

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1939

(30th August to 22nd September, 1939)

TENTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1939



NEW DELHI
GOVERNMENT OF INDIA PRESS
1940.

Legislative Assembly.

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

Deputy President:

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

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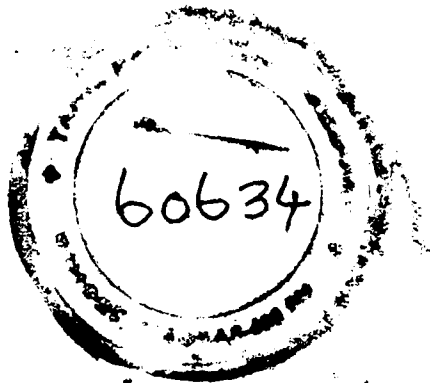
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MR. N. M. JOSHI, M.L.A.

RAJA SIR VASUDEVA RAJAH, C.I.E., M.L.A.



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THE
LEGISLATIVE ASSEMBLY DEBATES
(OFFICIAL REPORT OF THE TENTH SESSION OF THE
FIFTH LEGISLATIVE ASSEMBLY.)

VOLUME V—1939.

LEGISLATIVE ASSEMBLY.

Wednesday, 30th August, 1939.

The Assembly met in the Assembly Chamber in Simla, at Eleven of the Clock, being the First Day of the Tenth Session of the Fifth Legislative Assembly pursuant to Section 68-D (2) of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935. Mr. President (The Honourable Sir Abdur Rahim, K.C.S.I.) was in the Chair.

MEMBERS SWORN.

The Honourable Diwan Bahadur Sir Arcot Ramaswami Mudaliar (Member for Commerce and Labour) ;
The Honourable Mr. John Anderson Thorne, C.S.I., C.I.E. (Home Member) ;
Dr. Habibur Rahman, M.L.A. (Rajshahi Division : Muhammadan Rural) ;
Mr. Dudley Charles Hudson, M.L.A. (Assam : European) ;
Mr. Geoffrey Stephen Bozman, C.I.E., M.L.A. (Secretary, Department of Education, Health and Lands) ;
Mr. Olaf Kirkpatrick Caroe, C.I.E., M.L.A. (Secretary, External Affairs Department) ;
Mr. John Francis Sheehy, C.S.I., M.L.A. (Government of India : Nominated Official) ;
Mr. Noel James Roughton, C.S.I., C.I.E., M.L.A. (Government of India : Nominated Official) ;
Mr. Jatindra Nath Talukdar, M.L.A. (Government of India : Nominated Official) ;
Mr. Astad Dinshaw Gorwala, M.L.A. (Government of India : Nominated Official) ;

Mr. Braj Kumar Nehru, M.L.A. (Government of India : Nominated Official) ;
 Mr. Denys Hayes Crofton, M.L.A. (Government of India : Nominated Official) ;
 Mr. Eric Ingoldby, M.L.A. (Government of India : Nominated Official) ;
 Mr. Kashinath Yashwant Bhandarkar, M.L.A. (Government of India : Nominated Official) ;
 Mr. Niaz Muhammad Khan, M.L.A. (Bengal : Nominated Official) ;
 and
 Khan Bahadur Shaikh Khurshaid Muhammad, M.L.A. (Punjab : Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

MURDER OF A SPECIAL TICKET EXAMINER ON THE NORTH WESTERN RAILWAY.

1. ***Mr. Lalchand Navalrai :** (a) Will the Honourable the Railway Member please state if Government are aware that a gruesome murder in a moving train of a special railway ticket examiner Mr. Idandas D. Motwani aged about 35 years, took place between Badah and Dokri on the Sind Section of the North Western Railway on the 28th April, 1939 ?

- (b) If so, under what conditions did that murder take place ?
- (c) How many passengers were then travelling in that compartment ?
- (d) Was there any police travelling in the train ?
- (e) Is it a fact that the train was stopped by a co-passenger and the culprit ran out of the train ?
- (f) Did the police arrive at the compartment immediately the train stopped ? Did any of the police follow the culprit ; if so, why was not the police able to catch the culprit as there was no forest at the spot but open arable land ?

(g) What arrangements have the Railway authorities made to suitably compensate the victim's wife and children ?

The Honourable Sir Andrew Clow : (a) and (e). Yes.

(b) The Special Ticket Examiner detected a passenger travelling beyond the station for which he held a ticket. The passenger refused to pay the railway fare due. Upon the Special Ticket Examiner persisting in his demand for payment of the fare, the passenger stabbed him.

(c) About ten.

(d) Yes : one Police constable, on duty.

(f) The Police constable arrived at the compartment as soon as the train stopped. Knowing that the Civil Surgeon of Larkana was travelling in the train, the constable first fetched him from his compartment to attend to the Special Ticket Examiner. He then went in search of the assailant who had, however, disappeared.

(g) The amount admissible under the Workmen's Compensation Act has been deposited with the Judge at Larkana, who is Commissioner under the Act, for payment to the legal dependants. The widow has received Provident Fund and gratuity and employment has been given to the deceased's brother.

Mr. Lalchand Navalrai : May I ask the Honourable Member to say whether he is aware that since this murder, other murders of railway officials have taken place, one, of the cabin man at Kotri station and the other of the Station Master of Khudal Station who was stabbed....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should confine his questions to this case only.

Mr. Lalchand Navalrai : I shall put other questions if not this particular question.

Mr. President (The Honourable Sir Abdur Rahim) : Any other question relevant to this question ?

Mr. Lalchand Navalrai : Quite relevant, Sir. Will the Honourable Member be pleased to say if he has any power to give special compensation to the heirs of the deceased ?

The Honourable Sir Andrew Clow : What does the Honourable Member mean by special compensation ?

Mr. Lalchand Navalrai : Compensation apart from what is being given under the particular Acts which the Honourable Member has mentioned in his answer.

The Honourable Sir Andrew Clow : I only mentioned one Act, and I also mentioned that employment was given to the brother of the deceased.

Mr. Lalchand Navalrai : May I know, Sir, whether the Railway Board or the Honourable Member has got any discretion to give anything more than what is allowed by these Acts ?

The Honourable Sir Andrew Clow : I have not got the Regulations with me here, but I believe it is possible.

Mr. Lalchand Navalrai : Will he then be good enough to consider and exercise his discretion and give something more to the heirs of the deceased ?

The Honourable Sir Andrew Clow : As the dependants of the deceased have got compensation, provident fund and gratuity and also employment for a relative, I think they have been reasonably treated.

Mr. Lalchand Navalrai : May I then ask.....

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

Mr. Lalchand Navalrai : I want to ask another supplementary question to the same question. It is with regard to part (c).

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

RELAY OF PROGRAMMES BY THE DELHI BROADCASTING STATION.

2. ***Mr. Lalchand Navalrai :** (a) Will the Honourable the Communications Member be pleased to state if he is aware that for sometime the broadcasting station at Delhi has been relaying programmes from other places mostly and incessantly from Bombay ?

(b) If so, how many such whole day relays or part day relays have been done in the Delhi broadcasting station from Bombay during the past six months ?

(c) How much economy has been done by the department on account of these relays and how was the establishment at the broadcasting station utilised during the time the relays were operated upon ?

(d) Are Government aware that people would like to hear at the radios variety of territorial programmes ? If so, do Government propose to minimise these relays and do them only when they are exceptionally important and unavoidable ? If not, why not ?

The Honourable Sir Andrew Clow : (a) Yes, Delhi has been relaying the greater part of the day's programme from Bombay on certain days and also occasional items from other stations.

(b) During the past six months, Delhi has been relaying the greater part of the day's programme from Bombay once a week.

(c) When relaying other stations, the relaying station naturally effects a certain economy in the expenditure on its own programmes, but it is difficult to calculate accurately the actual amount saved as whatever savings are effected are devoted to improving the programmes on other days. As regards the second part of the question, relays do not afford any relief to the Engineering staff as the transmitters in their charge work as usual. Some members of the programme staff are relieved of actual transmission duties, but they have to carry on rehearsals, auditions and office work as usual. All India Radio works seven days a week without the holidays enjoyed in other departments : the staff, therefore, requires such relief as can be afforded by the use of relays.

(d) Government are not aware that listeners appreciate locally arranged programmes to the exclusion of all others. On the contrary, Government believe that most listeners like to listen occasionally to other stations besides the one nearest to them ; and since, by means of relays, shortwave programmes from distant stations are rebroadcast by the relaying station on medium wave, relays are particularly appreciated by owners of inexpensive sets who cannot receive the shortwave stations directly. As there are also certain administrative advantages to be gained from these relays, Government see no reason at present to stop them or cut down their number.

Mr. Lalchand Navalrai : May I know from the Honourable Member if this change was effected under the orders of any officer, and who was the officer who considered that there should be relays now which had not existed before ?

The Honourable Sir Andrew Clow : The general supervision of Broadcasting is in charge of the Controller of Broadcasting who acts under such directions as he gets from Government.

Mr. Lalchand Navalrai : Was the change made in response to any demand from the public or he exercised his own discretion in this matter ?

The Honourable Sir Andrew Clow : He tries to keep in touch with what he believes to be the popular demand and he also exercises his own discretion.

Mr. Lalchand Navalrai : If there was any popular demand, how was it brought to the notice of the Government or of the Controller ?

The Honourable Sir Andrew Clow : I have no access here to what was before the Controller. I can only reply to the question that is asked, but I believe that listeners do not wish to exclusively listen to one station.

Mr. Lalchand Navalrai : In view of that fact, will the Honourable Member inquire from the public what is their real desire ?

The Honourable Sir Andrew Clow : I know many listeners, but I have hardly met any listener who wishes to listen to only one station to the exclusion of all others.

Mr. Lalchand Navalrai : The Honourable Member can also take me for a listener.....

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

RE ORGANISATION OF THE SIND AND BALUCHISTAN POSTAL CIRCLE

3. ***Mr. Lalchand Navalrai :** (a) With reference to the reply to part (c) of my starred question No. 281, on the 2nd September, 1937, will the Honourable the Communications Member please state how Sind and Baluchistan Postal Circle has been re-organised ?

(b) Is it a fact that a separate Divisional Engineer, Telegraphs, has been sanctioned for the circle, but a Divisional Office for Railway Mail Service, for which there was a demand, has not been sanctioned ?

(c) Is it a fact that the post of Superintendent, Telegraph Traffic, has been abolished ?

(d) Is it a fact that instead an additional Assistant Director's post has been sanctioned for the circle ?

(e) Is it a fact that this Assistant Director has been assigned the duties of Superintendent, Telegraph Traffic, and also several postal duties, and the Railway Mail Service Division ?

(f) Is it a fact that from May, 1938, when this Assistant Director took over charge, he has not been able to move out in the Railway Mail Service Division ?

The Honourable Sir Andrew Clow : (a) The Director, Posts and Telegraphs, no longer holds direct executive charge of the Karachi Engineering Division. A separate post of Divisional Engineer, Telegraphs, has been sanctioned and this officer acts as technical adviser to the Director, Posts and Telegraphs, in matters relating to Telegraph Engineering and Traffic. The posts of Personal Assistant, Traffic, and Personal Assistant, Engineering, have been abolished and one additional post of Assistant Director, Posts and Telegraphs, has been created.

(b) A separate Divisional Engineer, Telegraphs, has been sanctioned for the Circle, but a separate Divisional Office for the Railway Mail Service has not been created as there is no necessity for it.

(c) No, but the post of Personal Assistant, Traffic, was abolished.

(d) Yes.

(e) The facts are substantially as stated by the Honourable Member, but the Assistant Director, Posts and Telegraphs, has not been assigned all the work formerly performed by the Personal Assistant, Traffic.

(f) No.

Mr. Lalchand Navalrai : May I know, Sir, if there has not been a demand either by the servants of the Railway Mail Service or by the public for a separate division ?

The Honourable Sir Andrew Clow : I don't see what the public has got to do with the administrative arrangements. I can quite believe that certain officials in the department would like to see higher posts created.

Mr. Lalchand Navalrai : In view of the fact that the public are affected by the Government not being able to exercise proper supervision in the absence of a separate division as there is lack of supervision, will the Honourable Member be pleased to say whether the public have asked for a separate division or not ?

The Honourable Sir Andrew Clow : I am sorry I cannot accept the Honourable Member's premise that there is no proper supervision.

Mr. Lalchand Navalrai : With regard to clause (f) of this question, may I know from the Honourable Member whether the Assistant Director has been touring about, and when did he tour last ?

The Honourable Sir Andrew Clow : My answer to the Honourable Member's question was 'No' ; in other words, he has been able to tour. I am informed, in 1938-39.

RE-ORGANISATION OF THE SIND AND BALUCHISTAN POSTAL CIRCLE.

4. ***Mr. Lalchand Navalrai :** (a) Will the Honourable the Communications Member please state if it is a fact that the Railway Mail Service Division referred to in the preceding question was transferred to the Sind Circle in 1929 to work out Provincial scheme ?

(b) Is it a fact that at that time a promise was held out to the employees of this Division that they would be gradually transferred to the Punjab Circle as vacancies occurred ?

(c) How many sorters and mail guards have been recruited in the Sind Circle from 1929 to date to replace the Punjab staff ?

(d) Is it a fact that the Divisional Office of the Railway Mail Service was abolished in 1932 ?

(e) Is it a fact that the clerical staff of the Divisional Office was then merged in the circle office and in the Karachi Post Office ?

(f) Is it a fact that this procedure has reduced the number of stationary appointments for which a rotation is prescribed ?

(g) Is it a fact that after the abolition of the Divisional Office, about nine more stationary appointments have been abolished in this Railway Mail Service Division ?

(h) Is it a fact that, as the result of the action mentioned in parts (e) and (g) above, a sorter of this K Division will always remain a sorter for the whole of his service ?

(i) How many selection grade posts of the general line have been given to this Division ?

