. 50,000, then, if this amendment were to be carried, I would be able to get that Rs. 50,000 sanctioned to me by the shareholders by an ordinary resolution. All the safeguards, which are today provided, and which make the memorandum a thing which is not to be lightly touched, disappear. Under section 12, not only has the managing agent,

[Sir H. P. Mody.]

if he wants an alteration of the memorandum, got to have a special resolution, viz., by a three-fourths majority, but the Court also has got to scrutinize the resolution after it has been passed. Among other things, the Court has got to see whether the rights of any creditors have been prejudiced. The creditors may be in a very small minority, but the Court before confirming any alteration of the memorandum will see to it that they have not been prejudiced. I say, Sir, that there are implications in this amendment which my Honourable friend has not understood. It would be, in certain instances, extremely dangerous to allow a memorandum to be split up into two portions as suggested.

The Honourable Sir Nripendra Sircar : Sir, I have very little to add as regards the "splitting up"; that has been done by the law Courts to a certain extent. As to what are really the objects which may be called 'conditions' and what are the incidentals, on that I have no desire to inflict any law cases on the House. My Honourable friend, Sir H. P. Mody, gave an example of the danger. He said, supposing the remuneration in the memorandum is Rs. 10,000, but, having the strength of votes, that is increased to Rs. 50,000. What a terrible position! Suppose it is the other way about. The remuneration is Rs. 50,000 but having regard to the reduced circumstances of the company, it ought to be Rs. 10,000, why should it not be done by a special resolution? Apart from general argument, one has got to remember that if you regard—what the Court will do, I do not know—the managing agency clause being put in the memorandum as an unalterable condition within the meaning of these cases on memoranda, then what is the position? The position is that we are really coming in conflict with these memoranda by this legislation. We want to put an end to managing agencies after 10 years or 20 years or 40 years whatever it is. Supposing you find in the memorandum that a man has been appointed along with his heirs perpetually, what would be the position then? Then we shall have to argue, whatever may be the memorandum, that the right has been taken away by the Statute. Sir, I have not yet been able to visualise the difficulties. The managing agency clause ought not to be regarded as a condition in the sense in which the word has been used in the rulings, a coming to Court. It is an abuse to put the managing agency clause in the memorandum. I got notice of this amendment on Friday and I have considered it and personally I do not see any objection to its acceptance.

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

"That after clause 4 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

'5. To section 10 of the said Act, the following proviso shall be added, namely :
'Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition.'"

The motion was adopted.

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

"That clause 5 stand part of the Bill."

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadan Rural) : Sir, I move :

"That in clause 5 of the Bill, in the proposed sub-section (3) of section 11, the words 'Except with the previous consent in writing of the Governor General in Council' be omitted."

The object of this amendment is obvious. It is to see that the Governor General in Council has nothing to do with the names of companies? Why should he poke his nose here? In fact the effect of my amendment will be that no company, incorporated after the commencement of this Act, will be allowed to use these names. Sir, these names are a sort of trade titles. And we are against conferment of titles. In fact, my friend, Mr. Sri Prakasa gave notice of a resolution asking for the abolition of the conferment of titles in future but that resolution has been disallowed. But we are not going to allow the Governor General in Council to confer titles upon companies. To me, Sir, these words appear to be the thin end of the wedge. From naming the company to naming the individual is only one step further and I am not prepared to allow the Governor General in Council to usurp the functions of Padris and Pandits. Sir, the question is how will the Governor General in Council select the companies which should be allowed the use of these names? What will be the criteria by which he will judge that so and so companies should be allowed to use such and such name? I am afraid it will undoubtedly lead to favouritism and favouritism in business is very undesirable. It may even lead to deplorable distinctions between the Indian companies on the one side and the British and semi-British companies on the other side. Therefore, I appeal to the House to accept my amendment.

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

"That in clause 5 of the Bill, in the proposed sub-section (3) of section 11, the words 'Except with the previous consent in writing of the Governor General in Council' be omitted."

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I rise to support this amendment. It is a very salutary amendment and I hope my friend, the Law Member, will see reason to accept it also on behalf of the Government. As my Honourable friend, Mr. Paliwal, has said, it is really introducing a thin end of the wedge even into the spheres of business. We have seen what disastrous effects these Lees-Mody pacts and other pacts have created in our business world by the kind of favouritism that was displayed by the Government of India as well as the British Government towards these two commercial groups, one in England and the other in India. Sir, we also know of yellow unions which are recognised associations in the Trade Union world. There are very many commercial associations which are not recognised at all by Government and yet they have got a great following in the country and they are all the time being victimised by this power that the Government has. Government by distinguishing some organisations against other organisations of the people and thus showing the latter up as those who do not carry any of its status and prestige. Sir, I have no objection if Government seek to confer this particular power on the Governor General in Council to allow rickshaw companies to style themselves as the Imperial Rickshaw companies or Beedi companies to style themselves as the King's

[Prof. N. G. Ranga.]

own Beedi companies or Dress companies to style themselves as Queen's own Dress Saloons and so on. But, Sir, it is really an obnoxious thing to try to introduce this section and this particular kind of division among our commercial concerns in this country. Why should it be that some of the companies should be allowed to style themselves as the Royal Marine company or the States Own Sweetmeat shops or the Reserve Bank's own special branches for supplying cheap credit or even free credit and so on. This is introducing a frivolous method by which Government can try to play its usual art of favouritism even in the industrial and commercial world. Therefore, I suggest that Government should not be given any opportunity whatsoever to try to utilise its own usual art of favouritism of conferring titles, conferring of names and conferring of any special good-will or premium upon any of these commercial companies thus placing them in a higher position and in a greater status than other companies would be able to obtain for themselves in ordinary business routine of competition. I therefore hope that Honourable Members of this House will agree with us and try to support the amendment and thus help us to eliminate this obnoxious provision.

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend was talking of the thin end of the wedge. Apparently he has not read the old existing Act. Supposing this motion is carried, what will be the result? Now in the old Act as it exists, there is no amendment for the deletion of section 11 :

"A company shall not be registered by a name which contains any of the following words : namely 'Crown', 'Emperor', 'Empress', 'Imperial', 'King', 'Queen', 'Royal', 'Bank of Bengal', 'Bank of Madras', 'Bank of Bombay', or words expressing or implying the sanction, approval or patronage of the Crown or the Government of India or a Local Government, except where the Governor General in Council signifies his consent, etc., etc."

Therefore, my Honourable friend, Prof. Ranga, will kindly compare the old section with the new one and he will find we have got everything there. The two words which have been added, are : "The Reserve Bank" and, "the State", so that all this eloquence about titles and so on will remain. If that is the thin end of the wedge, that has remained stuck in—but for removing what has been lying there for 23 years. I may point out to the House that we have really added only two words, 'the State' and 'the Reserve Bank'. In England, it is done by the Board of Trade, you have got to take the consent of the Board of Trade, and we consider here that the suitable machinery, there being no Board of Trade, is the Governor General in Council. That is all I have got to say.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, my Honourable friend, if I am wrong, will correct me. Clause 5 of the Bill says :

"For sub-section (3) of section 11 of the said Act, the following sub-section shall be substituted, namely :

(3) Except with the previous consent in writing of the Governor General in Council, no company shall be registered by a name which, etc., etc."

If this amendment is carried, it will mean this, that from the date on which this Bill becomes law, no company shall be registered by a name,

which contains any of the names stated in part (a). These words of sub-section (3) are washed out :

"Except where the Governor General in Council signifies his consent to the use of such words....."

With the deletion of these words, it is perfectly clear that the object of the amendment is achieved completely. I am not talking on the merits. The verbal argument is absolutely pointless,—the present sub-section 3 of section 11 goes out. Clause 5 is a new section, and in that new section the words in section 11 (3) which are at the end, "except where the Governor General in Council signifies his consent to the use of such words...." are sought to be substituted by the words occurring at the beginning of the clause "except with the previous consent in writing of the Governor General". Therefore, I submit that the Honourable the Law Member will see at once that, what he called his conclusive argument, is conclusive the other way about, namely, if this amendment is accepted, this consent of the Governor General is completely washed out. I think, for that reason, he ought to accept the amendment now, for the very fact that he advanced a wrong argument. My Honourable friend said something about the Board of Trade in England. I agree, this Board of Trade has a long, and chequered, and picturesque history.

The Honourable Sir Nripendra Sircar : So has the Governor General.

Mr. S. Satyamurti : I would delete all reference to him. He disallows all our motions. What is the use of such a Governor General in Council? I have no faith in him. My point is this. The Board of Trade is a body, actively and constantly in touch with the industrial and commercial opinion of Great Britain. Therefore, that commercial opinion can trust the Board of Trade with power, which may not be abused for ulterior purposes, whereas this Governor General in Council stands self-condemned. Having no Board of Trade, this Government will not appoint even a permanent Tariff Board, in spite of the fact that the Fiscal Commission recommended such a permanent Tariff Board. This Government will do nothing in that direction. They will merely continue their interminable fight with the Members of this House. If some clerk or some body in the Secretariat puts up a note, this Government act upon it, and everybody on the Government side says, yes, yes.

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

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

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

MESSAGE FROM H. E. THE VICEROY AND GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : I have received a Message from His Excellency the Viceroy and Governor General to the following effect :

"In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of L260LAD

Linlithgow, hereby disallow the motion of Mr. S. Satyamurti to move the adjournment of the House for the purpose of considering 'the failure of the Government of India to invite the attention of the British Government to the danger of pursuing a policy of denying the indigenous population of Palestine the realisation of their legitimate aspirations and enforcing Jewish immigration against the principle of self-determination, in violation of Article XXII (4) of the Covenant of the League of Nations, and the repeated pledges of the Government of India, which policy is calculated to have disastrous repercussions throughout India' on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

SIMLA,
The 14th September, 1936. }

(Sd.) LINLITHGOW,
Viceroy and Governor General."

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. S. Satyamurti : Sir, when we adjourned for Lunch, I was pointing out that, if this amendment were accepted by this House, it would achieve the purpose that, hereafter, no company can have any of these ornamental names, with or without the consent of the Governor General in Council. I take it that that is understood. Then, I merely want to state very briefly the reasons for the House accepting this amendment. First, I believe the Governor General in Council is not so situated as to judge of this question, adequately and fairly. Now, Sir, what will happen in the Federation, if that ever begins to function, is that this will be a transferred subject in the Centre. There will be a Minister, somebody will come to him and say that he wants to name his company "Crown" or "Emperor" or "Empress" or "Federal" or "Royal", etc. How is he to decide? One knows the constitution of the new Federal Legislature, with the communal decision, and the States' representatives, and so on, and there will be all sorts of pressure. How is the unfortunate Minister going to decide? Secondly, so far as the companies are concerned, they ought to stand or fall by their own worth. Why should they depend upon these names? And, is it right that the Governor General in Council should take upon himself this invidious task of distinguishing between company A and company X, and saying that he will allow company A to ernment are going to allow every company who so wants it to call themselves "Crown" or "Empire" and so on? It will then mean that familiarity will breed contempt, even for the Crown or the Empire. On the other hand, if they are going to choose between company A and company B, what are the tests, and what are they going to do? My last point is this. It seems to me that, in a country like India, where there is still a lot of ignorance and a lot of prejudice, it is not right to encourage companies to have these adventitious aids. I, therefore, hope that the House will see its way to accept this innocent amendment, and remove from the Statute-book, another weapon in the hands of the Governor General in Council. We know exactly how it is used in many other cases, and I want to conclude on this note. They have no separate department, they will not be in touch with industrial or commercial opinion. They will do it on all sorts of irrelevant considerations, communal, political, favouritism, and so

on, and so forth. A Muhammadan company has been allowed the name "Crown" and therefore a Hindu company also will be allowed, and vice versa, and so on. It seems to me that the Honourable the Law Member himself, on further reflection, will see that it is an unnecessary burden, which the Governor General in Council has taken upon himself, and will therefore accept the amendment. Sir, I support it.

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, I have listened to the speech of my Honourable friend, Mr. Satyamurti, but I do not agree with him that the amendment if carried will not create any hardship. I know of cases where this will create hardship. I know of a case of a contemplated bank by the Corporation of Calcutta, for instance, which wants to use the name of the Calcutta Municipal Corporation Bank. Now, Sir, let us suppose that the amendment is carried. There will be no power in the proposed bank to use the word "Municipal". As at present there is some authority which may in the exercise of its discretion allow the use of the name, but if the amendment is carried, for instance, then it will be powerless and one may be driven to the extreme step of having to procure an amendment of the Act. Apart from that, Sir, there is another aspect which I would commend for the consideration of my Honourable friend. This proviso about the consent of the Governor General in Council, as has been pointed out by the Honourable the Leader of the House, has been in the Statute-book ever since 1913; and may I know if any of my Honourable friends have ever investigated the question as to whether this power has been abused during the 23 years that this clause has been in the Statute-book?

Mr. S. Satyamurti : That you may take for granted about any power of the Governor General in Council, without any inquiry.

Mr. Susil Chandra Sen : Are we not therefore ignoring the facts as they stand and going into the region of speculation thinking that there will be an abuse of this provision simply because the discretion is vested in the Governor General in Council? Is there any justification for this assumption? But apart from that, my Honourable friend's own argument as well I think goes to destroy his case, because I think my Honourable friend hinted that though in the Federal Constitution there will be Ministers chosen by the representatives of different sections of the people.

Mr. S. Satyamurti : No, chosen by the Governor General.

Mr. Susil Chandra Sen : I think my Honourable friend just now said that there will be a Minister in charge to whom these applications will be forwarded hereafter and that the Minister will be powerless to determine it. I think we could give the future Federal Assembly at least the sense of not tolerating Ministers who would not know his countrymen and their needs. But apart from that, my main objection is, as I said, we are going into the question of speculation. During the last 23 years there have been no cases of abuse and I do not know that there need be any genuine apprehension about the proper exercise of that power, if left in the state where it is now in the Statute. I, therefore, oppose this amendment.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, so far as this amendment is concerned, I do not see any use

[Qazi Muhammad Ahmad Kazmi.]

for it. It has been urged by the other side that we cannot show that there has been any misuse of this power, but, as a matter of fact, we do not know that there was any use of this power also. The question is that this power is a useless one. But there is a likelihood that it may be misused. So it is to avoid the misuse that we are going to support this amendment. In my opinion, the Governor General has no occasion to be in touch with industries and with companies to allow or not to allow anything of the kind. So far as the example of the Municipal Corporation of Calcutta is concerned, I want to say that it has not been shown what connection that bank has got with the municipal corporation. If the Municipal Corporation itself is going to run the bank, there will be no harm and there will be no necessity to get that sanction. It is the Municipal Corporation which wants a separate bank to be run and wants to take advantage of having a name of the Municipality of Calcutta. And that is the only thing that we want to guard against that people should not take advantage either of the sanction of the Governor General in Council or the name of the Corporation of Calcutta or any other big name to get greater credit as against their competitors who cannot get any such advantage. In these circumstances, I think the Government Members also will accept this, because they themselves say that they have never used this power during the last 23 years.

Babu Baijnath Bajoria : Sir, I do not understand what will be gained by the omission of these words as has been proposed in this amendment. The clause reads :

"Except with the previous consent in writing of the Governor General in Council no company shall be registered by a name", etc.

If we remove those words "except with the previous consent in writing of the Governor General in Council", what is left is that no company shall be registered. The position will surely become much worse. If we remove these words, these words will never be used. Otherwise these words may be used by companies which may be approved by the Governor General in Council.

An Honourable Member : That is why we object.

Babu Baijnath Bajoria : You may, but there is no point in it. If any company which is a good and solvent company and to which the Governor General wants to give recognition comes forward, I do not see what harm there is in allowing the company to use these words. It has been said that it will be misused and that it has not been used. I do not see how it can be misused. The only thing is it is in the power of the Governor General in Council whether to grant sanction under this section or not. If they give it, so much the better : if they do not give it, nothing is lost. So, I think there is no ground in this amendment and I oppose it.

Pandit Nilakantha Das (Orissa Division : Non-Muhammadian) : Sir, my Honourable friend, Mr. Sen, wanted to point out that there will be some hardship in certain cases ; but it is not clear from what he said what hardship there is if a company wants to take the name of the Calcutta Municipal Corporation Bank and, instead of that, calls itself Calcutta Corporation Bank. If there is any hardship, that they wanted some advantage over other banks in that name and if the amendment is carried.....

The Honourable Sir Nripendra Sircar : May I point out to my Honourable friend that that cannot be a sound point. Although they

do not use the word 'municipal' but use the word 'corporation' they will be hit by paragraph (b) which says :

'contains the word 'Municipal'.....or any word which suggests or is calculated to suggest connection with any municipality.....'

Pandit Nilakantha Das : If the company is run by the Municipal Corporation, then evidently there will be no objection.....

The Honourable Sir Nripendra Sircar : Yes, there will be objection.

Pandit Nilakantha Das : If it is any other company which wants to take that name, then only there can be objection. That is my reading. If it is the corporation itself and the bank belongs to the corporation, then it will be a corporation bank.....

The Honourable Sir Nripendra Sircar : No, no : look at clause (b).

Pandit Nilakantha Das : If it is any other company which takes advantage of the name, it is all right : but if the bank belongs to the corporation there can be no objection.....

Mr. Susil Chandra Sen : It is the use of the word "corporation" which will be objected to.

Pandit Nilakantha Das : I do not think it is so : if that be so, then there may be some point.

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muhammadian) : Sir, Mr. Sen wanted to know whether we know of any cases when this power has been misused by the Governor General in Council. Sir, to our cost and to our bitter experience we know that in the hands of this Government there is no power which has not been positively misused. I, therefore, say that this amendment ought to be carried, and the proposal of the Government should be turned down.

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

"That in clause 5 of the Bill, in the proposed sub-section (3) of section 11, the words 'Except with the previous consent in writing of the Governor General in Council' be omitted."

The Assembly divided :

AYES—46.

Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Badi-uz-Zaman, Maulvi.
Bhagavan Das, Dr.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Dessi, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Hans Raj, Raizada.
Jedhe, Mr. K. M.

Jogendra Singh, Sirdar.
Kailash Behari Lal, Babu.
Khan Sahib, Dr.
Khare, Dr. N. B.
Lahiri Chaudhury, Mr. D. K.
Maitra, Pandit Lakshmi Kanta.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Murtuza Sahib Bahadur, Maulvi Syed.
Nageswara Rao, Mr. K.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Parma Nand, Bhai.
Raghubir Narayan Singh, Choudhri.
Raju, Mr. P. S. Kumaraswami.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Satyamurti, Mr. S.

AYES—contd.

Shaukat Ali, Maulana.
Sheodass Daga, Seth.
Singh, Mr. Ram Narayan.
Sinha, Mr. Anugrah Narayan.
Sinha, Mr. Satya Narayan.

Sinha, Mr. Shri Krishna.
Sri Prakasa, Mr.
Thein Maung, Dr.
Umar Aly Shah, Mr.
Varma, Mr. B. B.

NOES—55.

Abdul Hamid, Khan Bahadur Sir.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ayyar, Diwan Bahadur R. V. Krishna.
Bajoria, Babu Baijnath.
Bajpai, Sir Girja Shankar.
Bhagchand Soni, Rai Bahadur Seth.
Bhat, Mr. M. D.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Craik, The Honourable Sir Henry.
Dalal, Dr. R. D.
Das-Gupta, Mr. S. K.
DeSouza, Dr. F. X.
Dey, Mr. R. N.
Ghiasuddin, Mr. M.
Grant, Mr. C. F.
Griffiths, Mr. P. J.
Grigg, The Honourable Sir James.
Hidayatallah, Sir Ghulam Hussain.
Hossack, Mr. W. B.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Jehangir, Sir Cowasji.
Joshi, Mr. N. M.
Khurshaid Muhammad, Khan Bahadur Shaikh.
Lloyd, Mr. A. H.

Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
Metcalf, Sir Aubrey.
Milligan, Mr. J. A.
Mody, Sir H. P.
Morgan, Mr. G.
Mudie, Mr. R. F.
Mukherjee, Rai Bahadur Sir Satya Charan.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Noyce, The Honourable Sir Frank.
Rajah, Rao Bahadur M. C.
Rau, Mr. P. S.
Robertson, Mr. G. E. J.
Roy, Mr. S. N.
Sarma, Sir Srinivasa.
Scott, Mr. J. Ramsay.
Sen, Mr. Susil Chandra.
Sharma, Mr. D.
Sher Muhammad Khan, Captain Sardar.
Singh, Rai Bahadur Shyam Narayan.
Sircar, The Honourable Sir Nripendra.
Spence, Mr. G. H.
Thorne, Mr. J. A.
Tottenham, Mr. G. R. F.
Vissanji, Mr. Mathuradas.
Witherington, Mr. C. H.
Yamin Khan, Sir Muhammad.
Zafrullah Khan, The Honourable Sir Muhammad.

✓ The motion was negatived.

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

“ That clause 5 stand part of the Bill.”

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

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

“ That clause 7 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal : Sir, I move.

Sir, Regulation 55 reads as follows :

“ The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place ”, etc.