(j) How many of the sorters are expected to get promotion to the only one selection grade appointment (lower grade) in this Division ?

(k) What is the service of the present incumbent holding the selection grade appointment and what time he will take to retire ?

(l) What extra amount is being spent every month to meet the recent re-organisation and what extra expenditure would be incurred to re-create the Railway Mail Service Divisional Office ?

The Honourable Sir Andrew Clow : (a) Yes, in pursuance of the scheme of unification of control of the Post Offices and the Railway Mail Service.

(b) No.

(c) No recruitment has been made for the purpose of replacing the old Punjab staff working in the K Division. On account of reduction in status of certain offices and sections in the K Division, ten sorters who were surplus were transferred to the Punjab and North-West Frontier Circle.

(d) Yes.

(e) The facts are substantially as stated by the Honourable Member.

(f) Yes, to a certain extent.

(g) Yes.

(h) No.

(i) One.

(j) It depends on circumstances.

(k) The official has put in some 24 years' service and is due to retire in 1948.

(l) 800 rupees a month and 1,300 rupees a month, respectively.

Mr. Lalchand Navalrai : May I know from the Honourable Member, with reference to his answer to part (b) of the question,—that part says that there was a promise that these Punjab people would be transferred over to the Punjab. Some of them have been transferred, and may I know if there is any likelihood of the others also being transferred ?

The Honourable Sir Andrew Clow : My answer was that there was no promise. There were certain instructions to superior officers ; and we are taking steps to draw attention to the matter in order that there may be other transfers.

†5*—13*.

INCONVENIENCE FOR WANT OF LIGHT ON A ROAD TO SYLHET BAZAR RAILWAY STATION

†14. ***Maulvi Abdur Rasheed Chaudhury :** Will the Honourable the Railway Member please state :

(a) the total minimum monthly units contracted for the Sylhet Bazar Railway Station (Assam Bengal Railway) with the Sylhet Electric Supply Company, Limited ;

†These questions were withdrawn by the questioners.

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

- (b) the total number of units consumed in each month during the first half year of 1939 and the total amount paid during this period to the Electric Supply Company, Limited ;
- (c) if it is a fact that though the total consumption of units per month is much less than the contracted quantity for which the Railway is paying, the authorities are refusing to light up 300 yards semi-circular approach road to the station ;
- (d) if it is a fact that owing to heavy rainfall in Sylhet, night passengers of trains feel a good deal of inconvenience for want of light in the semi-circular approach road of Sylhet Bazar Station ;
- (e) whether Government are aware that the railway authorities contemplate supplying light to the approach road in near future ; if not, why not ; and
- (f) if it is a fact that Sylhet Bazar Railway Station is growing in importance every year and that its income is also increasing every year, it being the terminus of the Assam Bengal Railway and the connecting link with Shillong ?

The Honourable Sir Andrew Clow : The information is being obtained and a reply will be laid on the table in due course.

INDIANS IN ABYSSINIA

15. ***Mr. Muhammad Azhar Ali** (on behalf of Dr. Sir Ziauddin Ahmad) : Will the Foreign Secretary please state :

- (a) what the total number of Indians in Abyssinia is ; and
- (b) if it is a fact that Indians are not permitted to travel on the Abyssinian Railway in a compartment higher than the third class ?

Mr. O. K. Caroe : (a) About 250.

(b) Government have no information on the point. From reports received, however, it appears that Indians are not allowed to use the thrice weekly Diesel car service to Dire Dawa, and their movements are confined to a weekly train service to Dire Dawa and Jibuti.

Mr. Muhammad Azhar Ali : Will Government try to get these grievances of the Indians in Abyssinia redressed ? Will Government take any action with regard to it ?

Mr. O. K. Caroe : An approach has been made through His Majesty's Government to the Italian Government in an effort to obtain redress for Indians in Ethiopia.

Sir Muhammad Yamin Khan : If the Italian Government do not allow the same facilities to Indians in Abyssinia as they do to the Italians in the matter of travel, will Government see that all the Italians in India are not allowed to travel not more than third class ?

Mr. O. K. Caroe : Government, I think, would take the view that it is better to wait until we hear—we hope for a favourable response—from the Italian Government before considering measures of retribution.

Mr. Muhammad Nauman : May I know when His Majesty's Government made that request to the Italian Government ?

Mr. O. K. Caroe : I am afraid I must ask for notice.

Mr. Muhammad Nauman : A demand has been made and I think the Honourable Member must know when it has been made.

Mr. O. K. Caroe : I have not the papers with me here to say exactly when the approach was made, but the approach has already been made to the Italian Government. It has got beyond His Majesty's Government, and a diplomatic approach has been made to the Italian Government.

Mr. N. M. Joshi : May I ask what, according to the information of Government, is the object of the restriction placed upon the Indians ?

Mr. O. K. Caroe : The restrictions have been placed by the Italian Government in accordance with what they call their "protection of the race decrees".

ACCIDENT TO THE DEHRA DUN EXPRESS.

16. ***Mr. Muhammad Azhar Ali** (on behalf of Dr. Sir Ziauddin Ahmad) : (a) Will the Honourable Member for Railways be pleased to lay a statement on the table about the accident of the Dehra Dun Express in the month of July ?

(b) What is the report of the Senior Inspector ?

(c) Did the Honourable Member visit the scene of action and what are his conclusions about the accident ?

(d) Did any Member of the Railway Board actually visit the scene of action ; if so, on what date and what investigations did he make on the spot ? Has he submitted any report about his visit to the Honourable Member ?

(e) What action, if any, have Government taken or propose to take to avoid such accidents in future ?

The Honourable Sir Andrew Clow : (a) A statement is laid on the table.

(b) I presume the Honourable Member desires to know the finding of the Senior Government Inspector. It is to the effect that the accident was caused by No. 33 Up running at night into a breach caused by flood rain water percolating into the railway embankment. He does not hold the railway staff as having been responsible or negligent.

(c) and (d). No.

(e) The usual measures taken after breaches in railway embankments have occurred are to consider the adequacy of the drainage openings provided and to increase them if this is considered likely to effect an improvement. In the present instance the original waterways provided at the time of construction in 1930 were increased in 1934 to seven times their original size owing to the peculiar local conditions that had been revealed in the floods of 1933. The need of further structural alterations will be considered.

Statement.

In the early morning of the 28th June, No. 33 Up Delhi-Dehra Dun Mixed Express composed of three fourwheeled covered goods wagons leading, with eight bogie passenger coaches in rear hauled by CA class locomotive ran into a breach in the embankment at mile 26½ and was wrecked. The accident occurred at about 2-22 A.M. The night was dark. The bank had been washed away for a short length leaving the track suspended across a comparatively narrow gap. The engine as it ran over the unsupported track broke the rails, derailed and cap-sized. The three four-wheeled goods wagons which were leading were thrown to the right of the embankment, and three of the passenger coaches following were derailed and badly damaged. The remaining five coaches were undamaged.

2. The engine crew escaped almost unhurt but were prevented from reaching the next station by further breaches ahead. A gangman was sent back to the last station, Chandpur Siau, about four miles away, with a memorandum for help. He arrived at 3-25. In the meantime, the guard and some passengers succeeded in extricating passengers caught in the wrecked coaches.

3. The Station Master, two doctors and police arrived by light engine from Chandpur Siau at 4-45. 28 passengers were found to be injured and seven found dead. The injured were put into the undamaged coaches and taken to hospital at Moradabad, and arrived there at 11 A.M., having received suitable attention *en route* at Mandi Dhanaura. One passenger died in the train and two more died later in hospital. The total number of casualties was, therefore, ten dead and 25 injured. The Senior Government Inspector reports that the rapidity with which the injured were attended to and removed to hospital was very creditable.

4. The breach was caused by flood water accumulating against the bank. Local records indicate very intense rainfall in the vicinity. After breaches on this section in June, 1933, the original waterways provided were increased to seven times their original size. Although there was considerable rainfall in 1937, no great accumulation of water was experienced.

Mr. Muhammad Azhar Ali : With reference to the answer to part (d) of the question, did not Government consider it necessary that a Member of the Railway Board should visit the spot, seeing that so many accidents had already happened ?

The Honourable Sir Andrew Clow : No. I do not believe that any Member of the Railway Board can do any more at the scene of the accident than the Senior Government Inspector and the officers enquiring into it can. The more people you have at the scene of accident the more the congestion, and for that reason I did not myself go to the scene of accident ; I went to Moradabad.

Mr. Muhammad Nauman : May I know whether any endeavour was made by the Railway Board to consider the particular condition of the embankment which gave way and was the cause of the accident ?

The Honourable Sir Andrew Clow : Engineers did inspect the embankment ; so did the Senior Government Inspector who is also an engineer.

STEPS TAKEN TO FREE CERTAIN INSPECTORS FROM THE CONTROL OF THE RAILWAY BOARD.

17. ***Mr. N. M. Joshi :** Will the Honourable Member for Communications be pleased to state what steps Government have taken to free the Inspectors appointed under the Indian Railways Act from the control of the Railway Board ; if not, when do they propose to take such steps ; if they are not prepared to take any such steps, the reasons therefor ?

The Honourable Sir Andrew Clow : The question is under the consideration of Government.

Mr. M. S. Aney : How long since ?

The Honourable Sir Andrew Clow : Very recently, Sir.

Mr. Lalchand Navalrai : May I know if these Inspectors are appointed by the Railway Board ?

The Honourable Sir Andrew Clow : To the best of my recollection they are appointed by Government.

†18*.

SURCHARGE FOR A BERTH IN AIR-CONDITIONED CARRIAGES.

†19. ***Mian Ghulam Kadir Muhammad Shahban :** Will the Honourable the Railway Member be pleased to state :

- whether it is a fact that at one time the surcharge between Delhi and Bombay, for a berth in an air-conditioned coach was only Rs. 5 which was afterwards raised to Rs. 10 ;
- whether it is a fact that the North Western Railway had advertized a surcharge of Rs. 16 between Lahore and Karachi for a first class berth in the month of August, 1939 ;
- if the reply to part (b) above be in the affirmative, will Government please state why more surcharge was recovered on Lahore-Karachi ticket as compared to that on Bombay-Delhi ticket ; and
- what is the principle for fixing air-conditioned coach surcharges ; whether it is fixed on distance ; if not, why not ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) and (d). The cost of providing an air-conditioned service is dependent on such factors as prevailing temperature conditions and cost of ice and consequently varies in different parts of India. In addition to the cost of provision, the number of passengers offering and probable fluctuations in that number from day to day have to be taken into account when determining the surcharge rate and a uniform rate for all services throughout India cannot be expected. Within each service, the different surcharges are regulated by the mileage.

EXTENSION OF THE HOURS OF EMPLOYMENT REGULATIONS TO RAILWAYS.

†20. ***Mian Ghulam Kadir Muhammad Shahban :** Will the Honourable the Railway Member be pleased to state :

- whether it is proposed to apply 'Hours of Employment Regulations', the legislation for which was passed by this House in 1930, to the Jodhpur Railway ; if so, when ; if not, why not ;
- which of the Company-owned and Company-managed Railways have brought into force the Hours of Employment Regulations ; and

†This question was withdrawn by the questioner.

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

- (c) whether there is any general policy to extend these Hours of Employment Regulations or similar regulations to the (i) State-owned and Company-managed lines, and (ii) Company-owned and Company-managed Railways in India?

The Honourable Sir Andrew Clow : (a) No : as the legislation to which the Honourable Member refers does not extend, except in the case of a comparatively small section, to the territory through which the Jodhpur Railway runs.

(b) The Bengal and North Western, Bombay, Baroda and Central India and Madras and Southern Mahratta Railways.

(c) The present policy is to extend the Regulations, as funds permit, to the principal railways and, thereafter, to take up for consideration their extension to others.

REVISION OF A DECISION OF THE APPELLATE AUTHORITY ON RAILWAYS.

†21. ***Mian Ghulam Kadir Muhammad Shahban :** Will the Honourable the Railway Member be pleased to state :

- (a) whether there is any provision for revision of a decision of the appellate authority given under the rules issued by the Government of India, (Railway Board) *vide* letter No. E-34/R.G./6, dated the 22nd June, 1935 ; if so, do Government propose to quote the specific rule ; and
- (b) if the reply to part (a) above be in the negative, whether Government propose to incorporate a rule for revision of the decision of the appellate authority, when it is complained that the decision was not in accordance with the rules framed by Government ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Yes, in rule 25 of the rules referred to by the Honourable Member.

(b) Does not arise.

PROMOTION OF CLERKS AND GOODS MARKERS ON THE NORTH WESTERN RAILWAY.

†22. ***Mian Ghulam Kadir Muhammad Shahban :** Will the Honourable the Railway Member be pleased to state :

- (a) whether it is a fact that clerks and goods markers on the North Western Railway are in receipt of the maximum salaries of Rs. 27 or Rs. 25 per mensem ;
- (b) whether it is a fact that some of these markers are even Matriculates of the Bombay University or have passed Matriculation of the Punjab University in the First or Second Division, and thus possess requisite qualifications for appointments to the subordinate railway service ;
- (c) whether it is a fact that there is no educational qualification restriction for promotion of members of inferior service to the subordinate service posts on the North Western Railway system ;

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

- (d) whether it is a fact that the Railway Board had informed the All-India Railwaymen's Federation in November, 1937, that the Board would discuss the matter of providing some channel of promotion for markers with the Agents of Class I Railways at their next meeting ;
- (e) if the reply to part (d) above be in the affirmative whether Government propose to state the result of these discussions ;
- (f) whether it is a fact that no channel of promotion for markers has been provided on the North Western Railway ;
- (g) whether it is a fact that the markers have sent several memorials requesting provision of some definite channel of promotion for them ;
- (h) whether it is a fact that one of the Divisional Superintendents has repeatedly requested the General Manager to open some channel of promotion for markers, but no definite reply has been communicated to him ;
- (i) whether it is a fact that proposals have been made that an age limit be placed on promotion of markers to some subordinate posts ; if the reply be in the affirmative, whether Government propose to state this age limit and name other classes of employees to whom this age limit applies in the matter of promotion ; and
- (j) whether Government propose to issue orders on the subject of definite channel of promotion for markers, as promised by the Railway Board to the All-India Railwaymen's Federation in 1937 ; if not, why not ?

The Honourable Sir Andrew Clow : (a) The maximum of the scale of pay for clerk markers is Rs. 27, and the pay of goods markers is Rs. 25.

(b) Government have no information.

(c) The following categories of inferior staff are eligible for promotion to subordinate grades as a normal channel of their advancement, even if they have not the academical qualifications required for direct recruitment to the relevant subordinate grades :

Electrical Wiremen and Electrical Examiners (Train Lighting) ;
Carriage and Wagon Fitters ;
Shed and Shop Workmen ;
Shed and Shop Mistries ;
Works Mistries (Engineering) ;
Gangmen, Keymen and Permanent Way Mates ;
Cabinmen, Pointsmen, Shunting Porters and Shunting Jemadars ;
Cleaners (Running Sheds).

(d) The Railway Board informed the All-India Railwaymen's Federation that they would discuss with General Managers of Class I Railways the general question of the avenues provided for promotion of lower paid employees.

Railways.	Category of staff.	No. of men discharged.	Length of service.
North Western ..	Yard Foremen ..	2	One 27 years and the other 28 years.
	Waiting Room Ayahs	2	One 1 year and the other 8 years.
	Lampman	1	13 years.
	Van Porters ..	30	Twenty with one year and ten ranging from 2 to 5 years.
	Running Room Cooks	3	One 12 years; one 16 years and one 18 years.
	Fuel Coolies ..	73	Thirty seven ranging between 6 and 10 years; thirty ranging between 10 and 17 years and six ranging between 19 and 27 years.
	Washout Coolies ..	7	Four ranging between 10 and 13 years and three ranging between 17 and 20 years.
	Turners	2	One 11 years and the other 17 years.
	Pump Fitter ..	1	8 years.
	Pump Engine Firemen	2	One 16 years and the other 20 years.
	Pump Engine Driver..	4	Ranging between 11 and 17 years.
	Cleaniug Jamadar ..	1	34 years.
	Fitter	1	10 years.
	Fire Droppers ..	2	One 14 years and the other 16 years.
	Boiler Maker ..	1	10 years.
	Mason	1	21 years.
	Bolier Attendants ..	5	Ranging between 12 and 20 years.
	Copper and Tin Smith	1	32 years.
	Repacker	1	13 years.
	Semi-skilled Fitter ..	1	17 years.
	Assistant Painter ..	1	1 year.
	Carpenter	5	One 3 years and four ranging between 10 and 17 years.

Railways.	Category of staff.	No. of men discharged.	Length of service.
North Western— contd.	Storeman	1	19 years.
	Carriage Coolies ..	5	Ranging between 10 and 14 years.
	Carriage Cleaners ..	11	Five ranging between 8 and 12 years, and six ranging between 17 and 23 years.
	Coolies	2	One 11 years and the other 13 years.
	Assistant Driver ..	1	9 years.
	Hammerman	1	18 years.
	Cleaner	1	12 years.
	Painters	4	One 3 years and three ranging between 8 and 20 years.
	Mali	1	25 years.
	Ward Servant ..	1	10 years.

The only recruitment during 1938 in the categories in which men were discharged was on the Great Indian Peninsula Railway where five Assistant Painters were taken on temporarily from August to October, 1938.

Information promised in reply to unstarred question No. 122 asked by Pandit Sri Krishna Dutta Paliwal on the 29th November, 1938.

REVENUE DERIVED FROM RENTS AND LICENSE FEES, ETC., ON STATE RAILWAYS.

Statement.

	Eastern Ben- gal Railway.	East In- dian Railway.	Great Indian Peninsula Railway.	North Western Railway.
	Rs. a.	Rs. a.	Rs. a.	Rs. a.
(i) Rent for refreshment rooms	552 0	41,176 8	11,465 0	Nil.
(ii) Rent for other premises	4,386 0	40,000 0	1,656 0	60,446 14
(iii) Auction of salesman's contracts	Nil	35,930 0	1,515 0	*
(iv) Licence fees charged from stall-holders ..	10,629 8	1,45,370 8†	7,152 0	Nil.

*The North Western Railway do not auction salesman's contracts, but, as an experimental measure, the contract from the Delhi Hindu refreshment room, the Hindu sweetmeats and tea stalls was put to tender, Rs. 7,025 per annum was accepted for the combined contract from the 15th February 1937.

†Licence fees are not realised from stall-holders paying rent. This amount represents fees charged from vendors for hawkers engaged by them.

Information promised in reply to starred question No. 1708 asked by Shaikh Rafiuddin Ahmad Siddiquee on the 2nd December, 1938.

PAY AND ALLOWANCES OF CERTAIN STAFF ON RE-INSTATEMENT ON THE EAST INDIAN RAILWAY.

(a) Of the three cases referred to, the first relating to a Permanent Way Inspector cannot be identified on the particulars given. As regards the other two, the reply is in the affirmative if they refer to Mr. Balmukund Kapoor, a travelling ticket examiner, and Mr. Upendra Nath Chatterjee, an assistant booking clerk.

(b) This presumably refers to Mr. Ali Jan Warsi, a travelling ticket examiner, the circumstances of whose case did not justify the grant to him of pay and allowances for the time he was out of employment.

Information promised in reply to starred question No. 1774 asked by Mr. Suryya Kumar Som on the 5th December, 1938.

CONSULTATION WITH THE DELHI IMPROVEMENT TRUST BY THE DELHI MUNICIPAL COMMITTEE.

(a) An Improvement Trust has been established to make provision for the improvement and expansion of Delhi.

(b) and (c). An arrangement has been made for the Committee to obtain architectural advice from the Trust on important municipal schemes. The desirability of co-ordinating the activities of the Trust and the Municipal Committee is recognised and steps are being taken to achieve that end as far as practicable.

Information promised in reply to unstarred question No. 1 asked by Pandit Nilakantha Das on the 3rd February, 1939.

GARRATT ENGINES PURCHASED BY RAILWAYS.

(a) and (b). The table below gives the information :—

Names of Railways who maintain " Garratt " engines.	No. of " Garratt " engines on line.	Year in which purchased.
Assam Bengal (M. G.)	5	1927-28
Bengal Nagpur (B. G.)	2	1925-26
	9	1929-30
	17	1930-31
	28	
Darjeeling Himalayan (N. G.)	1	1911

(c) They were all ordered from Messrs. Beyer Peacock and Company, Limited, Manchester, England.

(d) Arrangements were made by the owning railways which are Company-managed.

(e), (f) and (l). Four Broad Gauge " Garratt " engines were sanctioned by the Railway Board, with the approval of the Standing Finance Committee for Railways, against the Bengal Nagpur Railway's 1938-39 requirements. As Messrs. Beyer Peacock and Company have unique experience in this type of locomotive and particularly in its design and also as the price quoted by the firm for such locomotives was considered to be reasonable by the Bengal Nagpur Railway's Consulting Engineers in London, an order for the supply of four " Garratt " engines was placed by the railway administration with the firm without calling for tenders.

(g) " Garratt " was the name of the inventor.

(h) and (i). The original patents have long expired. It is not known whether the latest designs embody any new patented features.

(j) The original patents were held by Messrs. Beyer Peacock and Company, Manchester, who, from time to time, have granted manufacturing licences to locomotive builders in other countries, for example, Messrs. Henschel in Germany and Messrs. Societe Annona Batignolles in France.

(k) Yes, but there is no other type which appears to be fully suited to Indian needs. The Mallet and Kitson-Meyer types have been tried in India.

Information promised in reply to part (b) of starred question No. 146 asked by Mr. Lalchand Navalrai on the 6th February, 1939.

SAFEGUARDING OF THE INDIAN SALT INDUSTRY.

(i) It is presumed that the reference in the question is to the Bengal market. Five salt works at Karachi and six factories at Tuticorin supply salt to the Bengal markets. The Ganjam and Naupada factories (nine in number) have also been supplying small quantities to Bengal from time to time while the Bombay Sea Salt Works (numerous small works) have been sending small grained brown salt.

(ii) and (iii). According to figures furnished by the Karachi Salt Works who are the principal suppliers their total capital amounts to about Rs. 24,16,000 and the muster rolls maintained by them show that the average daily labour employed by all these Works taken together was as follows :

1936-37	687
1937-38	639
1938-39 (to end of February, 1939)	527

It has not been possible to ascertain the amount of capital and labour employed by the Bombay Sea Salt Works and the Tuticorin, Ganjam and Naupada factories. These works and factories, however, produce salt mainly for local consumption and send only a small portion of their produce to Bengal.

Information promised in reply to starred questions Nos. 152 and 153 asked by Mr. Abdul Qaiyum on the 7th February 1939.

EMPLOYEES IN PORT TRUSTS.

Starred question No. 152.—(a) and (b). A statement is laid on the table giving the required information : this shows the position on 31st December, 1938.

Statement showing (a) the total number of persons (b) the total number of Indians, and (c) the total number of Anglo-Indians in receipt of Salaries of Rs. 500 and over in the employ of the various Port Trusts in India on the 31st December, 1938.

Name of Port.	In receipt of salaries of from Rs. 500 to Rs. 999 in scales the initial rate of which is Rs. 500 or more.			In receipt of salaries of from Rs. 1,000 to Rs. 1,999.			In receipt of salaries of Rs. 2,000 and over.		
	(1)			(2)			(3)		
	Total.	Indians.	Anglo-Indians.	Total.	Indians.	Anglo-Indians.	Total.	Indians.	Anglo-Indians.
Calcutta	40	5	11	65	4	8	9	..	..
Chittagong	4	1	..	3	..	..	..	..	..
Madras	6	1	..	4	..	..	1	..	..
Bombay	56	11	11	32	8	1	6	1	..
Karachi	10	3	1	12	3	..	1	..	..

DIRECT APPOINTMENTS MADE BY PORT TRUSTS.

Starred question No. 153.—(a) and (b). A statement is laid on the table giving the required information.

(c) The attention of the Honourable Member is invited to the replies given (i) to part (b) of question No. 254 asked by the Honourable Mr. Govindlal Shivalal Motilal on the 1st April, 1938, in the Council of State, and (ii) to parts (a) and (b) of question No. 1029 asked by Mr. Manu Subedar on the 28th March, 1938, in the Legislative Assembly.

Statement showing the number of Direct Appointments made by the Port Trusts in India and the number of Indians and Anglo-Indians recruited from 1933 to 1938 on Salaries of Rs. 500 and over.

Name of Port.	Initial salary Rs. 500 to Rs. 999.			Initial salary Rs. 1,000 to Rs. 1,999.		
	(1)			(2)		
	Total number of direct appointments.	Indians.	Anglo-Indians.	Total number of direct appointments.	Indians.	Anglo-Indians.
Calcutta	8	1	1	2	..	1
Chittagong	2	1	..	..	..	..
Madras	3	..	..	..	..	..
Bombay	13	1	..	..	..	..
Karachi	4	..	..	2	..	..

Note.—There were no new appointments to posts carrying an initial salary of Rs. 2,000 and over.

Information promised in reply to starred question No. 405 asked by Mr. T. S. Avinashilingam Chettiar on the 15th February, 1939.

ABOLITION OF FIRST CLASS ACCOMMODATION ON BRANCH LINES.

(a) and (b).

Railway.	Sections on which first class accommodation has been abolished.	Mileage of section.
Assam Bengal ..	Chittagong-Dohazari 4 Up 4 Down	29
	Katakhal-Silchar 293 Up 296 Down	12
	Katakhal-Lalabazar 295 Up 294 Down	21½
	Karimganj-Dullabcheria .. 275 Up 274 Down 283 Up 280 Down.	31½
	Karimganj-Kalkalighat .. 277 Up 276 Down 279 Up to 278 Down. 281 Up 272 Down.	21½
	Furkating-Jorhat Town .. 371 Up 374 Down 373 Up 376 Down.	42
	Simaluguri-Khowang 411 Up 414 Down 413 Up 416 Down. 415 Up 418 Down.	38½
	Chaparmukh-Silghat Town .. 351 Up 352 Down 353 Up 354 Down. 355 Up 356 Down.	50½
	Chaparmukh-Mairabari 361 Up 362 Down 363 Up 364 Down. 365 Up 366 Down.	43
Bengal and North-Western.	Nil.	
Bengal Nagpur ..	Nil.	
Bombay, Baroda and Central India.	(i) On the Broad Gauge system first class accommodation has been abolished on the Tapti Valley Railway on trains Nos. 23 Down and 24 Up, running between Surat and Amalner (through to and from Bhusaval) and also on the following sections :—	160
	Bayana-Muttra Junction .. 51 Down 54 Up	46½
	Bharatpur-Muttra Junction .. 53 Down 52 Up	20½
	Anand-Boriavi-Vadatal-Swaminarayan-Nadia. 61 Down 62 Up 63 Down 62 Up 65 Down 66 Up 67 Down 68 Up 105 Down 106 Up 107 Down 108 Up 109 Down 110 Up and 112 Up.	12

N.B.—1. Upper class accommodation is provided on these trains if 48 hours' notice is given to a station master on the branch concerned.

2. When an upper class passenger is booked from any main or branch line station and the connecting train has no upper class accommodation, the station master of the junction concerned is advised by telegram to enable him to attach an upper class carriage to the train.