Now, Sir, it is clear that this Regulation makes it obligatory for the Chairman to adjourn a meeting if the shareholders present in the meeting so desire, and it is but meet and proper that it should be so. I say it is *unfair to allow the Chairman to flout the wishes of the majority*. Why should a Chairman be allowed to act as an autocrat and ride rough shod over the wishes of the majority of the shareholders ? Sir, if we allow this clause to remain as it is, the Chairman, even in the event of a motion for adjournment being carried at the meeting, will not adjourn the meeting, and the temptation to play the part of a Hitler and Mussolini will be too great. And, Sir, why should not the shareholders have the right to adjourn a meeting if the majority of the shareholders present desire that it should be adjourned ? Why should it be taken for granted that the shareholders will not behave as reasonable men ? After all, their stake in the company is as much as that of anybody else, they too suffer, if the company suffers. Ordinarily they will not like to injure themselves, and therefore it is our duty to see that the shareholders' wishes as expressed by the majority opinion are carried out. All of us who have got anything to do with companies know that it is very difficult for shareholders to obtain a majority at such meetings, and it is all the more reason why we should pay due consideration to the wishes of the majority, and therefore we must have these regulations in order to make it compulsory for the Chairman to adjourn meetings if a majority of the shareholders present at meetings so desire.

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

“ That in clause 7 of the Bill, for the word and figures ‘ regulation 56 ’, the words and figures ‘ regulations 55 and 56 ’ be substituted.”

Sir H. P. Mody : Mr. President, I am sorry I cannot agree to this amendment. Table A which embodies model regulations has been taken bodily from the English law on the subject, where there is also Table A, and where this particular regulation figures in the exact words found in the Indian Companies Act. Now, Sir, if none of these regulations is made compulsory under the English law, I fail to see why this particular regulation as also a few others, amendments in respect of which are going to be moved presently, are sought to be made compulsory under the Indian law. Has any particular occasion arisen for such a change ? My friends of the Shareholders' Association have cited one instance in their memorandum on this subject, and have vaguely referred to a few more. But in the course of these last 23 years tens of thousands of meetings must have taken place, and how many instances of any autocratic exercise of power on the part of Chairmen have been brought to light ? I am not prepared to deny that occasionally in the hands of unscrupulous persons this power may be misused, but are you going to provide for every conceivable misuse of the powers given to people under the law ? There is nothing unreasonable about the Chairman having the right to determine whether particular proceedings should go on or should be adjourned. After all, meetings are called after due and sufficient notice

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[Sir H. P. Mody.]

has been given. The agenda is submitted with the notice. The shareholders have ample time to prepare themselves. If after that a noisy minority comes along and wants to move an adjournment, then it is the easiest thing in the world, even if the majority of the meeting may not be inclined in its favour, to secure that majority. (*An Honourable Member*: "How can they?") I will tell you. Supposing my Honourable friends here were to move an adjournment of this House every day at 3-30, I am sure on most occasions I should support them. (Laughter.) It is the easiest thing in the world for people to want to run away from the business of a meeting. Then, it must be remembered that, shareholders are only concerned with asserting themselves with regard to the business of the meeting. If they have a majority, and if that majority is against a particular proposition of which notice has been given and which the meeting has to consider, the majority is perfectly within its right to vote down the proposition, but why should it be armed with this additional power of compelling the Chairman to adjourn meetings? It has often happened that for a few shareholders by creating sufficient noise to tire out the majority, and then move an adjournment and carry it.

Mr. S. Satyamurti: By a majority?

Sir H. P. Mody: By a majority, yes, but I repeat it is the easiest thing in the world to secure a majority for a proposition of that character.

Prof. N. G. Ranga: But the shareholders are not getting travelling allowance. (Laughter.)

Sir H. P. Mody: Again, under the articles of most companies the Chairman's only right to adjourn meetings himself is when the meeting agrees with him. He can refuse an adjournment motion moved by a shareholder.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): It will be followed by a very long statement on the floor of the House.

Sir H. P. Mody: Possibly yes, it depends upon what the floor of the House is like. What I was submitting was this. The Chairman has himself not the right of his own volition to adjourn a meeting; so also the shareholders should not have the right to force an adjournment upon the Chairman. The right, or the obligation, is reciprocal, and no case has been made out for a change in the existing position. As a matter of fact, if this amendment were to be carried, business would be rendered extremely difficult.

Sir Cowasji Jehangir: Personally, I am trying my very best to take a most impartial view on the question of this Companies Bill although I am connected with business. In this particular case my Honourable friends have not had occasion to deal very often with shareholders meetings, and, therefore, on the face of it perhaps they may consider my Honourable friend's arguments as not very valid. You might say, after all you are placing the power in the hands of the majority, and if the chairman has not got the majority he should be governed by the wishes of the majority on the question of adjournment. That is all very well in theory, but our experience in Bombay goes to show that they are very reasonable shareholders, a very large majority of them are very reasonable, but there is a small minority who can be very unreasonable, and not only unreasonable,

but who may have a method in their madness. Very often what appears to be a very reasonable demand of a minority may have behind it motives of a not very honourable character. We have had experience of some minorities and some of those unreasonable shareholders in Bombay, and my Honourable friend, the Leader of the Opposition, is perfectly aware of the unreasonableness of the small minority of shareholders, and more often than not, his clients have been those who have been obstructed in every way by a few men, and he has on more than one occasion perhaps given his clients advice as to how to deal with this obstructive element in shareholders' meetings. What can 2, 3 or 4 men do? They can go on speaking, obstructing the meeting. The meeting may start at 3 o'clock, it may be 8 or 8-30. They may go on obstructing the meeting and the result can only be that the majority who are really anxious by that time to come to a decision are unable to do so, and if under this amendment an adjournment was moved, the majority would say, "We are sick of the whole thing. Let us go home and have our dinner". That is the point that has to be considered, that you will give power to a very small minority to get a majority in the meeting by tiring them out—and that is not mere theory, it is practical experience. (Interruption.) This is the practical experience, and, therefore, I only place before the House this aspect of the case. You believe you are giving the majority the power. You are not. In practice you may be giving a minority, a very small minority of 4 or 5 in a meeting of 100 or 200, this power of adjourning a meeting. Up to now things have not been so bad under present conditions and I would ask the House to consider this aspect of the case that I have placed before it, of giving power to 2 or 3 men. If it was the majority in practice I would have no objection, but it may turn out, it will turn out that this power is given to a very small minority of 2 or 3 or 4 or 5 men whose practice is and has been in our experience to obstruct shareholders' meetings.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): I am very surprised that such a modest and reasonable amendment as this should have been opposed by the two Knights from Bombay. The reasons that they have given for their opposition do not appeal to me in any way. One of the reasons is that it is taken from the English Act and in the English Act it is not made compulsory. I do not see why if that is necessary in the circumstances of our country it should not be made compulsory under this Act.

Sir H. P. Mody: What is the occasion that has arisen?

Mr. T. S. Avinashilingam Chettiar: The occasion that has arisen in this country is that the shareholders in this country require greater protection than those in other countries. In almost all cases we know that the managing agents have a majority of the shareholders, if so, I do not see why you should be afraid of such a reasonable amendment as this. I have not heard it mentioned in the speeches of both my Honourable friends from Bombay that any great hardship will come out of making this regulation compulsory. They say that power will go to a minority. I do not see, when it is the vote of the majority that is going to be taken,—as my Honourable friend Prof. Ranga said, it is not a profitable thing for the shareholders to be coming and attending the meetings. They are not interested in adjourning them, and why

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[Mr. T. S. Avinashilingam Chettiar.]

should they agree to postpone these meetings for another day and put themselves to trouble? This amendment is a very reasonable one and it should be accepted by the House.

The Honourable Sir Nripendra Sircar : I only want to indicate the view of Government in this matter. I will not go into the question of unreasonable majorities or unreasonable minorities. My view is that when we lose a division the majority is unreasonable and when we win a division we do it in spite of the minority which is obstructive. I find as a matter of fact in most of the articles, possibly 95 per cent., Regulation 55 is quoted with deletion of these words "and shall if so directed by the meeting adjourn the meeting" and it usually runs like this "The Chairman may with the consent of any meeting at which a quorum working from 1913. Abuse to any extent has not been proved, which requires the compulsory introduction of this as one of the articles. Surely this is a matter which may be left to the company to decide, viz., whether they should have this rule with the addition of "if so directed or not".

Prof. N. G. Ranga : I rise to support this amendment. It is rather surprising that the Government whose spokesman waxed eloquent only the other day upon the virtue of giving power and prestige to majorities and trying to control the minorities should not be willing to accept this amendment which only seeks to implement the power of the majority. The whole burden of this Bill is dependent upon one particular idea—that shareholders are not able to look after themselves, that shareholders are not able to guard themselves against the malicious attempts that are being and may be made by managing agents and several others and therefore this Bill should be passed into law in order to help them almost in spite of themselves. It has been said again and again from every side of the House that shareholders are not willing to take as much interest as they ought to in the affairs of the company in which they have invested their money. Therefore, it is not usual that a large number of shareholders go to any particular meeting and when they do go it is in their own interest that they should try to conduct themselves in such a fashion that they get as much out of the meeting as possible and go home instead of having to come back again. My harmless suggestion for the provision of third class fare for the shareholders did not meet with the approval of the Law Member or the any travelling allowance, what inducement do they have to come again and again to the meeting. It is not to their interest that they should adopt obstructive tactics, lose more money and lose the opportunity of carrying on their own business. So, it is rather extraordinary for my Honourable friend from Bombay to maintain that we should provide some safeguard against the obstructive tactics of shareholders. If we are really sincere in our plea that shareholders should take more and more interest in the affairs of the company, we should certainly be willing to accept this amendment. We do not ask that a minority of 8 or 4 should have the right of getting a meeting adjourned. We simply ask that the majority of the shareholders who assemble on any particular day should be empowered to ask for and get an adjournment of

a meeting. It may be wondered why if there is a majority for any particular point of view, they should be anxious to get a meeting adjourned. It is quite possible that if the meeting were allowed to go on, the managing agents or other directors who usually have a tremendous influence upon the shareholders might try to influence their judgment to suit their own purposes as the meeting proceeds. It is for that purpose the shareholders, those of them who are rather afraid of having to oblige these directors in some way or other, decide in favour of an adjournment in the hope that they will be able to muster even in stronger numbers at the next meeting and thus overcome the influences of these directors and try to control the affairs of their business. It is for that purpose that we are anxious that this particularly harmless amendment should be accepted by Government. How are we to help these shareholders? We want to help them in every possible method. Sir, I am told that the meeting can elect its own chairman. I have yet to know when the Chairman of the Board of Directors is present whether it is possible or legitimate for shareholders present to elect some other person as chairman at the meeting. I am told that generally the articles provide otherwise and therefore it is not possible for shareholders usually to get their own way and try to control these people unless they are empowered at least to this extent. There is one other criticism. It is said that the Chairman of the Board of Directors was the person elected by the shareholders themselves and therefore the shareholders should be expected to repose that much of confidence in them. If we were to accept that argument, then we need not have this Bill at all. Every Board of Directors comes into existence by the free will of the shareholders. Yet we find it necessary to make provisions in the law to protect the shareholders from the machinations of the Board of Directors. It is therefore necessary that we should place this important power in the hands of the shareholders and therefore I support this amendment.

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

"That in clause 7 of the Bill, for the word and figures 'regulation 56', the words and figures 'regulations 55 and 56' be substituted."