Railway.	Sections on which first class accommodation has been abolished.	Mileage of section.
Rohilkhand and Kumaon.	<i>Nil.</i>	
South Indian	(1) First class accommodation has been abolished on the following branch lines :— Madura Junction— Bodinayakanur Chinglepet Junction-Arkonam Junction Salem Junction-Viriddhachalan Junction Madras Beach-Chingleput Junction (on other than through main line trains) Tinnevely-Tiruchendur Railway (2) Upper class accommodation has been abolished in the following trains also :— Section. Train Nos. Cuddalore Junction— Viriddhachalan Junction 421 to 424 Madura Junction Koilpatti 109, 131, 132 and 136	 56 39 87 38 38 35 57

(c) Apart from five old four-wheeled first class carriages belonging to the Madras and Southern Mahratta Railway, the carriages released from branch line services consequent upon the abolition of first class accommodation comprise composites containing I and II class, I, II and III class and I, II, III class and luggage accommodation. These carriages are being absorbed on other services, after conversion, to give reduced upper and increased lower class accommodation in some cases. Several railways are converting composite carriages with this general object in view, first class accommodation being either reduced or eliminated by conversion to second class and second class accommodation converted into intermediate and/or third class. As there is a constant demand for the renewal of rolling stock, the result of the curtailment of upper class accommodation appears in the reduction of the demands rather than in an excess of stock over actual needs.

Information promised in reply to parts (a) to (c) of starred question No. 544 asked by Mr. Lalchand Navalrai on the 20th February, 1939.

ASSISTANT STATION MASTERS AND LOCO. FOREMEN, ETC., QUALIFYING FROM THE WALTON TRAINING SCHOOL.

(a) and (b).	Course.	No. who have qualified.	No. of qualified who have not yet been promoted.
	T-5 ..	185	17
	T-13 ..	87	26

(c) Vacancies consequent on superannuation will average, during the next ten years, 6.4 per annum for men who have qualified in course T-5 and 2.7 per annum for men who have qualified in course T-13.

Information promised in reply to starred question No. 618 asked by Mr. S. Satyamurti (on behalf of Mr. Manu Subedar) on the 22nd February, 1939.

PERSONS UNDER DETENTION IN THE ANDAMANS, ETC.

(a) There were 6,316, 6,125, and 6,153 prisoners in the Andamans on the 31st March, 1937, 31st March, 1938 and 31st December, 1938, respectively.

(b) 1,301.

(c) Between annas eight and annas ten.

(d) The Settlement and Jail Departments employ convicts only, while other Departments employ both free workmen and convicts.

(e) There are 20 warders and 2,941 other Government employees, excluding Gazetted Officers, in the Andamans. The conditions in the Andamans are so different from those in India, that no useful comparison can be made between the scale of wages.

(f) On the 31st March, 1938, the population of the Andamans (excluding Nicobars) was estimated at 18,646.

(g) Extraction is done by Government entirely.

Information promised in reply to starred question No. 620 asked by Mr. Sri Prakasa on the 22nd February, 1939.

LOCATION OF THE INCOME-TAX OFFICE IN BENARES.

(a) It is about three miles from Chowk one of the main business centres of the city but lies half way between that place and Sheopur—another important business centre. The building which is within Municipal limits is only a furlong from the Revenue and Civil Courts and the Imperial Bank of India.

(b) No.

(c) The building has been taken on a lease which will expire on 31st December, 1940. The only important conditions of the lease are that the rent is Rs. 160 per mensem and the lease is for five years from 1st January, 1936. There is also a clause that if during the term of the lease a Government building becomes available for the office or the office is abolished, the lessee may determine the tenancy on three months' notice.

(d) No.

Information promised in reply to starred question No. 621 asked by Sri K. B. Jinaraja Hegde on the 22nd February, 1939.

EXEMPTIONS GIVEN TO CLERKS FOR PROMOTION TO ASSISTANTS' GRADE IN THE CENTRAL SECRETARIAT.

(a) Yes.

(b) Yes, but only in the General Staff Branch, Quartermaster General's Branch and Headquarters of Air Forces in India.

(c) Exemptions were granted under the orders in force at the time which provided that any definite promise given to clerks prior to the constitution of the late Staff Selection Board in any Department or office in the matter of appointment should be carried out. In addition some second division clerks in the late Foreign and Political and the Industries and Labour Departments and the Home Department were, with the concurrence either of the Staff Selection Board or of the Public Service Commission, exempted from passing an examination on account of their high educational qualifications or long and special experience of the work.

(d) After an examination of the syllabus for the 1st Class Army School Certificate it was held that the certificate did not fall short of the standard demanded of civilians declared fit for First Division appointments. It was therefore decided by the late Army Department that Second Division soldier clerks possessing the certificate in question who were considered fit would not be required to appear at the examination for promotion to the First Division. Accordingly such clerks as were considered fit were promoted to that Division.

(e) No. Two Indian Clerks were also given exemption.

(f) No. Recruitment to the grade of Superintendent or Officer Supervisor is not made through the Federal Public Service Commission. Promotion to these grades is ordinarily made by selection by the Department or office concerned.

Information promised in reply to parts (d) to (f) of starred question No. 678 asked by Mr. Muhammad Nauman on the 24th February, 1939.

ORGANISATION OF ESTABLISHMENT OFFICES OF THE DIVISIONAL SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

(d) About July, 1937.

(e) No, as the proper designation is "Head Clerk, Establishment".

(f) The clerk in question at the time was not on the scale of pay normally associated with Head Clerks' posts and was locally designated as "Clerk-in-Charge, Establishment". Orders were issued by the General Manager, in January, 1939, to discontinue the use of the latter designation.

Information promised in reply to starred question No. 701 asked by Mr. Brojendra Narayan Chaudhury on the 24th February, 1939.

ACCIDENTS IN COAL MINES AND COAL RAISINGS IN MINES.

(a) Twelve accidents involving 62 deaths and injuries to eight.

(b) None of these accidents occurred in Railway mines.

(c) 14.79.

(d) No.

Information promised in reply to starred question No. 709 asked by Shrimati K. Radha Bai Subbarayan on the 24th February, 1939.

FACILITIES FOR EDUCATION OF THE CHILDREN OF INDIANS IN BRITISH DOMINIONS AND COLONIES.

Statement showing the educational facilities available for Indian Children and Statistics of literacy among the Indian population resident in the Dominions and Colonies within the British Empire.

Dominion or Colony.	1	2	3	4	5
		Educational facilities available for Indian Children.	Bar, if any, against admission of Indians into Universities and other educational institutions.	Racial discrimination in the matter of financial grants to educational institutions managed by Indians.	Latest figures of literacy and steps taken by the Government of India for spread of education among Indians.
Australia	..	All the facilities which are available to children of other nationalities.	None	None	Not available.
New Zealand	..	Do.	Do.	Do.	Do.
Canada	..	Do.	Do.	Do.	Do.
South Africa	..	In the Cape Province and the Transvaal, primary education is free but not compulsory. In Natal, where the bulk of the Indian population resides, there are 17 Government and 85 State-aided Schools for Indian children. The Sea-tri College in Durban serves as a training College for Indian teachers and also provides Secondary education. There are four other training centres for Indian teachers in Natal.	Indians are not admitted to certain Universities.	There is no racial discrimination, but as the rates of pay prescribed for Indian teachers are lower than those of European teachers, the grants are proportionately lower.	50%.

Domion or Colony.	2	3	4	5
	Educational facilities available for Indian Children.	Ban, if any, against admission of Indians into Universities and other educational institutions.	Racial discrimination in the matter of financial grants to educational institutions managed by Indians.	Latest figures of literacy and steps taken by the Government of India for spread of education among Indians.
1				
British Guiana ..	Primary education is compulsory. Indian children receive their education in Government and State-aided schools along with the Children of other communities.	None	None	34.06.
Trinidad ..	Primary education is compulsory in certain areas. Indian children receive their education in Government and State-aided Schools along with the children of other communities.	None	None	22.8.
Jamaica ..	Do.	None	None	Not available.
Kenya ..	There are 73 schools for Indian children. Of these 13 are Government schools and 51 receive grants-in-aid.	There are separate Schools for pupils of different nationalities, viz., Europeans, Indians, Arabs, Africans, etc.	None so far as Government are aware.	50%.
Uganda ..	There are two Government schools for Indians in addition to 38 schools owned by Indians and assisted from public funds.	There are no schools for other races in the Colony, except a small junior schools for European children and two junior Government aided schools for Goans.	Do.	Figures not available.
Tanganyika ..	There are 3 Government and 57 private schools for Indian children. Of the private schools 46 receive grants-in-aid from Government.	None so far as Government are aware.	None so far as Government are aware.	56%.

	Do.	Do.	Figures not available.
Nyasaland ..	Do.	Do.	Figures not available.
Mauritius ..	None. Refusal to admit pupils on grounds of race or religion is forbidden by law.	Do.	5% of males and 1% of females (1931 Census).
Zanzibar ..	Except for some schools where children of all nationalities are admitted, there are separate schools for different races.	None so far as Government are aware. The Government grant-in-aid is based on salary expenditure.	80%.
Ceylon ..			Figures not available.
Burma ..	None, provided they fulfil the ordinary conditions required for admission. Burmese is compulsory for admission to the University, but special arrangements are made for the admission of Indian students who have matriculated at an Indian University.	None	26.49.

Dominion or Colony.	1	2	3	4	5
		Educational facilities available for Indian Children	Ban, if any, against admission of Indians into Universities and other educational institutions.	Racial discrimination in the matter of financial grants to educational institutions managed by Indians.	Latest figures of literacy and steps taken by the Government of India for spread of education among Indians.
Malaya	..	There are 2,556 educational institutions of all kinds for non-Europeans. The number of Indian pupils is 35,818. Special facilities are provided for children of estate labourers.	None	None	26.9 (1931 census).
Fiji	..	In 1937, there were 77 schools for Indian children including 7 Government schools. Of these 59 were assisted by grants-in-aid. In the majority of these schools, Hindustani is the medium of instruction.	The Fiji Education Ordinance of 1929 (No. 1 of 1929) gives the Board of Education power to direct that a particular school shall be registered for the education of children of a particular race. Certain schools have accordingly been registered exclusively for Europeans, Fijians, Indians, etc., while a number of schools, usually in towns, enroll children of all races.	There is no racial discrimination. Grants to registered schools are based mainly on the average attendance of children of school age, and partly on the grade of teachers employed.	23.8%.

N.B.—(1) Dominions and Colonies, which do not have a large resident Indian population or in respect of which no information on the subject is available, have not been included in the Statement.

(2) The information contained in the Statement has been collected from the latest reports and returns available in the Department and has not been obtained officially from the respective Dominion and Colonial Governments.

(3) Measures for the spread of education among Indian children are primarily the concern of the local authorities. It is not possible in a Statement of this nature to detail the occasions when the Government of India have drawn their attention to deficiencies in educational facilities for Indians.

Information promised in reply to part (a) of starred question No. 826 asked by Maulvi Muhammad Abdul Ghani on the 7th March 1939.

SUPERSESSIONS OF MUSLIMS IN THE ARCHÆOLOGICAL DEPARTMENT.

(a) There has been only one case of supersession of a Muslim among the non-gazetted staff of the Archæological Department.

(b) No.

(c) The order was passed by the Director-General of Archæology under his own powers.

Information promised in reply to part (h) of starred question No. 830 asked by Mr. K. S. Gupta on the 7th March, 1939.

DENIAL OF RIGHTS OF CITIZENSHIP TO INDIANS IN MALAYA.

No figures are available showing the number of Indians banished from the Malaya States and the Straits Settlements during the period between 1911 and 1931, but the number banished during the years 1935 to 1938 is given below :

Year.	Perak.	Selangor.	Negri Sembilan.	Pahang.	Total.
1935	26	6	1	Nil.	33
1936	15	8	Nil	1	24
1937	7	9	Nil.	Nil.	16
1938	..	..	..	..	25
					98

Most of the banishees were habitual criminals.

Information promised in reply to starred question No. 844 asked by Mr. K. S. Gupta (on behalf of Mr. C. N. Muthuranga Mudaliar) on the 8th March, 1939.

FOREIGN EXPERTS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ITS ATTACHED OFFICES.

(a) to (e). A statement is laid on the table.

(f) The question of granting extensions to officers mentioned in column (9) of the statement will be considered as each case arises.

Statement

Name of Department or Office.	Number of officers employed as 'experts' or in technical posts.	Number of European officers employed as 'experts' or in technical posts.	Number of European officers employed on contract as 'experts' or in technical posts.	Whether such European officers are required to train Indians in these technical posts.	Number of such European officers whose period of contract expires this year (1939).	Whether any extensions have been granted to such European contract officers.	The reasons for the extensions, if any, granted to the officers referred to in column (7).	Name of European Contract officers, whose term of employment expires during the three years commencing from the 1st December 1938.	10	Remarks.
1. Home Department and its Attached offices.	3	3	2	No*	..	No	..	Mr. V. O. J. Hodgson, Assistant Government Examiner of Questioned Documents.	10	*The European officers actually train Indians though not required to do so, by their contracts.
2. Finance Department and its Attached Offices.	1†	1	1	No*	..	No	..	Mr. S. P. Chambers, Income-tax Adviser to the Central Board of Revenue.		†Appointed on a contract basis for 3 years.
3. Defence Department and its Attached Offices.	1†	1†	..	..	..	..	..			‡Employed on a permanent basis.
4. Commerce Department and its Attached Offices.	11	2	2	Yes§	..	No	..			§One of the two European Officers is required to train Indians by his contract.
5. Education, Health and Lands Department and its Attached Offices.	5	3	2	Yes	..	..	..	Dr. W. Burns, D.Sc., C.I.E., Agricultural Commissioner with the Government of India.		This applies to one out of the two officers mentioned in column (4).

6. Communications Department and its attached Offices.	65	20	8	No¶	..	No	..	Mr. L. Fielden, Controller of Broadcasting.		¶The European Officers serving in connection with broadcasting train Indian officers working under their control in the course of their duties. The Government of India have taken steps to train Indians for employment in technical posts in the Civil Aviation Directorate.
								Mr. C. W. Goyder, Chief Engineer All-India Radio.		
								Mr. E. M. Rossiter, Technical Officer, Civil Aviation Directorate.		
								Dr. D. M. Langford, Assistant Aircraft Inspector (Grade I).		
								Mr. A. W. Francis, Assistant Aircraft Inspector (Grade I).		

Information promised in reply to starred question No. 879 asked by Mr. K. S. Gupta (on behalf of Shrimati K. Radha Bai Subbarayan) on the 8th March, 1939.

LEGISLATION FOR THE PREVENTION OF TRAFFIC IN WOMEN AND CHILDREN IN THE CENTRALLY ADMINISTERED AREAS.

British Baluchistan—

Few brothels exist in the province. No brothels have been closed, nor are any facilities provided for the care of destitute women and girls.

Private organisations and institutions for the relief of these people do not exist in the Province, nor is there any need for them.

Delhi—

There are at present no facilities provided for the care of the inmates of closed brothels and of destitute girls and women.

The Chief Commissioner is in contact with the Association for Moral and Social Hygiene in India and with the Delhi Provincial Council for Women in regard to the measures necessary to ensure the successful enforcement of the Punjab Suppression of Immoral Traffic Act, 1935. An annual grant of Rs. 200 is made to the Association for Moral and Social Hygiene in India.

Ajmer-Merwara—

The problem of providing for the inmates of closed brothels has not arisen in Ajmer-Merwara. For the care of destitute girls and women there are orphanages and Ashrams.

The Orphanages and Ashrams are private institutions and do not get any monetary assistance from Government, but some of them are assisted from Municipal Funds.

Coorg—

There is no traffic in women and children in Coorg, and organized prostitution is negligible, if indeed it exists at all. There is, therefore, no need for the action referred to in the question.

Panth Piploda—

The questions do not really arise in a practical form in Panth Piploda which is a purely rural area. There are, however, lady missionaries there who could be counted on to render all necessary facilities for the care of destitute women, if any such need were to arise.

Information promised in the reply to starred questions Nos. 970 and 971 asked by Mr. H. A. Sattar H. Essak Sait (on behalf of Mr. H. M. Abdullah) on the 10th March, 1939.

SUPERSESSIONS OF MUSLIMS IN THE ARCHÆOLOGICAL DEPARTMENT.

Starred question No. 970.—There has been one case of supersession of a Muslim employee during the office tenure of the present Director General of Archaeology.

STOPPAGE OF INCREMENTS OF MUSLIMS IN THE ARCHÆOLOGICAL DEPARTMENT.

Starred question No. 971.—(a) Increments of four Muslims have been stopped during the office tenure of the present Director-General of Archaeology. Three such cases occurred during the 10 years commencing from 1925.

(b) Yes, of one.

(c) No.

Information promised in reply to starred questions Nos. 1003 and 1004 asked by Choudhri Raghubir Narayan Singh on the 13th March, 1939.

MEASURES TO COPE WITH THE TRAFFIC DURING THE MAHABARNI MELA AT HARDWAR.

Starred question No. 1003.—(a) The answer is in the negative, the number of passengers that were expected to be carried over the railway during the Mahabaruni Mela was 80,000, whereas 5,93,000 passengers were carried during the last Kumbh Mela.

(b) and (c). Yes.

(d) Expenditure of Rs. 1,588 was incurred for dismantling and Rs. 2,598 for temporary works for the Mahabaruni Mela.

BRICKS PURCHASED FOR THE CONSTRUCTION OF THE HARDWAR RAILWAY STATION.

Starred question No. 1004.—(a) and (b). In the contract free railway freight for bricks and certain other materials was stipulated, the loading and unloading being done by the contractor, but in the interests of the work, the contractor's unloading labour is believed to have been occasionally assisted by railway labour, for which, as far as is known at present, no charges were realised from the contractor. This matter is still under investigation.

(c) 3,28,000 bricks were required for the work and arrangements for their supply were made by the contractor. Rates paid by him are not known.

(d) The estimated amount is Rs. 275. The actual amount incurred is not yet available as the accounts have not been closed.

Information promised in reply to starred question No. 1033 asked by Shrimati K. Radha Bai Subbarayan on the 14th March, 1939.

WOMEN ON THE NURSING STAFF OF HOSPITALS UNDER GOVERNMENT CONTROL IN DELHI PROVINCE.

(a), (b) and (c). A statement giving the information asked for by the Honourable Member is placed on the table.

(d) No test has been prescribed but contracts for nurses at the Irwin Hospital require members of the Nursing staff recruited in the United Kingdom to satisfy the Chief Medical Officer within a reasonable time that they have a colloquial knowledge of Hindustani.

(e) Government have in view the desirability of training Indians for higher nursing appointments.

Statement.

(1) Name of Hospital.	(2) Total number of women employed on nursing staff.	(3) Classification.					
		(a) Nursing Superintendents, Matrons and Sisters.		(b) Staff Nurses.		(c) Probationer or Student nurses.	
		Indian.	Non-Indian.	Indian.	Non-Indian.	Indian.	Non-Indian.
Irwin Hospital ..	50 (excludes Linen Keeper).	1	9	8	8	9	15
Hindu Rao Hospital	From 4—6 (varying with state of work).	..	4—6	..	..	..	..

Information promised in reply to parts (a), (b) and (d) of starred question No. 1038 asked by Mr. Brojendra Narayan Chaudhury on the 14th March, 1939.

HIGHER RATE OF DEATHS IN MINES IN ASSAM.

(a) During the years 1934 to 1937, on an average, the death rate in Assam was 20 per cent. higher and the serious accident rate eleven times higher than the respective rates in the Jharia and Raniganj coalfields, *vide* statement attached.

(b) The mines in Assam were inspected during 1937 by an Inspector of Mines, while those in Bengal were inspected by five different officers, the Chief Inspector, Inspector, Junior Inspectors and Assistant Inspector of Mines.

(d) The coal seams in Assam are difficult to work on account of the fact that they are friable, steeply inclined and outcrop in hill sides and are also traversed by "faults" and "slips". The accident and death rates referred to in the answer to part (a) of the question are, however, no criteria of the prevailing conditions in the respective fields. The rates for the Assam fields tend to be high on account of the comparatively fewer persons employed, while the fact that a great deal of labour is employed in the Jharia and Raniganj fields in obtaining coal by quarrying—a method which is comparatively free from accidents, fatal or serious—tends to lower the rates for these fields.

Statement showing the death rate and persons seriously injured per 1,000 persons employed during the years 1934 to 1937 in the whole of the Assam Coalfield and in the Raniganj and Jharia coalfields.

	Death rate of fatal accidents per 1,000 persons employed.				Persons injured in serious accidents per 1,000 persons employed.			
	Assam.		Raniganj and Jharia.		Assam.		Raniganj and Jharia.	
	No. of deaths.		No. of deaths.		No. of persons injured.		No. of persons injured.	
1934	6	3.54	118	0.95	48	28.48	349	2.80
1935	3	1.84	160	1.31	91	49.78	401	3.29
1936	3	1.39	381	3.04	70	32.33	496	3.95
1937	5	2.39	153	1.17	96	45.91	514	3.95
	17	8.96	812	7.47	305	156.50	1,760	13.99
Average	4.25	2.24	203	1.87	76.25	39.12	440	3.50

Information promised in reply to starred questions Nos. 1107 and 1108 asked by Mr. Abdul Qaiyum (on behalf of Chaudhri Raghbir Narayan Singh) on the 16th March, 1939.

DRAINAGE SCHEME AT LHAKSAR STATION ON THE EAST INDIAN RAILWAY.

Starred question No. 1107.—The estimated cost of the scheme was Rs. 6,465. The actual expenditure up to date is about Rs. 5,000.

DRAINAGE SCHEME AT LHAKSAR STATION ON THE EAST INDIAN RAILWAY.

Starred question No. 1108.—(a) A mistake was made in the grading of the drain, but no alteration was made in the drawing signed by the Chief Engineer in token of his approval.

(b) No. The mistake was discovered after a little more than one-third of the drain had been constructed.

(c) No. The length of the drain wrongly graded was about 1,100 feet.

(d) No. Only a part of the drain was reconstructed.

(e) The cost involved was about Rs. 1,100. After consideration of the circumstances, no action was taken against any of the staff.

(f) Yes, if the original drawing has been signed by the Chief Engineer.

Information promised in reply to unstarred question No. 32 asked by Qazi Muhammad Ahmad Kazmi on the 16th March, 1939.

COLOUR TEST OF EMPLOYEES ON STATE RAILWAYS.

(a) Tests for colour perception prescribed by the Railway Board for all State-managed Railways involve the use of either the Norman lantern or the Edridge Green lantern. Ishihara's test was never employed on the East Indian Railway.

(b) This is a technical matter on which opinions may differ.

(c) and (d). Do not arise in view of the reply to part (a).

(e) Ishihara's test has been in use on certain Railways as a preliminary or auxiliary test, but is not the test officially prescribed. The prescribed tests are based on the advice of the Medical Section of the Indian Railway Conference Association.

Information promised in reply to part (c) of unstarred question No. 33 asked by Qazi Muhammad Ahmad Kazmi on the 16th March, 1939.

VISION TEST OF CLERKS ON THE EAST INDIAN RAILWAY.

The East Indian Railway Administration considered that a higher standard of vision was necessary for goods clerks as they are frequently required to visit places where deficient sight would involve danger from moving vehicles. On re-consideration, however, the Administration have since decided to place goods, parcel, luggage and booking clerks in Class C1 for the vision test.

Information promised in reply to parts (a), (b) and (d) of starred question No. 1140A asked by Mr. Manu Subadar on the 17th March, 1939.

GOVERNMENT SERVANTS LENT TO INDIAN STATES.

(a) On 1st January, 1939, Government servants on the active list were serving in 97 States.

(b) These Government servants were drawn from nearly all Departments and Services of the Central and the Provincial Governments.

(d) Twelve are working either as Dewans or as officers of equivalent status and authority.

Information promised in reply to starred question No. 1172 asked by Mr. Brojendra Narayan Chaudhury on the 20th March, 1939.

PURCHASE OR MANUFACTURE OF NEW CARRIAGES FOR HORSES ON THE ASSAM BENGAL RAILWAY.

(a) No. The body work of two existing horse boxes is being renewed during 1939-40 at a total cost of Rs. 7,000.

(b) No, because the running costs of horse boxes are not maintained separately from other types of coaching vehicles. The Assam Bengal Railway has only 12 horse boxes including the two to be rebuilt. This number, reduced from 20 in 1924-25, is the minimum necessary to meet the traffic offering.

Information promised in reply to starred question No. 1182 asked by Mr. Badri Dutt Pande on the 20th March, 1939.

CERTAIN ALLEGATIONS AGAINST THE SERVANTS OF MAHARAJA OF DARBHANGA WHILE TRAVELLING FROM LUCKNOW TO DELHI.

(a) Except that the Maharaja travelled in a first compartment, and the third class accommodation consisted of two compartments, the facts are as stated.

(b) The third class compartments were not reserved, and enquiries made do not substantiate the allegation that the servants prevented other passengers from entering their compartment.

(c) Chowdhury Vijaipal Singh made this statement to the Assistant Station Master who himself visited the compartment. It is understood that other passengers were accommodated and that there was no obstruction by the occupants.

(d) At Gajroula Mr. Vijaipal Singh approached the Travelling Ticket Examiner, and asked under what condition dogs could travel in a passenger carriage. He was informed that it must be with the concurrence of the fellow passengers in the compartment. Mr. Vijaipal Singh then summoned the guard and complained that the attendants of the dogs would not allow other passengers to entrain. The guard, who was informed that the dogs had been booked with owner, directed the attendants to make room for other passengers, which was done. According to the report received, Mr. Vijaipal Singh, though holding an intermediate class ticket, elected to travel in the third class compartment with the dogs. As soon as the train started he pulled the alarm chain and stated that he objected to travelling in the same compartment with the dogs and demanded their removal to the brake van.

(e) The train was detained for 19 minutes.

(f) It was not the guard but the Assistant Station Master, Gajroula Junction, who referred to the Controller. The latter gave orders for the dogs to be removed to the brake van.

(g) No such request was made by any railway servant.

(h) The Travelling Ticket Examiner is reported to have taken the number of the tickets on his own initiative, in the course of checking between Gajroula and Delhi.

(i) Yes.

(j) Government understand that action has been taken by the East Indian Railway authorities against the ticket checking staff.

Information promised in reply to part (c) of starred question No. 1183 asked by Mr. S. Satyamurti on the 20th March, 1939.

MANUFACTURE OF LOCOMOTIVES IN INDIA.

The appended statement gives the information promised.

Statement showing particulars of locomotives purchased out of India during 1935-36, 1936-37 and 1937-38.

Railways.	1935-36.		1936-37.		1937-38.	
	No. purchased.	Country from which purchased.	No. purchased.	Country from which purchased.	No. purchased.	Country from which purchased.
<i>Broad Gauge.</i>						
Eastern Bengal ..	..	..	..	..	..	..
East Indian ..	14	Germany	10	Germany	8	England
Great Indian Peninsula ..	..	..	2	England	*1	England.
North Western ..	15	Germany	..	..	8	England.
Bengal Nagpur ..	..	..	..	..	2	England.
Bombay, Baroda and Central India.	†1	England.	..	..	..	..
Madras & Southern Mahratta.	..	..	2	England	..	..
South Indian ..	7	England	..	..	4	England.
<i>Metre Gauge.</i>						
Assam Bengal ..	6	England	..	..	4	Germany
Bengal & North Western.	8	England	..	..	9	England.
Bombay Baroda & Central India.	..	..	..	..	..	..
Eastern Bengal ..	..	..	..	..	..	..
Madras & Southern Mahratta.	..	..	..	..	5	England.
Rohilkund & Kumaon ..	..	..	4	England.	4	England.
South Indian ..	..	..	..	..	2	England.