The motion was negatived.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

"That in clause 7 of the Bill, after the word and figures 'regulation 66' the word and figures 'regulation 71' be inserted."

Sir, regulation 71 defines the powers of the directors—which is the most important part of the system of joint stock companies. The question is—what is the position and precise power of a director *vis-a-vis* the shareholders and *vis-a-vis* the managing agents? My contention is that there is no provision on this fundamental question either in the existing Act or in the Bill before us. The question is—who is a director, and what is a director? We have of course got a definition of the word "director" in the Act. That definition is this :

"'director' includes any person occupying the position of a director by whatever name called ;"

I think that it is not at all a satisfactory definition. The definition does not define who is a director : it only says that a "director includes any

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person occupying the position of a director by whatever name called". The question therefore is—what is that position? What is the position of a director as contemplated in this definition? My submission is that a precise definition is not to be found. However, I do not like to take up the time of the House over this amendment, because I understand Government will accept this amendment. Sir, I move.

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

"That in clause 7 of the Bill, after the word and figures 'regulation 66' the word and figures 'regulation 71' be inserted."

The Honourable Sir Nripendra Sircar : Sir, I was waiting to hear any opposition to this. I have considered the matter very carefully because I had a talk with Mr. Datta. At first in my mind there was some doubt as to whether this would not cut into the managing agency system. I have looked up Palmer. I have also considered the language. It seems to me that it is absolutely clear that this will not be inconsistent with any of the provisions for a managing agency which are provided in the Bill and I draw the attention of the House to these words in Article 71 :

"subject nevertheless to any regulation of these articles".

Now, under clause 7, this will be deemed to be part of the articles of association : and therefore, Sir, the business being conducted by a director will again be subject to the provisions in the articles, and we know that managing agencies are provided for in the articles of companies. In these circumstances, I feel no hesitation in accepting the amendment.

Mr. Akhil Chandra Datta : Sir, is not a slight modification necessary, because it says, "the Indian Companies Act, 1913"—there should be made a consequential amendment, here?

The Honourable Sir Nripendra Sircar : I do not think any consequential amendment is necessary.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I venture in this connection to disagree with my Honourable friend, the Law Member. I should just like to know how this will affect the case of companies which have no directors,—and these are provided for in the law as it is at present, and there is no suggestion of a change in that law.

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

"That in clause 7 of the Bill, after the word and figures 'regulation 66' the word and figures 'regulation 71' be inserted."

The motion was adopted.

Babu Baijnath Bajoria : Sir, I should like this regulation 97 to be amended a bit. and I have given notice of another amendment, No. 287, on this subject, and, with your kind permission, may I move that amendment along with amendment No. 19?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move two amendments at the same time.

Babu Baijnath Bajoria : In that case, Sir, I move :

"That in clause 7 of the Bill, after the word and figures 'Regulation 95' the word and figures 'Regulation 97' be inserted."

Sir, Regulation 97 reads like this :

"No dividends shall be paid otherwise than out of profits."

I want this to be made compulsory. My intention in moving this amendment is this, that some companies just to make a show of it, give dividends out of capital or out of money borrowed, just show off that the company is doing well, whereas the position is possibly just otherwise. I think this is very harmful to the interests of the company and so I move that these words "Regulation 97" be made compulsory so that dividends may only be paid out of profits. As I understand the word "reserves", these after all accrue from profits and I think the word "reserves" is included in profits. Sir, I move.

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

"That in clause 7 of the Bill, after the word and figures 'Regulation 95' the word and figures 'Regulation 97' be inserted."

Sir Cowasji Jehangir : Sir, I do not understand the exact meaning of this amendment, and I think my friend the Honourable the Law Member will have to come to our rescue?

The Honourable Sir Nripendra Sircar : As I understand Mr. Bajoria's amendment, it is this. He wants Regulation 97 to be made compulsory. Regulation 97 reads like this :

"No dividends shall be paid otherwise than out of profits."

He wants to make it perfectly clear that reserves may be part of the profits.

Sir Cowasji Jehangir : How is that clear?

The Honourable Sir Nripendra Sircar : By the addition of these words ; that is the object of his amendment. Therefore, regulation 97 will read like this now :

"No dividends shall be paid otherwise than out of profits and of reserves."

He wants to modify the regulation by the addition of the words "and reserves" and wants to make it compulsory. Under the present law, even where it is not made compulsory, they cannot pay dividend except out of profits. That is the meaning of the amendment.

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I want to draw the attention of the House to one or two points. If this amendment is passed, the credit of the companies might be needlessly lowered as there are many companies which create dividend reserves from which they could very well pay dividends in lean years when there are no profits. Suppose you pass this amendment, what happens to these prudent and well-managed companies. They will never be able to pay dividends which they have accumulated out of previous years' undistributed profits for the purpose of maintaining a uniform rate of dividends even in lean years. The provision for lean years has been made for the simple reason, namely, to give dividends when the profits are not there. This amendment, if passed, will prevent such a sound tendency becoming universal. I am, therefore, opposed to this amendment.

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Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I want to draw the attention of the House to one or two points. If this amendment is passed, the credit of the companies might be needlessly lowered as there are many companies which create dividend reserves from which they could very well pay dividends in lean years when there are no profits. Suppose you pass this amendment, what happens to these prudent and well-managed companies. They will never be able to pay dividends which they have accumulated out of previous years' undistributed profits for the purpose of maintaining a uniform rate of dividends even in lean years. The provision for lean years has been made for the simple reason, namely, to give dividends when the profits are not there. This amendment, if passed, will prevent such a sound tendency becoming universal. I am, therefore, opposed to this amendment.

Sir Cowasji Jehangir : Mr. President, I am still unable to follow the reason of this amendment.

The Honourable Sir Nripendra Sircar : You appeal to your local adviser, the Leader of the Opposition, and he will explain it to you.

Sir Cowasji Jehangir : I will be very pleased if he will speak on this subject. But I do not understand the object of the Mover in moving this amendment. The dividends are paid either out of profits of the year or out of the equalization of dividend fund or out of any other reserves. There are reserves of a company and in lean years it is possible that the shareholders may demand that a dividend be paid out of such reserves. That is being done today. Has there been a case to Mr. Bajoria's knowledge where dividends have been paid out of capital?

The Honourable Sir Nripendra Sircar : Yes, Sir. There have been many reported cases where dividends have been paid out of capital and the matter has come to Court.

Sir Cowasji Jehangir : Will that be legal?

The Honourable Sir Nripendra Sircar : It is not, but illegal things are being done.

Sir Cowasji Jehangir : Then what is the use of putting in this and making it compulsory if it is illegal to do it today?

The Honourable Sir Nripendra Sircar : If my Honourable friend will allow me to interrupt him again, he will find from the reported cases in Buckley on Companies and Palmer that the directors cannot pay dividends except out of profits and reserves.

Sir H. P. Mody : May I know, Sir, if this regulation, if adopted, will be in conflict with the practice which is sanctioned by the articles of some companies? When new works are started, or there is an extension, is it permissible to pay dividends out of capital?

The Honourable Sir Nripendra Sircar : Out of what?

Sir Cowasji Jehangir : It is paid out of capital.

Mr. Bhulabhai J. Desai : I quite agree that article 97 lays down no more than what is the law for no dividends can ever be paid out of capital. But it may be a prudent thing to state that instead of the word 'reserve' the words may be 'otherwise than out of the profits of the year or any other undistributed profits' which will cover the whole of the ground.

Babu Baijnath Bajoria : I accept this explanation.

Mr. N. M. Joshi : May I suggest that the undistributed profits, if they are set apart for some other purpose, should not be distributed as dividends?

Mr. Bhulabhai J. Desai : No dividends shall be paid otherwise than out of profits for the year or other undistributed profits.

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

"That in clause 7 of the Bill, after the word and figures 'Regulation 95' the 1 and figures 'Regulation 97' be inserted."

The motion was adopted.

Mr. T. S. Avinashilingam Chettiar : Sir, I beg to move :

"That in clause 7 of the Bill, after the word and figures 'regulation 95' the figures '96' be inserted."

Regulation 96, as it is, is quite innocent and there is no use in making it compulsory. What I seek to do is to amend regulation 96 by adding these words and, when amended, it will read as follows :

"The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company, but before such dividends are declared, funds must be allocated for depreciation or bad debts at least at the rate allowed by the Income-tax rules then being in force."

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

"That in clause 7 of the Bill, after the word and figures 'regulation 95' the figures '96' be inserted."

The Honourable Sir Nripendra Sircar : I would object to that change made now. We must have some time to consider these things. I am quite prepared to include regulation No. 96, but if that regulation is going to be amended, then I must have some time to realise what is happening.

Mr. T. S. Avinashilingam Chettiar : We may leave this amendment, Sir, for the time being.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow that.

Mr. T. S. Avinashilingam Chettiar : Let me try to explain to the Honourable the Leader of the House. I hope he will find his way to accept it. Article 96 reads as follows :

"The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company."

But, in most cases, because of the wishes of the directors and the shareholders to get all the profits they have got for the year, they do not set apart any funds for depreciation in the case of industrial concerns and bad debts in the case of Banking concerns. They are expected to set apart a certain percentage for depreciation as well as for bad debts by the income-tax authorities but they do not do so and in the long run the company suffers. After some time, when the machinery gets depreciated, they are not able to find the wherewithal to renew it. It is for that reason that I suggest that out of the profits of the year, that amount which is allowed to them by the income-tax authorities for depreciation or for bad debts be set apart.

The Honourable Sir Nripendra Sircar : There is nothing in your amendment about the income-tax.

Mr. T. S. Avinashilingam Chettiar : Will you kindly refer to amendment No. 290 of the consolidated list?

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The Honourable Sir Nripendra Sircar : There are two lists which have been called final list. In the first final list, the number runs up to 299 and in the second final list, which, I believe, is comparatively more final, if I may say so, I have got 304. This is the list which I received and in that list No. 290 is in the name of Mr. Satyamurti.

Mr. T. S. Avinashilingam Chettiar : It is No. 294 in the Final List. I will read out that amendment :

“ That after sub-clause (s) of clause 114 of the Bill the following sub-clause be inserted :

‘ (ss) to regulation 96 the words ‘ But before such dividends are declared, funds must be allocated for depreciation or bad debts at least at the rate allowed by the Income-tax rules then being in force ’ shall be added at the end ’.”

By this article I should suggest that the companies would be protected against giving all the dividends that they earn in the same year without providing for the future. Sir, I move.

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

“ That in clause 7 of the Bill, after the word and figures ‘ regulation 95 ’ the figures ‘ 96 ’ be inserted.”

Sir H. P. Mody : Sir, the amendment which has been moved just now seems to be in conflict with the one which was nearly disposed of a few minutes ago, and which, I expect, will be brought up again presently. That amendment says that no dividend shall be paid otherwise than out of profits or reserves. That is to say, dividends can be paid even when there are no profits at all and no allocation for depreciation has been possible. Now, then, if it is possible out of the accumulated profits of past years to declare a dividend under regulation 97, under regulation 96, as amended, you want to impose an obligation to provide depreciation before you can declare a dividend, which seems to be contradictory.

Then, Sir, what is the meaning of this amendment ? The prohibition applies only to interim dividends, but final dividends you can declare without providing for depreciation. I think my Honourable friend has not considered the implications of his amendment at all. I can only put it down to the last minute substitution between himself and Mr. Satyamurti, and that is why they both seem to have got mixed up a bit.

Sir Cowasji Jehangir : Mr. President, there can be no harm whatsoever in accepting ‘ 96 ’ ; as it stands anybody will accept it. But then attached to it is an amendment which is going to be moved some days hence and my Honourable friend practically wants us to accept that amendment in advance, if we accept this one just now. I, for one, am not prepared to consider the amendment which is to be moved three or four days hence. So far as I am concerned I am quite prepared to accept the amendment ‘ 96 ’, as it stands. We are only talking of interim dividends just now and then he wants to mix up with depreciation and questions like that are only discussed at the end of the year, not when interim dividends are declared. I do not see why my Honourable friend is so nervous and wants depreciation to be considered with *ad interim* dividends. You must remember that interim dividends are never declared unless there is a very handsome

profit. If interim dividends are declared you may take it for granted that provision will be made for depreciation. So far as I am concerned, I will be quite prepared to vote for the inclusion of ‘ 96 ’ but I cannot go further now. My Honourable friend may do what he likes when the time comes to move his amendment.

The Honourable Sir Nripendra Sircar : Sir, I would have accepted ‘ 96 ’, but for my knowledge that if I accept ‘ 96 ’, we shall be in for the other amendment which is highly objectionable. I shall therefore to be on the safe side oppose ‘ 96 ’ also.

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

“ That in clause 7 of the Bill, after the word and figures ‘ regulation 95 ’ the figures ‘ 96 ’ be inserted.”

The motion was negatived.

Mr. L. C. Buss (Nominated Non-official) : Sir, I beg to move :

“ That after the proviso to clause 7 of the Bill, the following further proviso be added :

‘ Provided further that Regulation 107 shall not be deemed to form part of the Articles of Association of any company if the company in general meeting shall so determine ’.”

Sir, under the provisions of Regulation 107 which it is now sought to make compulsory, information has to be provided in Profit and Loss Accounts which will in a large number of cases be detrimental to the interests of the company, and consequently to the shareholders. This was not, of course, the intention of those who desired the inclusion of this Regulation in clause 7. Their intention was that the shareholders should obtain more information about the affairs of the company than is usually disclosed in balance sheets and profit and loss accounts. One of the arguments for publication of profit and loss accounts is that a large number of companies already publish a profit and loss account as well as a balance sheet, although they are not legally obliged to do so. That is certainly the case but it follows that those companies which do so are naturally careful not to disclose information which would be of value to their competitors and detrimental to themselves. So long as the provisions of Regulation 107 were optional, the directors could protect the shareholders in this way. But once it becomes obligatory their hands are tied to a most undesirable extent.

Another argument is that many companies already disclose full details of costs in their published figures. That is perfectly true and it is, for example, a common practice among tea and rubber companies. But in such cases it is evident that the company has nothing to fear from such disclosure and the information given cannot be made use of by others in the same line of business in a competitive spirit.

It entirely depends on the nature of the business whether disclosure of costs can safely be made. In the coal industry, for example, where the disposal of a colliery's output may very often depend on an anna or two in the price per ton quoted, which in turn depends fundamentally on the raising costs, information about the costs of a competitor mining the same class of coal would be of the greatest value

[Mr. L. C. Buss.]

and might very well result in one colliery putting a neighbour out of business or making things so difficult for him that there would be no profits to divide among the shareholders. I feel sure those Honourable Members who have any knowledge of the coal industry as directors or shareholders will agree that this is a correct statement of fact.

It is one thing to make a profit and loss account compulsory and quite another to stipulate for the disclosure of detailed figures. I submit that the compulsory inclusion of Regulation 107 without giving the shareholders a chance to object is unnecessary and damaging. There are elsewhere in the Bill a large number of new provisions for publicity and disclosure of information, some of them eminently reasonable and some, in my opinion, less so. Their cumulative effect is to give the shareholders a much better opportunity of knowing about the working of their company, a principle which cannot be objected to. But I hope this House will not insist on going further than is right and proper in the interests of all concerned but will agree to the proviso which I propose should be added to clause 7 with reference to Regulation 107.

Sir, I move.

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

“ That after the proviso to clause 7 of the Bill, the following further proviso be added :

‘ Provided further that Regulation 107 shall not be deemed to form part of the Articles of Association of any company if the company in general meeting shall so determine ’.”

Mr. N. M. Joshi (Nominated Non-Official) : Sir, I rise to oppose this amendment. From the speech of the Honourable the Mover of the amendment it may seem that it is only the shareholders who are interested in getting information regarding the working of a company ; but there are other parties also who are interested. In the first place there are the employees of the company who are interested in knowing the details of the accounts of that company. Many times questions regarding wages of the employees arise and there are disputes. The employers generally plead that they have to spend money on other items,—for instance, the prices for raw material have gone up or something else has happened, and therefore the wages could not be paid. If an employer takes that attitude in a wage dispute it is necessary for the employees to know the details of the costs for other matters. I, therefore, suggest that this amendment should not be accepted in the interest of the employees. Moreover, Sir, I suggest that this amendment should be opposed even in the interest of the public. My friend, the Honourable the Mover of the amendment, gave the instance of the coal industry. Now the coal industry comes to the Legislature and asks for certain concessions. They say that as the industry is in a depressed condition Government should give them concessions as regards freight on railways. If we are to decide that question we must know what the condition of the coal industry is. We must get sufficient knowledge of the industry which comes to us for certain concessions. The industries also ask for protection many times and they get protection. If the public is not going to get sufficient information regarding the companies that ask for protection, how can

the public give them protection ? I, therefore, feel, Sir, that it is not right to allow any company not to give to the public and to the employees sufficient information regarding the working of the company. I am not suggesting that the details as to how a particular article was purchased should be given ; but after all if the profit and loss account is to be given it should be in a particular form set down in the Act, and I do not think the companies will lose much. It will be a wrong thing for a public company to follow a policy of secret diplomacy. It is not intended that some secret information which the company may have should be divulged, but in a company there cannot be much secret information. If a company is working on a policy of secret diplomacy, I am not sure even though shareholders may agree that the details should not be given, still there may be a likelihood of the shareholders themselves being sometimes kept in ignorance. I therefore feel, Sir, that this amendment should not be accepted.

Mr. M. Ananthasayanam Ayyangar : Sir, I oppose this amendment. It is with a view to show that the details of their working or the administration of a company are known to the shareholders that this clause was inserted in the Bill itself. Regulation 107 was in the original Bill itself and it has not been added in Select Committee. Now, Sir, the Regulation is very modest in its terms. As to the way in which the details of the profit and loss account may be assessed or assorted, discretion is entirely left in the hands of the Directors. The first few lines of Regulation 107 may be read with advantage. It provides *inter alia* that the profit and loss account shall show, arranged under the most convenient heads, the amount of gross income distinguishing the several sources from which it has been derived and the amount of gross expenditure distinguishing the expenses of the establishment salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account so that a just balance of profit and loss may be laid before the meeting. Sir, in the pamphlet submitted by the Shareholders' Association which has been circulated to Honourable Members of this House we find that the profit and loss accounts of various companies have been printed. Details have been given of the working of companies not only managed by Indians but by Europeans also in this country. Details of the management of a very important and flourishing Japanese company is given, namely, the Kanegafuchi Mills Company, Limited. I refer Honourable Members to that portion of the information which deals with the profit and loss account of that company. It will be interesting to see that this company which is the largest unit in the textile industry of Japan gives detailed particulars of its receipts and expenses as will be seen from the statement attached to its balance-sheet, as at 25th June, 1934 :

“ Received :

Goods and wastes, etc., sold,

Empty bales, etc., sold,

Interest received.

Half made cotton yarn carried to next term”, etc.
L260LAD

[Mr. M. Ananthasayanam Ayyangar.]

Then .

“ From the gross profit are deducted as under—

Salary, wages, bonus, allowance, etc.

Motor power, coal, etc.

Packing expenses and carriage.

Repair of machinery,” etc., etc.

Sir, no legislature could go so far as to demand details as have been given voluntarily by this company. Honourabl

4 P.M.

Members will be aware that Japan with respect to the textile industry is one of the most coveted or one which has the worst competition in the world. There is not one single country, no even excluding ours, who are not anxious to avoid the growth of the textile industry in Japan and try to take it away for ourselves. If these details are likely to place a very bad weapon in the hands of competitors, they would not be such fools as to give such details here. It is easy, even with all the regulations, to cover up a profit and loss account and not show a true profit and loss account to the shareholders. A large amount may be spent by way of establishment—much more than ordinarily ought to be paid for service : and thus there would not be any opportunity for the shareholders to regulate the amount of expenditure with respect to which they have got a right to impose conditions on the directorate. The earlier amendment given by members of the European Group was that this clause ought not to be made compulsory : that has been withdrawn and this alone has been moved : the effect of this amendment will be absolutely useless for this reason : if this amendment is accepted, regulation 107 imposing a condition on the companies to give details of profit and loss account will be there in the first instance, but it is open to the shareholders at a meeting to say that this regulation shall not come into operation. If the shareholders are clever enough or are prudent enough or diligent enough to direct the directorate to give details in the profit and loss account, the regulation would not be necessary at all. I would therefore say if they are competent to impose such a direction or insist upon such details being given, they would be equally competent to pass this resolution later on and say that in the interests of the company such details are not given. We are here under the impression that we should as far as possible safeguard the interests of the shareholders, who, in very many cases according to us while we are framing the Bill, are not in a position to take complete care of themselves. There is this difficulty. One set of shareholders who are the directors, and an extraneous body who come into the working of the company as managing agents and who are interested in themselves on one side and as against them, the shareholders have to be protected. Under these circumstances, it is not desirable to incorporate the regulation in the Bill and then with the other hand allow the shareholders or a majority of the managing agents to manipulate the votes of the shareholders and make it impossible for a true profit and loss account to be placed before the shareholders.

Sir, as regards the tea and rubber companies, I do not know how the Honourable the Mover of this amendment makes a distinction. I find the profit and loss account of the Central India Spinning and Weaving

Company for the year ended 30th June, 1935—cotton, fuel, stores, salaries, rates, taxes, etc., brokerage, etc., etc., are all shown. Again the profit and loss account of the Gokak Mills contains all these items—fuel, yarn, taxes, etc., etc. Many more details than what we modestly want by the introduction of this regulation are given in the profit and loss account of the various companies here. If you voluntarily leave it to them, for the purpose of displaying efficiency of their mills, they would do it themselves : but once it comes from this side of the House or in the interests of the shareholders, then they see some mischief in it and they bolt the doors against all suggestions from here. It will be a dangerous weapon in the hands of directors and managing agents whose term is sought to be limited to 20 years : they would make a lot of window-dressing and make it appear that all is well until the crash comes ultimately. Therefore, it is desirable that at the earlier stages sufficient material is placed in the hands of the shareholders who are primarily interested in the affairs of the company to watch and give directions to the directors. Sir, I oppose the amendment.