* Electric Locomotive.

† Diesel-electric Shunting Locomotive.

Information promised in reply to unstarred question No. 50 asked by Mr. Muhammad Azhar Ali on the 20th March, 1939.

INVESTIGATION INTO CASES OF BREACHES OF DISCIPLINE AND INSUBORDINATION AGAINST CHOWKIDARS ON THE NORTH WESTERN RAILWAY.

One Chowkidar was removed from service.

Information promised in reply to starred question No. 1238 asked by Pandit Lakshmi Kanta Maitra (on behalf of Dr. P. N. Banerjee) on the 22nd March, 1939.

INCOME AND EXPENDITURE OF AHMEDABAD CANTONMENT BOARD.

(a) and (b). Statements, showing the financial position of the Ahmedabad Cantonment and the municipal amenities provided for the civilian population residing in the Sadar Bazar, are attached.

(c) and (d). As a civilian Executive Officer is not available, a military officer has been appointed under Rule 33 Cantonment Executive Officers Service Rules, a copy of which is in the Library of the House.

Receipts.

Income of the Cantonment Board, Ahmedabad, during	1935-36.	1936-37.	1937-38.
	Rs.	Rs.	Rs.
I.—RATES AND TAXES—			
(b) Tax on annual value of lands and buildings ..	3,242	3,507	3,631
(c) Tax on animals and vehicles ..	1,172	1,135	1,094
(e) Tolls (on roads and ferries) ..	3,800	710	3,014
(f) Water rate and Tax ..	5,828	6,978	6,693
(g) Conservancy Tax ..	3,332	3,336	3,398
II.—REALIZATION UNDER SPECIAL ACTS—			
(a) Pounds ..	144	241	270
III.—REVENUE DERIVED FROM PROPERTY AND POWERS APART FROM TAXATION—			
(a) Land—(2) Rent from land the property of Government—			
(i) Premia on leases ..	5,505	5	30
(ii) Rents from leases ..	3,544	3,325	193
(iii) Proceeds from licenses ..	773	753	552
(4) Sale of trees, grass, fruit, etc. ..	8,358	9,122	7,073
(6) Other items ..	843	447	177
(b) Buildings—			
(2) Income from buildings other than the property of Government—			
(iv) Other buildings ..	347	287	221
(c) Conservancy receipts (Other than taxes and rates)—			
(1) Sale proceeds of night soil and sweepings ..	650	305	101
(2) Other receipts ..	3,372	3,372	3,372
(d) Fines under Cantonment and other Acts ..	143	111	103
(g) Income from Markets and Slaughter Houses—			
(2) Slaughter Houses ..	129	62	23
(h) Other Revenue—			
(1) Warrant Fees ..	86	73	64
(5) License fees ..	272	218	204

Income of the Cantonment Board, Ahmedabad, during	1935-36.	1936-37.	1937-3.
	Rs.	Rs.	Rs.
IV.—MISCELLANEOUS—			
(b) Other items ..	378	362	534
V.—GRANTS AND CONTRIBUTIONS FROM GENERAL AND SPECIAL SOURCES—			
(a) Grants-in-Aid for administration of Cantonment ..	5,000	..	..
(b) Contributions ..	592	200	375
VI.—EXTRAORDINARY AND DEBT—			
(a) Sale of fixed deposit ..	4,822	..	..
(b) Deposits ..	1,017	..	..
			200
Total Income ..	53,349	34,529	31,322

Expenditure.

Expenditure of the Cantonment Board, Ahmedabad, during	1935-36.	1936-37.	1937-38.
	Rs.	Rs.	Rs.
A.—General Administration—			
(1) Executive Officer ..	600	600	909
(2) Establishment ..	1,827	1,887	1,947
B.—Collection of Revenue—			
(1) Octroi-Toll Tax—			
(b) Contingencies ..	58	35	20
(2) Other Taxes—			
(a) Establishment ..	1,020	1,049	1,050
(b) Contingencies ..	49	46	40
(3) Miscellaneous Revenue—			
(a) Establishment ..	50	60	50
(b) Contingencies ..	11	12	12
C.—Refunds—			
(2) Other Taxes ..	59	146	5
(3) Miscellaneous refunds ..	1,711	1,607	1,532
D.—Public Works—			
(2) Maintenance and repairs—			
(a) Buildings ..	2,349	2,182	694
(b) Roads ..	14,548	6,055	6
(c) Drainage ..	217	1	861
(f) Miscellaneous public improvement ..	..	..	42

Expenditure of the Cantonment Board, Ahmedabad, during	1935-36.	1936-37.	1937-38.
	Rs.	Rs.	Rs.
E.—Public Safety and Convenience—			
(2) Lighting—			
(b) Contingencies	2,903	2,523	2,297
(5) Pounds—			
(a) Establishment	42	42	42
(b) Contingencies	..	..	8
(8) Arboriculture, tree-tending, etc.—			
(a) Establishment	280	445	570
(b) Contingencies	7	..	16
(7) Rewards for destruction of wild or rabid animals and snakes.	69	47	45
F.—Medical services and Sanitation—			
(1) Hospitals and Dispensaries—			
(a) Establishment	993	864	964
(b) Contingencies	506	570	674
(4) Latrines, drainage, conservancy, etc.—			
(a) Establishment	6,645	6,639	6,761
(b) Contingencies	1,842	2,035	2,018
(5) Water Supply—			
(a) Establishment	540	569	570
(b) Contingencies	13	13	12
(7) Epidemics— ..			
(b) Contingencies	..	..	97
G.—Public Instruction—			
(1) Primary and Secondary Schools—			
(a) Establishment	1,140	1,145	1,074
(b) Contingencies	88	170	217
(2) Libraries	61	65	66
H.—Contributions for general purposes—			
(1) Service funds—			
(a) Contributions to Provident Fund ..	170	161	160
(b) Bonuses to Provident Fund ..	..	220	610
I.—Pensions, gratuities and annuities ..	108	108	108
J.—Survey of land ..	..	..	77
K.—Amount credited to Military Works for water supply ..	5,320	6,358	6,058

Expenditure of the Cantonment Board Ahmedabad, during	1935-36.	1936-37.	1937-38.
L.—Miscellaneous—			
(4) Office and miscellaneous expenses—			
(a) Stationery	112	14	50
(b) Printing	62	63	28
(c) Postage	2	3	61
(d) Telegrams	1	40	68
(e) Books, periodicals and maps	..	5	11
(f) Anti-rabic treatment	235	257	251
(h) Rents, rates and taxes	250	210	185
(i) Audit charges	345	192	435
(j) Miscellaneous	..	..	..
(5) Payments to Government—			
(ii) Government share of—			
(a) Rent	903	826	..
(b) Premia	1,376	1	..
(iii) Payments in respect of—			
(b) Quarries in class " B " (5) ..	157	77	6
(iv) Payment in respect of land in class " C " ..	15	15	11
M.—Extraordinary and Debt—			
(5) Deposits	1,013	7	200
Total Expenditure ..	47,697	37,401	30,818

Part (b).

Statement showing amounts spent for providing Municipal Amenities to the civilian population residing in Sadar Bazaar of Ahmedabad Cantonment.

	1935-36.	1936-37.	1937-38.	Remarks.
	Rs.	Rs.	Rs.	
1. Water-supply	Nil	Nil	Nil	Water works and supply system are owned and run by the Military Engineer Services.
2. Roads	1,188	1,367	Nil	
3. Lighting	1,450	1,261	1,148	
4. School	1,228	1,315	1,291	
5. Public Library	61	65	66	
6. Watering of roads in Sadar Bazaar during hot weather.	Nil	Nil	Nil	The roads being tarred there is no necessity for watering.
Total ..	3,927	4,008	2,505	

Information promised in reply to part (a) of starred question No. 1271 asked by Prof. N. G. Ranga on the 23rd March, 1939.

MEASURES FOR SAFETY OF WOMEN TRAVELLING IN THIRD CLASS COMPARTMENTS.

(a) From information gathered from the major railways it has been ascertained that there were, during 1938, 24 such cases.

Information promised in reply to part (a) of starred question No. 1306 asked by Mr. S. Satiyamurti on the 25th March, 1939.

FOREIGNERS IN INDIA.

(a) The number of foreigners who entered India otherwise than in transit from 1st January, 1938, to 31st December, 1938, was 12,811.

Information promised in reply to starred question No. 1315 asked by Mr. Manu Subedar on the 27th March, 1939.

RATE OF INTEREST ALLOWED FOR PROVIDENT FUND, ETC.

(a) and (b). The rate of interest on Provident Fund balances for 1939-40 has been fixed at 3.5 per cent., save that those who have been members of the General Provident Fund from a date prior to the 1st April, 1938, when the general rate was reduced from 4 per cent. to 3.5 per cent. are entitled under the Rules of the Fund to a minimum rate of 4 per cent. The same minimum rate has been guaranteed to such members of the State Railway Provident Fund and of the provident funds of those railways whose provident fund balances are deposited with Government as joined the Fund before the 7th March, 1938. There are also certain Service Provident Funds, which were closed to new entrants on the institution of the General Provident Fund on the 1st August, 1909, whose members have been guaranteed a minimum rate equal to $\frac{1}{2}$ per cent. in excess of the rate allowed on provident fund balances in general. For these Funds, therefore, the rate is 4 per cent. for 1939-40. The membership of such of these Service Funds as have not already ceased to exist must be very small at the present time.

(c) No, save to the extent laid down in the Rules of the particular Funds mentioned above.

(d) (i). The rates of interest allowed on Post Office Savings Bank deposits during the past 5 years were as follows :—

1934-35	2½ per cent.
1935-36	2½ per cent.
1936-37	2½ per cent. up to 30th June, 1936, and 2 per cent. from 1st July, 1936.
1937-38	2 per cent.
1938-39	2 per cent. up to 30th November, 1938, and 1½ per cent. from 1st December, 1938.

(ii) The rates of yield on Postal Cash Certificates issued during the last five years and if not withdrawn until after five completed years would be as follows :—

1934-35	4 per cent. if issued on or before 2nd April, 1934, 3.3 per cent. if issued on or after 3rd April, 1934 and 3 per cent. if issued on or after 1st December, 1934.
1935-36	3 per cent.
1936-37	3 per cent. if issued on or before 30th June, 1936, and 2.5 per cent. if issued on or after 1st July, 1936.
1937-38	2.5 per cent.
1938-39	2.5 per cent.

(iii) and (iv). The rates of interest allowed during the past five years on Provident Funds in general, including those Funds which guarantee a minimum rate to certain classes of subscribers, were as follows :—

1934-35	5.25 per cent.
1935-36	5 per cent.
1936-37	4.75 per cent.
1937-38	4 per cent.
1938-39	3.5 per cent. (Protected subscribers receiving 4 per cent.).

Information promised in reply to starred question No. 1374 asked by Mr. Sham Lal on the 30th March, 1939.

ADULTERATION OF GHEE AND GRIEVANCES OF SHOPKEEPERS IN NEW DELHI.

(a) No. Samples of food, especially of ghee, are taken under the Punjab Pure Foods Act and prosecutions follow only when samples are found on analysis not to conform to prescribed standards.

(b) Yes.

(c) The Municipal Committee has no laboratory of its own. In two cases one portion of the sample was examined by a laboratory other than the Delhi Provincial Laboratory. The results of the analyses in these cases differed in some respects from those obtained in the Provincial Laboratory and the accused were given the benefit of doubt. As the charges were not declared false, no question of compensation arose.

(d) No.

(e) Government do not consider any public enquiry necessary.

Information promised in reply to starred question No. 1416 asked by Mian Ghulam Kadir Muhammad Shahban on the 31st March, 1939.

GRANT OF BENEFIT OF SUBSCRIBING TOWARDS PROVIDENT FUND TO GANG MATES ON THE NORTH WESTERN RAILWAY.

(a) Yes, on the East Indian Railway, and on the Great Indian Peninsula Railway in the case of those governed by the Great Indian Peninsula Railway Company's rules provided their monthly pay is not less than Rs. 30. Their scales of pay are as follows :

East Indian Railway.—Rs. 20—1—26—2—30, with an efficiency bar after Rs. 26 stage, from 1st September, 1930. Prior to 1st September, 1930, there were no regular grades and the pay of the mates varied in various localities between a minimum of Rs. 13 and a maximum of Rs. 39. Staff who did not wish to adopt the revised scale introduced in 1930 were permitted to retain their old scales of pay.

Great Indian Peninsula Railway.—The scales differ in different areas. The highest and lowest scales are :—

	Old Scales.	New Scales.
Highest	30—1—37	27—1—34
Lowest	20—1—27	18—1—25 and 16—1—21 1—21½

(b) On the North Western Railway, Permanent Way Mates and Works Mates who are employed on that Railway are classified as "Inferior Servants" for the purpose of the State Railway Provident Fund Rules and are, therefore, not eligible to subscribe to the Fund.

(c) There is no such intention at present as the status and pay of the men concerned does not warrant a special concession.

Information promised in reply to starred question No. 1429 asked by Mr. K. S. Gupta on the 31st March, 1939.

MAINTENANCE CADRE OF THE VIZAGAPATAM PORT.

- (a) It has been formed gradually and has not yet assumed a final shape.
 (b) Economy combined with efficiency.
 (c) In view of the reply to part (a), this part of the question does not arise, but the total cost of maintaining the port (including the cost of pilotage and depreciation) during the years 1933-34 to 1937-38 was :

	Rs.
1933-34	3,53,703
1934-35	13,36,824
1935-36	15,42,398
1936-37	14,56,303
1937-38	15,53,168

(d) 2886, 2209, 1351 and 1327, respectively.