Mr. T. Chapman-Mortimer : Sir, I think in all sections of the House there is complete agreement on the theoretical case for the inclusion of this regulation 107.....

Prof. N. G. Ranga : No, no.

Mr. T. Chapman-Mortimer : I am very glad to hear Honourable Members say ‘no’. It is obviously the right thing that shareholders should know as much as they possibly can about the financial state of their company. It is also desirable as my Honourable friend, Mr. Joshi, pointed out, that in a country that has embarked upon discriminating protection, we should know as much as possible about the profits of the business or companies that are so protected. If regulation 107 only demanded information of this kind, there would be no objection to its inclusion as is proposed in the Bill. But the trouble is that this regulation goes far beyond that. It demands all kinds of details which in certain cases would be very awkward to publish.....

Mr. S. Satyamurti : Illustrate, please.

Mr. T. Chapman-Mortimer : I shall. First, however, I would just like to call the attention of Honourable Members to the last few words of the regulation :

“ Every item of expenditure fairly chargeable against the year’s income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year,—(I would ask Honourable Members to note this)—the whole amount of such item shall be stated, with the addition why only a portion of such expenditure is charged against the income of the year.”

Now, we all know that in the Bill now under discussion there are a number of clauses which are designed to tighten up the regulations in regard to the publication of accounts : for example, in clause 65 it is made compulsory to publish a profit and loss account. That in itself is an enormous advance over the previous state of affairs in this country, and, I would add immediately, a very sound advance. Secondly, take clause 67. If Honourable Members will turn to that clause, they will

[Mr. T. Chapman-Mortimer.]

find that it provides that every profit and loss account must disclose any payments to the managing agents by way of fees and other remuneration. Then in clause 66, the directors in their report must disclose what they propose to set aside by way of reserve. In that connection, I would remind Honourable Members that ever since the famous Kysant case, the auditors of public companies have been obliged—otherwise they would run great risks of finding themselves in jail—to compel directors of a company to disclose any transfer from reserves to profit and loss account to enable the company to pay a dividend. That is a very important disclosure. Then again by clause 116, it is proposed to give a very much more full balance sheet. In particular I would like to draw the attention of Honourable Members to the heading “advances” in that balance sheet. For it is under that head that any expenditure which relates to future years would obviously have to be shown : that is to say, if I spend 10 lakhs in the current year and only 3 lakhs is properly debitible against the current year, the remaining 7 lakhs would be shown in that advances item in the balance sheet. I would also ask Honourable Members to note that under the new proposals in the Bill, profit and loss accounts must be published not only by the public companies but by private companies and by subsidiaries of public companies. They will find the references in clauses 65 and 68 of the Bill. Now, Sir, these are very great advances over the past state of affairs, and when you add to that the fact that by Regulation 105 which it is proposed to make compulsory, members will have the right at general meetings of companies to appoint two or three of their number to examine all the books of a company, you will find that is in itself another enormous safeguard.

Then, again, Sir, in clause 68, sub-sections (5) and (6) you will find provision is made for the inspection of the books of subsidiaries. That again is another great safeguard for the shareholders. If in addition to all these disclosures, which I would remind Honourable Members are new disclosures not previously called for, you have to explain in a footnote to your profit and loss account why certain items have been shown in your balance sheet, you may seriously damage the company for which the managing agents and directors are responsible to the shareholders.

Prof. N. G. Ranga : Question.

Mr. T. Chapman-Mortimer : I don't think you can question it, and I will come to that in a moment.

I would further ask Honourable Members to remember this that in that connection if the auditor or income-tax inspector is at all doubtful about the propriety of transferring certain items to expenditure of future years, he will see to it that attention is drawn to the matter, and if they have been improperly transferred the auditor will in his footnote to the balance sheet make a reference to that point.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Akhil Chandra Datta).]

In the case of mills, and tea gardens, as some one has pointed out, and also in the case of some other types of companies, there is no danger in disclosing details, for example, of wages account. If, for

ample, Honourable Members get a chance to see the accounts of any cotton mill or a jute mill, they will see that there are a great many other items disclosed by some companies in addition to that of wages ; but there are cases in which it may be very much to the disadvantage of the company to make a disclosure in regard to the total amount paid in wages or disclosures of other kinds. In particular, these are the cases of construction companies and mining companies. In the case of mining companies, the situation might perhaps not be so bad were it not that as we all know, there are millions of tons produced by collieries which would not come under these provisions at all, because they are not public companies within the meaning of the Act. I would just like to quote a case to show how it will act very unfairly to a mining company and be very damaging to the shareholders. We will suppose that a company has decided to open a new pit, or it may be to develop a seam, or possibly as in cases in Bengal recently you had disasters and accidents in mines, a very common occurrence. Now, Sir, some of the expenditure incurred by the mining company will be properly debitible to future years, and will be so shown in their balance sheets, and those who are interested will always be able to see whether the advances item is higher this year than last and so on, but that is a very different thing from compelling a company to show as footnotes to their Profit and Loss Account and balance sheets the reason why they spent five times their usual wages when they had just been developing a new seam or pit, which would disclose at once to rival companies what that company was doing. This is a concrete instance to show how damaging it might be to the best interests of the shareholders. It might lead to a great deal of speculation in the Stock Exchange as to the likely future of that company. People might suppose that as a result of that new pit its shares would soar up, whereas in actual fact the company may be developing that new pit in order that in two or three years' time it may take the place of Pit No. 5 or Pit No. 6 which the management know will be exhausted in two or three years' time. Sir, I support the motion.

The Honourable Sir Nripendra Sircar : Sir, I have very little to say. I would remind the House of the history of the inclusion of this Regulation 107. As Honourable Members will see from the proceedings before the Advisory Committee, opinion was divided ; equally the considerations were conflicting, and ultimately it was carried by my casting vote. Then, Sir, I will not refer to the proceedings of the Selecting Committee, because that is not permissible, but I have been pressed from time to time by arguments showing the impossibility of carrying out the requisites of Regulation 107 in connection with certain classes of companies. That is a substantial argument, but I have strongly resisted the idea of Regulation 107 not being included at all. I find however that No. 21 has not been moved at all. Coming to this amendment which is a via media, I really have no objection if it is made compulsory, and then it is left later on to the shareholders, if they so desire, to relieve the company of the necessity of following 107. I don't think, Sir, I can add anything to the merits of the controversy of Regulation 107.....

Mr. S. Satyamurti : What is the position of Government ?

The Honourable Sir Nripendra Sircar : I made it clear that I am willing to accept it.

Mr. Bhulabhai J. Desai : Sir, the provisions of Article 107 are of such an important nature that the very lame objection which has been raised has not satisfied, and I hope, will not satisfy the House. For, after all, what is sought to be done is this. The apprehensions entertained by those who support the present amendment are also without foundation. Profit and loss accounts will be arranged under most convenient heads, the amount of gross income, distinguishing several sources from which it has been derived and so on. It should be observed here that there is no particular form prescribed so that it should necessarily cover every single detailed source of income, and the amount of gross expenditure distinguishing between the expenses of establishment, salaries and other like matters. When we consider all these, it is impossible to see what possible secrets can ever be disclosed as a result of making out a profit and loss account so as to conform to these provisions which will unduly damage the business of any company. The only other part on which emphasis has been laid is that in certain instances it will not be right to disclose the amount of wages. I for one am unable to appreciate this contention.

Then, the other point made by Mr. Chapman-Mortimer was that if there is any item of expenditure, which should be spread over more than one year, it would be undesirable that reasons for that course should be disclosed, and he gave us the instance of expenditure incurred in respect either of tapping some new pit or a new seam in the old pit for the purposes of future working. If that is so, it is a legitimate information which must be given for as soon as we look at the amount of wages, and they show that they are unduly high in the year, explanation must be given to the shareholders. There is no other way of explaining that but by showing as to why those wages had been incurred. To illustrate the matter,—supposing the normal wages were a lakh of rupees, and in that particular year the wages rose to two lakhs of rupees. It might unduly damage the company's prospects unless it was made quite clear as to why the additional lakh of rupees had been incurred. Therefore, the very reason that he gave points to the opposite conclusion, namely, that it should be made known as soon as there is an unusual expenditure in the matter of salaries or otherwise,—that the shareholders should know that it is incurred for a purpose which will not have to be paid for during the year but which will disclose the fact that a new seam has been tapped or any other source for mining purposes, I do not see how it will lead to a wild speculation as he imagines, knowing as one does a little of the stock exchanges at Calcutta and Bombay. On the other hand, it is deeply in the interests of the shareholders, and in fact, in order to preserve the value of the share that the information should be given, because as soon as an unexpected item of high wages is there without explanation, it is more likely to damage the shareholder than do him any good. I therefore say that the clause ought to stand as a compulsory part of the articles of the company.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : I wish to supplement the remarks made by my Honourable Leader, as I had an opportunity of examining this question with some care in the Select Committee. I feel that this amend-

ment, in fact, affects the very structure of this Bill. This article 107 has been referred to at a number of places. I will invite Honourable Member's attention to clause 65 of the Bill, a very important clause ; it lays down that the directors shall place along with the balance sheet also a copy of the profit and loss account. Then we go further and we will refer to clause 67 which is still more important. It says :

“ The profit and loss account shall include particulars showing the total of the amount paid whether as fees, percentages or otherwise to the managing agent, if any, and the directors respectively as remuneration for their services and, where a special resolution passed by the members of the company so requires, to the manager, and the total of the amount written off for depreciation. If any director of the company is by virtue of the nomination, whether direct or indirect, of the company, a director of any other company, any remuneration or other emoluments received by him for his own use, whether as a director of, or otherwise in connection with the management of, that other company, shall be included in the total amount shown as the remuneration of the directors of the company.”