(e) 85, 81, 81 and 71, respectively. The following statement shows briefly the distribution of duties among the supervisory staff :

	1933.	1935.	1937.	1-3-1939.
Officers	10	7	7	5
Medical	3	3	5	4
Watch and Ward	1	1	1	1
Civil Engineering	15	12	9	8
Workshops, including out door repairs	15	14	15	14
Electrical	7	6	6	2
Dredging	33	26	22	20
Marine	..	4	4	4
Pilotage	..	3	3	3
Traffic Subordinate Supervising staff ..	1	5	9	10
Total	85	81	81	71

(f) Yes. The combined strength of the two sections in 1934 was 638. The present strength of the outdoor repairs section is 232.

Information promised in reply to parts (a), (b), (d) and (e) of starred question No. 1430 asked by Mr. K. S. Gupta on the 31st March, 1939.

CERTAIN STAFF IN THE VIZAGAPATAM PORT.

- (a) Eleven up to and during the year 1935 : nine from the year 1936 onwards.
 (b) No : the two posts now existing replaced posts of Mechanical Superintendent and Mechanical Engineer.
 (d) 108 workmen. One Foreman, one Senior Assistant Foreman and one Junior Assistant Foreman.
 Foreman Rs. 600 per mensem in the scale of Rs. 500—20—600.
 Senior Assistant Foreman Rs. 247-8-0 per mensem in the scale of Rs. 180—7½—300.
 Junior Assistant Foreman Rs. 105 per mensem in the scale of Rs. 100—2½—150.

The Foremen are Indian or Anglo-Indian.

(e) Twelve. A decrease.

Information promised in reply to parts (b), (c) and (d) of starred question No. 1432 asked by Mr. K. S. Gupta on the 31st March, 1939.

PILOTS IN THE VIZAGAPATAM PORT.

- (a) No.
 (c) Pilots at the port of Vizagapatam are not employed exclusively in piloting vessels. Their time is divided between :
 (i) Actual pilotage which, in addition to the time spent in bringing vessels into the port or taking them out of the port, necessarily includes much standing by.
 (ii) Attention to buoys, fenders, moorings, etc.
 (iii) Dredging (One pilot constantly assists the Harbour Master in supervising dredging. Pilots also relieve the Dredging Masters in special cases).
 No record is maintained of the time spent by the pilots on the different items of work which they perform, but when employed on dredging their daily duty consists of an eight-hour shift.
 (d) No.

Information promised in reply to parts (c), (d) and (e) of starred question No. 1433 asked by Mr. K. S. Gupta on the 31st March, 1939.

CERTAIN STAFF IN THE VIZAGAPATAM PORT.

- (c) The cost of the Traffic Department is ordinarily Rs. 7,570 per mensem. As the permanent staff cannot all be absent, the remainder of the question is not understood.
 (d) There are three Assistant Quay Foremen. There has been no increase in their number since the cadre of the Traffic Department was first sanctioned in 1936. All three are Anglo-Indians.
 (e) 15 men. Their salaries are shown in the statement below. They were originally recruited for a temporary construction office, and selection was made on the basis of previous experience in Railway or other Government offices. They have office experience ranging from 9 to 17 years.

Statement showing the staff employed in the office of the Port Engineer, Vizagapatam, and the salary drawn by each.

Number of Posts.	Designation.	Grade.
		Rs.
1	Office Manager	150—5—250
2	Section heads	80—4—120
2	Senior clerks	60—4—80
3	Senior clerks	55—5½—70
1	Junior clerks	35—35—1½—50—1—60
3	Junior clerks	30—3½—45—2½—55
1	Senior typist	60—4—80
1	Junior typists	40—40—2½—65—3½—80
1	Record searcher	20—1—30

Information promised in reply to starred question No. 1448 asked by Bhai Kailash Behari Lal on the 31st March, 1939.

SCALES OF PAY OF TIME-CHECKERS IN THE JAMALPUR WORKSHOP.

(a) Yes, but there is also another scale of pay of Rs. 16—2—30 which is applicable to time-checkers recruited prior to 1928.

(b) to (f). The reply is in the affirmative.

Information promised in reply to starred questions No. 1451 and 1452 asked by Mr. Lalchand Navalrai on the 31st March, 1939.

RULES FOR OUT-STATION INDIAN APPRENTICES OF WORKSHOPS ON THE NORTH WESTERN RAILWAY.

Starred question No. 1451.—(a) The rules issued in 1921 were superseded by the rules issued on the 1st September, 1926, which applied to all apprentices then in service.

(b) A copy of the rules issued on the 1st September, 1926, is appended.

(c) Paragraph 6 of the old (1921) rules was as follows :

“ Apprentices at the end of their indentures will not be retained in the service unless their work, conduct and time-keeping have been satisfactory. Those who are retained will be started as mechanics on Rs. 1-8-0 per day ”.

(d) The Honourable Member is referred to rules 9 and 11 of the rules referred to in the reply to part (b). The apprentices were discharged in accordance with rule 9 and as there were no vacancies to which they could be appointed, they were not selected for appointment.

(e) No, because their discharge under rule 9 is automatic, and they are not permanent employees.

(f) Yes, if they were in service as paid apprentices on the 15th July, 1931, but only for the purpose of determining their eligibility for the old scales of pay.

Rules for Apprentices in Out-Station Workshops on the North Western Railway.

These rules will take effect from the 1st September, 1926, and are in supersession of all previous rules.

1. Out-station railway mechanical workshops are situated at Karachi, Sukkur, Rawalpindi and Kalka.

2. Candidates for admission to any one of these out-station workshops, as apprentices, must be between 15 and 17 years of age, of good moral character, and healthy constitution and have passed the VI standard.

Appointments will be subject to passing class “ B ” medical examination by the railway doctor.

3. After engagement, apprentices will be required to execute an agreement as a bound apprentice.

4. Application for employment as an out-station apprentice must be made to the Chief Mechanical Engineer, North Western Railway, Lahore.

5. Candidates on application for posts of apprentices must state the trade they wish to follow, with at least one alternative.

The railway reserves entirely to itself the selection of out-station apprentices, both as regards numbers allotted to each workshop and the trades in which apprenticeship will be given. The Chief Mechanical Engineer's decision will be final.

6. The period of apprenticeship extends over five years, during which period the time spent in workshops is shown in Appendix A.

7. Whilst in workshops apprentices must conform to the shop working hours and rules and regulations that may be in force in the shops during their apprenticeship.

8. Apprentices will be allowed 15 days casual leave on full pay each year in addition to the regular workshop holidays.

9. At the expiration of the term of apprenticeship all apprentices shall automatically be discharged, unless previous intention to employ them has been intimated. In this matter the decision of the Chief Mechanical Engineer shall be final.

10. No apprentice will be given an increase in pay unless his attendance, general conduct and application to work are satisfactory. Annual increments may be withheld at the discretion of the Chief Mechanical Engineer. In all cases of bad time-keeping an apprentice will be required to make up the full 12 months' service subject to the leave facilities laid down in paragraph 8 above, before being given such increments.

If an apprentice's attendance, general conduct or application to work is consistently unsatisfactory, his services may be terminated by serving him with one month's notice.

An apprentice may terminate his service by giving one month's notice to the Administration.

11. On completion of their apprenticeship, apprentices may be selected to fill such vacancies as occur for journeymen in their respective trades, on probation for one year, in the scale Rs. 100—10—170.

12. During the period of apprenticeship, apprentices will be paid at the following rates :—

	Rs.
First year	40
Second year	50
Third year	60
Fourth year	70
Fifth year	80

13. Apprentices will not be permitted to subscribe to the State Railway Provident Fund institution whilst serving their apprenticeship.

W. A. C. THORPE,

Chief Mechanical Engineer.

North Western Railway Headquarters Office, Lahore, dated the 1st September 1926.

APPENDIX A.

Locomotive Shops.

	Months.
Directors and fitters—	
Machine shop	6
Fitting shop	24
Brass Fitting shop	6
Copper and Tinsmith shop	4
Erecting shop	20
	60
Boilermakers—	
Boiler smithy	6
Plating	12
Boiler shop	42
	60

	Months.
Turners—	
Light machine shop ..	12
Brass finishing shop ..	12
Wheel shop ..	6
Tool room ..	8
Machine repairs ..	6
Heavy machine shop ..	16
	<u>60</u>
Blacksmiths—	
Smithy ..	52
Tool shop ..	8
	<u>60</u>
Moulders—	
Core making ..	6
Green-sand moulding ..	15
Dry-sand moulding ..	15
Brass foundry ..	12
Pattern shop ..	12
	<u>60</u>
Millwrights—	
Millwright shop ..	18
Light machine shop ..	6
Pattern shop ..	6
Brass finishing shop ..	6
Foundry ..	8
Smithy ..	8
Millwrights ..	8
	<u>60</u>
<i>Carriage and Wagon Shops.</i>	
Turners and tool-makers—	
Machine shop ..	18
Brass finishing shop ..	12
Wheel shop ..	6
Tool shop ..	24
	<u>60</u>
Fitters—	
Machine shop ..	18
Brass finishing shop ..	12
Fitting shop ..	30
	<u>60</u>

Blacksmiths—	Months.
Light smithy ..	30
Hot iron machines ..	6
Forge ..	12
Spring shop ..	12
	<u>60</u>
Millwrights—	
Machine shop ..	12
Brass finishing shop ..	6
Pattern shop ..	6
Smithy ..	12
Millwrights ..	24
	<u>60</u>
Painters and upholsterers—	
Sewing ..	3
Caning ..	3
Upholstering ..	12
Mixing colours ..	6
Lettering ..	18
Painting, varnishing and Polishing ..	18
	<u>60</u>
Underframe and wagon builders—	
Machine shop ..	6
Smith shop ..	6
Fitting shop ..	12
Heavy repair shop ..	12
Boiler shop, loco. ..	12
Underframe shop ..	12
	<u>60</u>

AGREEMENT WITH OUT-STATION APPRENTICES RECRUITED IN SUKKUR WORKSHOPS.

Starred question No. 1452.—(a) Yes.

(b) A copy of the agreement is appended.

Service Agreement of Out-station Indian Apprentices, English speaking.

This Agreement made the _____ day of _____ in the year one thousand nine hundred and _____ between (1) _____ of _____ (hereinafter called the Apprentice) and the Secretary of State for India in Council witnesseth that the said (1) _____ doth this day bind (2) _____ a boy of the age of _____ years completed, son of the said (1) _____ to serve the said Secretary of State as an Apprentice in the shops of the North Western Railway, at _____ from this day forth for five years, during all which term the said Apprentice shall duly and faithfully serve the said Secretary of State according to his skill and ability in all lawful business and demean and behave himself honestly, orderly and obediently in all things towards the Agent of the said Railway and the officers under whom he may from time to time be placed and shall not absent himself from duty without first obtaining permission to do so, or without submitting a proper medical certificate of temporary unfitness for duty.

And the said Secretary of State in consideration of the faithful service of the said (2) _____ doth covenant and agree with the said (1) _____ his executors and administrators that he will cause to be taught to the said

(1) Here enter the name of father or guardian of the boy.

(2) Here enter the name of the boy.

*N.B.—No boy who is under the age of 15 years or above the age of 18 years can be bound apprentice.

†Or otherwise describing the relation in which (1) and (2) stand.

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(2) _____ in the best way and manner that he can the trade of _____ during the said term, and will pay him the wages for the actual number of days worked at the following rates, the grant of increase at the close of each year being subject to the Apprentice giving satisfaction :

	Rs.	A.	P.
First year	0	14	0 per day.
Second year	1	0	0 do.
Third year	1	2	0 do.
Fourth year	1	4	0 do.
Fifth year	1	6	0 do.

PROVIDED that if after the first year of his apprenticeship the said (2) _____ is found to be unfit for training or if at any time he fails to comply with the conditions of his service as set forth herein, it will be open to the said Secretary of State to terminate his apprenticeship at once and then this agreement will be null and void, otherwise it will remain in full force.

Further it is hereby agreed between the said (1) _____ and the said Secretary of State that a deduction of annas eight per month will be made from the wages of the said (2) _____ and deposited with the North Western Railway, as a guarantee of his good conduct during the period of his apprenticeship which amount will be forfeited to the said Secretary of State in the event of the said _____ resigning the service before the termination or cancellation of this agreement or absconding or otherwise misconducting himself, and returned to him in full at the expiration of his term should the same have been thoroughly satisfactory.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals on the date hereinafter mentioned, respectively.

Signed and delivered by the said—

this _____ day
of _____ 19 , in the
presence of—

1. _____
2. _____

Wit-
nesses. Signature of Guardian.

Signed and delivered by the said—

this _____ day
of _____ 19 , in the
presence of—

1. _____
2. _____

Wit-
nesses. Apprentice.

Signed and delivered by—

Chief Mechanical Engineer, North
Western Railway, for and on behalf of
the said Secretary of State for India
in Council this _____
day of _____ 19 .

Chief Mechanical Engineer, North Western
Railway.

- (1) Here enter the name of father or guardian of the boy.
(2) Here enter the name of the boy.

Information promised in reply to starred question No. 1455 asked by Mr. Ram Narayan Singh on the 31st March, 1939.

RAILWAY LAND LEASED OUT AT PATPORE CABIN NEAR DELHI JUMNA BRIDGE.

- (a) The land in question is being leased on the usual terms adopted by the Railway Administration.
(b) The land is being leased to Messrs. Gopal Brothers of Delhi for the erection of temporary buildings for use as godowns.
(c) No. It is not the practice of the Administration to call for tenders for lease of railway lands.
(d) No ; because no broker was employed to arrange the lease.
(e) No. It was not considered necessary to advertise this particular lease, and it is not the practice of the Railway to do so.
(f) Only one other application for lease of this land was received about two months after Messrs. Gopal Brothers' application, and while negotiations with them were in progress. This application was from Mr. Behari Singh Arora who was informed that the Administration was already dealing with another applicant and in case negotiations fell through, he would be informed.
(g) No. The rent being obtained is considered adequate.