Then, I will refer Honourable Members to clause 68 where it is laid down that along with the balance sheet the profit and loss account and auditor's report of the subsidiary company or companies shall also be placed before the meeting. Now, if the profit and loss account by itself is left to the option and discretion of the company what is to happen to these clauses ? This is a very important clause, clause 67, which requires the disclosure of the fees, commission and other things paid to the managing agent and it is an essential and integral part of the profit and loss account. Then the subsidiary companies are required to disclose the state of their affairs through this profit and loss account. The profit and loss account alone can in fact give some sort of idea of the working and administration of the affairs of the company for the year. I should like to know how these different clauses are to be adjusted. Then is no disclosure to be made of these important matters relating to the commission, allowances, etc., paid to the managing agents and the directors ? Are we not to know anything about the affairs of the subsidiary company ? Then I may also remind the Honourable the Law Member that certain items were deliberately omitted from the form of the balance sheet on the understanding that the profit and loss account would contain those particulars. What is to happen to the balance sheet ? I want Government to understand the position, I would submit with great respect, in all its bearings. If the information that has to be furnished through the profit and loss account in respect of these essential matters, on which will depend to a great extent the clean and pure administration of the companies hereafter, is to be omitted altogether, then one of the very important purposes which this Bill was intended to serve will be lost and defeated. I submit that it is inconsistent and I cannot conceive how the Government could accept such an amendment. What do they propose to do with the rest of the clauses ? Do they now think that it will be possible for the shareholders to appreciate the position of the company fairly and fully even when the profit and loss account is not placed before them ? When these clauses make it compulsory that the profit and loss account should be placed before the general meeting, what will be the effect if the preparation or the submission of the profit and loss account by itself is left to the option of the companies themselves ? I have no doubt that if it is made optional all these clauses will have to be omitted. Then there will be no uniformity of practice.

Mr. M. A. Jinnah : Why should they be omitted ?

Pandit Govind Ballabh Pant : Because if a company decides that it will not prepare any real profit and loss account it will be free to do so. I hope the Honourable the Leader of the Independent Party has seen the amendment that has been moved.....

Mr. M. A. Jinnah : Yes, I have.

Pandit Govind Ballabh Pant : The amendment says that it will be open to a company at any general meeting to decide against the inclusion of regulation 107. That is, the essential information that is to be given in the form of the profit and loss account need not be furnished.

Mr. M. A. Jinnah : No.

Pandit Govind Ballabh Pant : I do not see what else it can mean. If it means that a profit and loss account will be prepared, that is, a certain paper will bear the heading profit and loss account, but it will be left to the company to make any entry it likes in the profit and loss account—there is no instruction or direction anywhere in the Bill as to the compulsory contents of that document—then I submit that it is tantamount to saying that that company will be free not to prepare and not to submit a profit and loss account. What is this profit and loss account to contain? Is there any regulation in the Bill or in the Act prescribing the contents of that profit and loss account? I will be glad if I am disillusioned, but so far as I am able to understand the position is this. There is no form of profit and loss account prescribed in this Bill. Only article 107 lays down what the profit and loss account should contain. If you make article 107 discretionary or optional, then it is practically left to the sweet will of the company whether to prepare any genuine profit and loss account or not to prepare it. So, practically the whole of this provision is wiped out. You may direct every person to prepare a balance sheet, and every one can comply if you do not prescribe the contents of that balance sheet. No unscrupulous person will find any difficulty in preparing a balance sheet if you say, "Prepare a profit and loss account but I do not force you to disclose such items as you are not disposed to disclose". But it will be a fruitless and futile proceeding. It will mean nothing. The utility of the thing depends on your insistence on its disclosing certain points and certain matters which ought to be disclosed in order to give the shareholders and the public a correct idea as to the state of affairs of the company and as to the way it has worked during the year. It is unintelligible to me in fact how the Government can accept such an amendment. It would also invite attention to another point. Section 18 of the present Act, lays down that the articles given in Table A will be presumed to be included in the articles of every company unless something to the contrary is prescribed by the company itself. Now, what more is suggested by this amendment moved by Mr. Chapman-Mortimer? He says that it will be open to a company at a general meeting to resolve that it will not comply with the provisions of article 107, and then it will be open to the company to delete article 107 from the articles annexed to the memorandum of that company. If you will refer to section 20 of the present Act you will find that no articles can be altered except by means of a special Resolution but this amendment of Mr. Chapman-Mortimer makes it easier to alter this article. He has only to pass a Resolution at a general meeting and even a special Resolution is not necessary. To that extent it seems to be inconsistent with section 20, as under this clause 7, it is

form part of the articles of the company and the deletion of an article can be brought about only by means of a special Resolution. I do not say that it would be utterly illegal to make a provision of this type. Perhaps it may be defensible technically but it is inconsistent with the spirit of section 20 which lays down that an article will not be altered except by means of a special Resolution. So, Sir, I submit that even on technical grounds this amendment is clumsy. As to the merits, as Honourable Members are aware, Mr. Sen has devoted a chapter of his report to this subject and he has given reasons in detail at page 18 of his report as to why this profit and loss account is absolutely necessary. I would also remind Honourable Members that the Muslim Chamber of Commerce, the Indian Merchants Chamber, the Northern India Chamber, the Marwari Chamber and many other bodies associated with commerce are in favour of this article. So I see no reason why this article should be dropped. It will really disappoint many of us here if this article is taken out of this clause.

Mr. Susil Chandra Sen : Sir, I was not inclined to speak but I am afraid I have got to deal with some matters on which I find Pandit Govind Ballabh Pant asked for some elucidation in his speech. Taking the scheme of the Bill itself, I will draw the attention of Honourable Members to clause 65 in the first instance. If you look at clause 65 you find, Sir, that along with the balance sheet every year every company must have a profit and loss account. To that extent the suggestions made in the report have been accepted, namely, that there is no getting out by means of any Resolution, ordinary, extraordinary or special, from preparing a profit and loss account and from placing it before the shareholders every year. The profit and loss account which is thus made compulsory must be made out on some basis. It must show how the balance of the profit and loss has been arrived at and for such purpose must show how the income and expenditure. As to what the particular items which are to be disclosed, that is a matter which is dealt with undoubtedly in clause 107 of Table A of the present Act. In the Bill however we have gone one step beyond clause 107 in this way. If you look at clause 67 you will find that so far as 67 is concerned, certain essentially important things which Pandit Pant referred to in his speech must be there. They cannot be avoided or evaded. You will find, Sir, that those are the matters regarding the remuneration of the managing agents and directors. Subject to a special Resolution, there is provision for disclosure of the remuneration of the managers, also. The question is whether apart from those referred to in clause 67 of the Bill the other details in clause 107 must be disclosed in the profit and loss account. If you look at the amendment, does it say that it shall not be given in any case or does it leave the evasion, as Pandit Pant calls it, to the majority of the shareholders? It is to the interest of the shareholders to have as much disclosure as will enable them to find out correctly the profit and loss of the company and I do not understand by what principle you can assume that the shareholders will be so oblivious of their interests as to pass a Resolution asking the management not to give such details as are necessary to enable the account to be properly understood. The only thing which this amendment really aims at is to avoid any rigidity which would offend against particular companies and to leave the matter to the shareholders or rather the majority of them.

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Mr. M. A. Jinnah : To do what ?

Mr. Susil Chandra Sen : To fix such of those particulars as are given in clause 107 which they want. If they do not want any particular item in clause 107, they can pass a Resolution to that effect. That is all that the amendment aims at, if I have read it correctly.

Pandit Govind Ballabh Pant : If they do not want any of the particulars ?

Mr. Susil Chandra Sen : That is a point on which I join issue with Pandit Pant. Under no circumstance can the necessary details be avoided—Even in England.....

Mr. M. A. Jinnah : May I interrupt the Honourable Member ? I am only wanting an explanation. Supposing the shareholders decide that they do not want any kind of profit and loss account, will they do it ?

Mr. Susil Chandra Sen : That will be impossible in view of clauses 65 and 67. Clause 65, if I may point out to my Honourable friend, Mr. Jinnah, makes it compulsory that a profit and loss account must be prepared and laid before the members.

Mr. M. A. Jinnah : What are the items which the shareholders by a Resolution can dispense with in the accounts ?

Mr. Susil Chandra Sen : Only those indicated in clause 107. My friend will find however that apart from the items given in clause 107 there are other items referred to in clause 67.

Mr. M. A. Jinnah : What are those ?

Mr. Susil Chandra Sen : The items which are given in 107 are that the profit and loss account shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, the amount of gross expenditure, distinguishing the expenses of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into the account, so that a just balance of profit and loss may be laid before the meeting. That is the fundamental thing. A profit and loss account must contain such particulars as will give a person looking at it a good idea as to how the profit or loss has been arrived at. In this connection I would ask Honourable Members to remember that this provision about a compulsory profit and loss account had been introduced in England in 1929 and even there you do not find any form prescribed, or any rigid limit prescribed as to the items which should be contained in the profit and loss account. It is left to the general law to decide what details are necessary to be given to the shareholders in order that an idea as to how the profit and/or loss has been worked out. There must be sufficient details. You cannot evade them.

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

The point which I want to bring home to the Honourable Members is that by giving an option to the majority of the shareholders to dispense with compliance of clause 107 you do not thereby say that you are giving the go-bye to clause 107 altogether. Clause 107 applies but it is for the shareholders to say that any particular item therein mentioned may not be to their interest to divulge. There is good reason for this because this profit and loss account, once it is filed with the Registrar, becomes accessible to everybody and anybody. Therefore, Sir, I think there is nothing very peculiar or surprising in leaving the ultimate decision of the question as to which of the particular items ought to be omitted to the sense of the majority of the shareholders. As I say, it does not mean that section 107 is not to be applied at all. Section 107 is made compulsory but the extent to which it is made applicable is left to the majority of the shareholders. How can it be suggested, with any sense of logic, that, if the shareholders are convinced that, it is to their interests to have any particular item disclosed in the profit and loss account, that they will or the majority of them will come and pass a resolution authorising the evasion of the disclosure of that item. From that point of view, I think this amendment is not at all so horrible as it has been painted to be. Sir, before I sit down, I cannot help making some reference to the report which I made and to which reference has been made by my Honourable friend, Pandit Govind Ballabh Pant. I still maintain, and I think Government has accepted my recommendations to that extent, that a profit and loss account is an indispensable document. I did ask for a standard form but I made no recommendation to adopt clause 107 as a compulsory Article. By the amendment, so far as particular items which it is necessary to disclose in a profit and loss account they have been left to the majority of the shareholders. They are surely the best persons to decide, if it is to their interest to disclose the particulars given in clause 107, or not.

Dr. F. X. DeSouza (Nominated Non-Official) : Sir, on a point of information, I should like to ask whether Regulation 107 goes beyond the provisions of the English law or whether it is in accordance with it ?

Mr. Susil Chandra Sen : There is a corresponding section in Table A of the English law but the English law also has not made it compulsory.

Mr. M. A. Jinnah : Sir, it seems to me that article 107, as far as I can follow it, merely insists upon three things. First, every company has got to submit its profit and loss account and its balance sheet, but as far as I can see, article 107 says this. First of all, you have got to show your gross income. That, of course, you will show in your profit and loss account, but here it says this : "show your gross account, distinguishing the several sources from which it has been derived". Therefore, it is not merely that you have to show your gross income, but you have to distinguish the several sources from which that gross income is derived. I hope the Law Member will correct me if I am wrong. Then the next one is this. It again says this. The expenditure is to be shown in this way,—the amount of gross expenditure, distinguishing the expenses of establishment, salaries and other like matters. Therefore, article 107 imposes the obligation, first, that over and above the ordinary profit and loss account, you have to show the sources from which the income is derived—you have to distinguish the sources—and you have also got to distinguish the expenses of establishment, such as salaries and other like matters. Then,

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next, every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting,—and I take it that that will be also in the profit and loss account and balance sheet—but the distinguishing feature seems to be this that, that expenditure you have to show, but, in addition to that, the reason why only a portion of the expenditure is charged against the income of the year. Therefore, article 107 goes beyond the other provisions in the Bill in three respects. First, you have got to show and distinguish the sources from which you have derived your income. Second, you have to show and distinguish the various charges that you have paid for establishment, salaries and other like matters. And, thirdly, not only you must say what you have spent, spread over so many years, but also state the grounds,—as to how you have done it, and why you have done it. As far as I understand, the objection coming from the European Group is really more to the last item. It is not so much that you would be afraid of giving in your profit and loss account the sources from which your income has been derived. Nor would you be afraid of stating in more particular points such as salaries, expenditure on establishment, and so on, but the apprehension is that, in undertaking some big expenditure on the development of the company or any department of that company, although it may be even shown that so much has got to be spent, they feel themselves that, in addition to the reasons why only a portion of such expenditure is charged against the income of the year, they may have to show the full amounts. Therefore, taking the opinion which the Law Member expressed, that may apply to some companies—not all—and it may be detrimental to the interests of the shareholders, whose interests we are guarding as much as anybody else's, should not that company be allowed, with the sanction or approval of the shareholders, to say that that particular item should not be disclosed? That, I understand, is the objection. Therefore, should we make it obligatory and beat every company with the same stick, or should we not—and here I am influenced by the view the Law Member expressed, that there is a very strong opinion and there is some force in that opinion, that there may be some individual companies who may find it very detrimental to the interests of the shareholders. Should we, therefore, not leave it to the shareholders to decide,—because, ordinarily, in the balance sheet and the profit and loss account you will have almost all the details, perhaps not with those particulars which are specified in section 107, but you will have them. Therefore, Sir, I am inclined not to oppose this amendment, and I hope the Honourable Member will consider whether you should really oppose it.

Mr. S. Satyamurti : Sir, I offer my Honourable friend, Mr. Sen, my respectful condolences on having to assist in the funeral of one of his most important recommendations. It sometimes happens in this House that, when we have to sit on this side of the House, they on the other side have to take part in some unpleasant ceremony, but on such occasions silence may be more than golden.....

The Honourable Sir Nripendra Sircar : You have never followed that maxim—that silence is golden. (Laughter.)

Mr. S. Satyamurti : I have. I congratulate the Honourable the Law Member on his hit at my expense, but if I speak, I never speak against my convictions. I hope the Law Member is now answered. Sir, my

respectful sympathy still goes out to Mr. Sen. Sir, I can study human psychology, I can study human faces ; and I offer my sympathy again to him ; and I will read his own recommendation, Sir, as we have on the profit and loss account, printed in bold type at the taxpayer's expense, not once, twice, but thrice :

“ As I have already stated, this is the account by which the directors disclose to the shareholders the result of the actual working of the company. It serves to give to the shareholders an idea of the earning capacity of the company in relation to its capital and is an important factor in enabling them to judge about the administration and management of the affairs of the company by the directors.”

Now, Sir, I leave out the next paragraph. The paragraph after that says :

“ The Act gives a form of the Balance Sheet but not of the Profit and Loss Account. As a necessary corollary of the recommendations I have made, I recommend that a standardised form of the Profit and Loss Account should be appended in the Third Schedule of the Act, along with the form of the Balance Sheet.”

Now, the whole thing goes :

“ In connection with the compilation of the said account I make the following recommendations, viz.—

That in the case of trading companies the item as to expenses should be divided into four sub-heads, viz.—

- (i) Manufacturing Expenses,
- (ii) Selling Expenses,
- (iii) Administrative Expenses, and
- (iv) General Expenses.

The amount spent for maintenance and repairs of plants, machinery, buildings, etc., should be shown under the heading of Manufacturing Expenses.”

Then, he gives various forms for administrative expenses, and he concludes by saying :

“ Remuneration paid to manager or managing agents, showing separately office allowances, etc., etc.”

Therefore, it seems to me that, if my friend, Mr. Susil Sen, has to swallow his recommendation, he may give the process of swallowing his own recommendation to somebody else.

I now come to the point made by the Leader of the Independent Party, namely, that it may be, in some cases, that the disclosure of the profit and loss account as laid down in Article 107 may be against the interests of the shareholders themselves, and therefore the majority must decide. That is proving too much. At that rate, Mr. President, I suggest that the entire clause 7 is unnecessary because, as the Act today stands, all these articles are in the Appendix—Table A, and it is open to any company by a majority vote to adopt any, all or none of them. Therefore, to say that, in respect of article 107 alone, the majority of the shareholders of each company should decide and not the majority of this House proves too much. What does clause 7 say :

“ To sub-section (2) of section 17 of the said Act the following shall be added, namely :

‘ and shall in any event be deemed to contain regulations identical with or to the same effect as regulation 56, etc. ’.”

[Mr. S. Satyamurti.]

Why should not the majority of shareholders of each company be allowed to decide with regard to all these regulations? There is a method in this. There is a feeling on the part of the majority of this House that it is not wise to leave to the majority of the shareholders of each company the decision with regard to all these regulations. Therefore, my friend must make out and the House must accept the position that there is something peculiar, unique, in regulation 107 which does not apply to all the 7 or 8 regulations which have already been made compulsory by a vote of this House. May I ask what is the peculiarity about this regulation 107? My friend, the Leader of the Independent Party, said that there may be a case where it is not to the interests of the shareholders to disclose.

Mr. M. A. Jinnah : Disclose what?

Mr. S. Satyamurti : The information asked for in Regulation 107.

Mr. M. A. Jinnah : No ; the reasons.

Mr. S. Satyamurti : The difference between us is a very small one.

Mr. M. A. Jinnah : It is not.

Mr. S. Satyamurti : The Leader of the Independent Party concedes that, according to his judgment, all the information in regulation 107 can be usefully and safely given, without affecting the interests of any shareholders, excepting in the last two lines. Now, look at the last clause. It says :

" Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting, and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year."

Now, they will have to give some reasons as to why only a portion of the expenditure is charged against the income of the year. The only example given was about some coal mining company extending its activities and spending money in the year which ought regularly be chargeable to more than one year. Is it suggested that, if a company opens a new branch or extends its operations, it is going to be such a private affair, that nobody will know about it? Is it going to be a hole-and-corner affair? I want to know what is the real objection to this information being given. After all, when you open big coal mining operations, it is not going to be done in a manner, in which nobody else will know any thing about it. At any rate, it seems to me that regulation 107, as it stands, must be there, otherwise clauses 65, 66 and 67 become meaningless. I would invite the attention of my friend, the expert member on this Indian Companies (Amending) Bill, to these clauses. Clause 65 says :

" The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a balance-sheet and profit and loss account."

What is this account going to be? Let us now look at the amendment of the European Group. It says :

" Provided further that Regulation 107 shall not be deemed to form part of the Articles of Association of any company if the company in general meeting determines."

Now, I want to put to my friend, the Leader of the Independent Party, that this amendment goes very much further, than what he seems to support.

Mr. F. E. James (Madras : European) : No, no.

Mr. S. Satyamurti : Please do not say " No, no ". Mr. Jinnah knows better than you do. I take it, Sir, that Mr. Jinnah's objection is merely to the last two lines of regulation 107.

Mr. M. A. Jinnah : It is not my objection, but I recognise the force of the objection.

Mr. S. Satyamurti : I stand duly corrected. I merely want to say this that the object of the European Group's amendment is much bigger, much wider than the narrow point which my friend, the Leader of the Independent Party, supports.

Mr. F. E. James : No.

Mr. S. Satyamurti : He knows better than you. Please do not speak for others : it is bad enough you speak for yourselves here. I suggest that regulation 107 can be practically repealed, under that amendment. I put it to my friend, the expert member, to let his heart and get up and say that I am not correct. The proviso says that in a meeting a bare majority can say : We do not want regulation 107. Then, what is left? The profit and loss account. I want to put it to all unprejudiced Members of this House, whose votes are not already committed to this or to that side, and I want to put it to my friend, the expert Member, also that this proviso, if it is accepted by this House, means this that regulation 107 will go out altogether, and what remains? Profit and loss account means so much income and so much expenditure—*Qui bono?* Profit and loss—gross income and gross expenditure. Is that the profit and loss account? Is that what my Honourable friend, Mr. Jinnah, wants? I know he wants much more.

Mr. M. A. Jinnah : I think my Honourable friend, Mr. Satyamurti, is not really appreciating what I said. It will be as I understand a profit and loss account fully with two exceptions and that is they will not, so far as they show the income, distinguish the sources from which they derive the income, that is number one, similarly in showing the expenditure, they will not distinguish each item, salaries paid so much or for this particular part of the establishment so much, and so on. Therefore, the profit and loss account will be there in the ordinary sense of the word, a full one, not giving this particular particulars. Therefore, it is not correct to say that there will be no profit and loss account because the law as you are now enacting compels them to present the profit and loss account.

Mr. S. Satyamurti : Therefore, we have got to examine Regulation 107, and satisfy ourselves as to whether there are any items in Regulation 107, to which any one can reasonably take exception, except the last two lines. Even assuming my Honourable friend is right that there will be a profit and loss account, I put it to him and those who agree with him that there will be nothing lost, and a good deal gained, by getting in every item, except the last two lines even according to them. Indeed, he

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[Mr. S. Satyamurti.]

ought to vote against this amendment, and he may give notice of another amendment, if he gets an opportunity, bringing out his ideas. It is not for him and those who agree with him or think with him.....

Mr. M. A. Jinnah : I will not, because I do not attach so much importance to those details as to the last part which we want to compel.

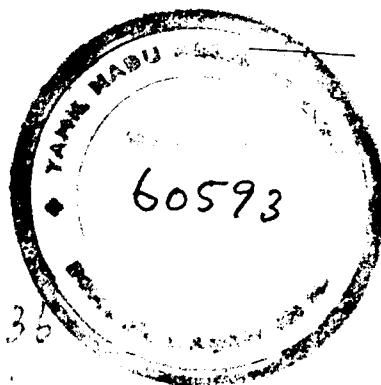
Mr. S. Satyamurti : Then, there is a clear difference of opinion. I would however, respectfully invite the Leader of the Independent Party to consider the opinion of the Expert, the opinion of the Government of India, and the opinion of the Select Committee, until we came before the House.

Mr. M. A. Jinnah : I have no objection if it is agreed upon.

Mr. S. Satyamurti : I am trying to persuade the Government once again to follow their first judgment, and not yield to their second judgment. I know I am hoping against hope in this matter, but I submit that the decision which was arrived at by the Expert, by the special Committee which went into this matter, by the Government Member himself, and by the Select Committee, should be stuck to, unless there are very good reasons to go against it.

Mr. M. A. Jinnah : The member can proceed with his speech tomorrow. The House will adjourn now.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 15th September, 1936.



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