Information promised in reply to starred questions Nos. 1475 and 1476 asked by Mr. Brojendra Narayan Chaudhury on the 3rd April, 1939.

PUBLICATIONS REGARDING PLANNING, ETC., AND COST OF CONSTRUCTION OF BUILDINGS, ETC., OF NEW DELHI.

Starred question No. 1475.—(a) No.

(b) It is not possible to deal adequately with the subjects referred to in clause (i) of part (a) in an answer to a question. As regards clause (ii), a statement is laid on the table.

- (c) (i) Rs. 8,52,75,530.
(ii) Rs. 73,33,594.

(d) A statement is laid on the table.

(e) There is no planning office as such, but the Central Public Works Department organisation has a Consulting Architect and his office, where schemes for Government buildings, lay-outs, etc., are prepared. This office is located in the North Block of the Imperial Secretariat Buildings, New Delhi. For private buildings the Land and Development Office, which is situated in Scindia House, Connaught Circus, exercises such control as is possible under the terms of the leases.

(f) No report of the activities of the Consulting Architect's office is published, but a report on the Land and Development Office will be found on pages 5—7 of the Annual Administration Report of the Delhi Province for 1936-37, a copy of which is available in the Library of the House.

Statements.

I

The information in regard to part (a) (ii) of the question is as follows :

- (ii) The total area of land disposed of is 3255.8 acres. This is made up of 2140 acres used for Government purposes, 930 acres used for non-Government purposes generally and 185.8 acres occupied by the Princes. The total area which remains for disposal within the developed portion of New Delhi is 650 acres more or less. Standard forms of lease are available in the office of the Chief Commissioner, Delhi. No leases were executed in respect of areas allotted to the Princes.

II

(d) The returns in premium and ground rent for the land leased to private persons up to 1938 were as follows :

Premium	Rs. 36,16,187
Ground Rent	9,46,033

The figure for ground rent is from 1st April, 1930, as previous figures are not readily available. In addition, rent is realised from officials occupying Government residencies and also from commercial departments in respect of office accommodation supplied to them by the Public Works Department. The rent realised amounted to Rs. 48,68,000 for the period 1932-33 to 1937-38 and to Rs. 13,19,742 up to the year 1925-26. Information for the years 1926-27 to 1931-32 is not readily available.

AMOUNT SPENT ON MUNICIPAL AMENITIES OF NEW DELHI.

Starred question No. 1476.—A statement showing the total grants from Central revenues to the New Delhi Municipal Committee since 1932-33, the year in which the Municipal Committee assumed responsibility for the provision of municipal amenities in New Delhi, is appended. Information regarding the amounts spent from Central revenues before 1932-33 on amenities ordinarily provided by municipal committees is not readily available.

Statement showing Grants from Central Revenues to the New Delhi Municipal Committee, since 1932-33.

	Rs.
Veterinary Hospital	9,000
Public Health	2,16,000
Medical	94,800
Education	2,39,837
Arboriculture	1,25,000
Government of India grants for balancing the budget and maintenance of roads	21,85,280
Total	28,69,897

Information promised in reply to the starred questions Nos. 1488 and 1489 asked by Bhai Parma Nand on the 3rd April, 1939.

DELHI JOINT WATER AND SEWAGE BOARD.

Starred question No. 1488.—(a) The Delhi Joint Water and Sewage Board is a body constituted under an Act of the Central Legislature—the Delhi Joint Water and Sewage Board Act, 1926. It is not administered by the Government.

(b) Does not arise.

(c) Yes.

(d) No. Memorials were submitted to the Chief Commissioner by the store-keeper and the accountant. The Chief Commissioner had no statutory power of interference as an appellate authority and saw no reason to re-open the Board's decision.

(e) An order for alumina ferric was placed on 28th March, 1938. It is correct that a new contract was to come into force from the 1st April, 1938, under which the price of the material would be reduced by Rs. 13-4-0 per ton.

(f) A shortage of 23,000 lbs. was discovered after the enquiry began, but the shortage was not the subject of the departmental proceedings to which the Honourable Member refers.

(g) The enquiry was held by the Chief Commissioner and his Financial Adviser. The employees concerned were Muslims.

DELHI JOINT WATER AND SEWAGE BOARD.

Starred question No. 1489.—(a) No definite communal ratio has been prescribed for recruitment of the staff. The communal ratio of the present staff is as follows :

	European.	Hindu.	Muslim.	Sikh.	Christian.
1. Engineer and Secretary's Office	..	11	6	..	1
2. Water Works	1	76	67	..	4
3. Kilokri Pumping Station and Disposal Works	1	84	56	3	..

(b) Of the posts referred to, two posts of Superintendent are held by Europeans, and two of the three posts of Assistant Superintendent, the post of foreman and the post of head clerk are held by Muslims. They were appointed because they were the most suitable candidates available.

Information promised in reply to part (b) of starred question No. 1495 asked by Mr. S. Satyamurti on the 4th April, 1939.

RACIAL DISCRIMINATION ABOUT VISITING OF H. M. S. "NORFOLK".

The allocation of days for visiting ships of the Royal Navy varies in different Indian ports and is arranged as far as possible to conform to the wishes of the local authorities and to suit the convenience of the visitors themselves.

In Calcutta, it has been the invariable custom to allot certain days to the general public and reserve other days for specially invited parties from all communities and for the European community. The days allotted for the invited parties are intended for the benefit of Indian gentlemen who wish to arrange for their families or employees to see round the ship in greater comfort than is possible on general public days in view of the heavy rush of visitors, who are chiefly of the coolie classes, on those days. For the same reasons one day is customarily allotted to the European community.

Information promised in reply to part (c) of starred question No. 1530 asked by Seth Haji Sir Abdool Haroon on the 5th April, 1939.

STRENGTH OF MUSLIMS AND HINDUS IN CERTAIN CADRES IN CERTAIN POSTAL CIRCLES.

Clerical vacancies filled under	During the years								
	1936.			1937.			1938.		
	Total.	Hindus.	Muslims.	Total.	Hindus.	Muslims.	Total.	Hindus.	Muslims.
The Presidency Postmaster, Calcutta	40	15	19	31	13	13	20	16	4
The Postmaster, Lahore	10	..	7	10	5	5	..	..	..
The Postmaster, Karachi	2	1	1	6	3	3	19	15	4

Information promised in reply to starred question No. 1548 asked by Mr. Lalchand Navalrai on the 5th April, 1939.

CLOSING OF THE VEHICULAR TRAFFIC OVER THE LANSDOWNE BRIDGE BETWEEN ROHRI AND SUKKUR.

- (a) The roadway has already been closed.
 (b) The closure has been effected from the 1st April, 1939, and is intended as a permanent measure.
 (c) Vehicular traffic has been carried on the railway bridge since its construction in 1889. Since then the large increase in railway loads has required various schemes to be considered to secure the safety of the bridge. The cost of renewing the bridge is prohibitive, and the Railway have found that the only way of dealing with the problem at a reasonable cost is to remove the heavy dead weight of the roadway which will enable heavy rail loads to pass over the bridge. The Sind Government have been advised and have accepted the proposal.
 (d) The detour for road traffic between Rohri and Sukkur via the Lloyd Barrage involves an extra distance which varies with the destination or starting point in Sukkur town, but is on the average about five miles.
 (e) Yes.
 (f) None.

Information promised in reply to starred question No. 1553 asked by Mr. B. B. Varma on the 5th April, 1939.

LEASE OF LAND AT PATPORE CABIN NEAR JUMNA BRIDGE, DELHI.

- (a) (i) Yes.
 (ii) For the erection of temporary buildings for use as godowns.
 (b) No. The negotiations were conducted through the medium of official correspondence.
 (c) The rent which is at the rate of Rs. 18 per 100 sq. yards was considered adequate.
 (d) The Deputy Commissioner's estimate is Rs. 1,000 per acre.
 (e) No other land in this vicinity has been leased.
 (f) The Honourable Member is referred to the information laid on the table today in reply to part (f) of starred question No. 1455 asked by Mr. Ram Narayan Singh on the 31st March, 1939.
 (g) and (h). It is not the practice or rule to invite tenders for or to auction leases of railway lands.
 (i) The Deputy Commissioner was consulted.
 (j) No, for the reasons given in reply to part (c) of this question.

Information promised in reply to starred question No. 1558 asked by Mr. Kuladhar Chaliha on the 5th April, 1939.

REPLACEMENT OF THE GORAI BRIDGE ON THE EASTERN BENGAL RAILWAY.

(a) The Gorai Bridge has not been replaced. The original girders, which have become overstressed under the heavier axle loads now operative on railways, have been renewed and some bracing added to the piers. Work has been completed except for cylinder pier bracing and some minor works. Booked expenditure up to the end of February, 1939, was Rs. 16,11,440.

(b) Materials of the old bridge have not been fully disposed of. Amounts received for old girders, as at present known, are given in the reply to part (d) of this question. The amount to be obtained for old girders was estimated at Rs. 98,000.

(c) By public auction.

(d) The names of the purchasers above Rs. 1,000 with the amounts paid by each are appended :

	Rs.
Messrs. Thakurdin Ramjosh	38,390
Messrs. Tulsiram Bandiprosad	21,539
Messrs. Dhaniram Padarat Ram	15,175
Messrs. Bhagwandas Ghusari	3,675
Messrs. Soleman Salaji	1,698
Messrs. Jokiram Baijnath	14,068
Messrs. Tulsiram Bhagwandas	10,505
Messrs. Kandamal Rakhmal	6,797
Messrs. Capital Engineering	10,400
Mr. Ramnath	17,604
	1,29,851

Information promised in reply to starred questions Nos. 1559 and 1560 asked by Mr. Muhammad Nauman on the 5th April, 1939.

REST TO GUARDS ON THE EAST INDIAN RAILWAY.

Starred question No. 1559.—No guards on the East Indian Railway are entitled to enjoy rest invariably on any particular day of the week.

ALLOWANCE TO GUARDS WORKING ON SUNDAYS ON THE EAST INDIAN RAILWAY.

Starred question No. 1560.—(a) to (c). Under the rules of the late East Indian Railway Company, which continue to apply to those employees of the Company who were taken over by the State in 1925, only European and Anglo-Indian guards are entitled to double pay for working on Sundays.

Information promised in reply to part (b) of starred question No. 1565 asked by Mr. H. M. Abdullah on the 5th April, 1939.

PREPONDERANCE OF NON-MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

Ten posts were filled by promotion during the last three years ; promotion in all these cases was by selection ; two of those selected were the seniormost.

Information promised in reply to parts (b) to (d) of starred question No. 1567 asked Mr. H. M. Abdullah on the 5th April, 1939.

EMPLOYMENT OF MUSLIMS IN CERTAIN POSTS ON THE NORTH WESTERN RAILWAY.

(b) The number of Muslims working as personnel officers, office superintendents (personnel) and head clerks (personnel) on the North Western Railway on the 31st March, 1931, 31st March, 1932, and 31st March, 1939, was as follows :

	31st March, 1931.	31st March, 1932.	31st March, 1939.
Senior Scale, Headquarters office	..	1	..
Senior Scale, Divisions	4	3	..
Junior Scale, Divisions	..	..	..
Lower Gazetted Service, Mechanical workshops	1	..	..
Lower Gazetted Service, Divisions	..	..	2
Office Superintendents, Headquarters office	..	..	..
Office Superintendents, Divisions	1	1	..
Head Clerks, Headquarters office	..	..	1
Head Clerks, Mechanical Workshops	1	1	2
Head Clerks, Divisions	2	1	2

(c) The reply to the first part is in the negative. As regards the second part, the communal composition of the staff employed in the Personnel Branch of the North Western Railway Headquarters Office on the 31st March, 1939, was as follows :

Category of staff.	Hindus.	Muslims.	Europeans and Anglo- Indians.
Gazetted officers	2	..	4
Office Superintendents	1	..	..
Head Clerks	2	1	1

(d) As regards Gazetted Officers, the number of Muslim officers in proportion to the total gazetted strength is limited and an increase of Muslim representation in the personnel branch can only be effected at the expense of Muslim representation in the three major departments of the railway, *viz.*, Engineering, Traffic and Mechanical. Government are fully alive to the necessity for avoiding an undue preponderance of any one community in any of the departments of the railway. The subordinate posts detailed in parts (b) and (c) above are filled by promotion, in which case communal considerations do not apply. The percentage reserved for Muslims in direct recruitment on the North Western Railway is 60 per cent. ; and as the proportion of Muslims increases the number of Muslims available for promotion to such posts will also increase.

Information promised in reply to starred question No. 1590 asked by Mr. Kuladhar Chahliha on the 6th April, 1939.

AREA IN NEW DELHI SET APART FOR FRUIT CULTIVATION.

(a) No.

(b) and (c). No plots have been given on lease for fruit gardens nor is it intended to make any plots available for this purpose.

(d) and (e). There has been no demand for land for fruit cultivation. Government do not propose to take any action as the development of Government land within the New Delhi area for purposes of fruit gardens is likely to lead to fly and mosquito breeding on an extensive scale and is, therefore, considered objectionable for health reasons.

(f) Except those of the decorative type required for gardens, no fruit trees have been planted either on roads or in the compounds of Government buildings in New Delhi.

Information promised in reply to starred questions Nos. 1601 to 1604 asked by Khan Bahadur Shaikh Fazl-i-Haq Piracha on the 11th April, 1939.

EMPLOYMENT OF MUSLIMS IN THE INCOME-TAX DEPARTMENT, PUNJAB.

No definite rules were framed by the Central Board of Revenue to regulate the seniority of the staff and officers in the Income-tax Department, Punjab. In 1925, the question was considered but dropped as provincial conditions and practice varied, but in 1931, the Central Board of Revenue ruled for the guidance of Commissioners that, subject to the discretion of Commissioners in special cases, the date of confirmation and not the date of appointment should be the criterion.

So far as Government are aware, these directions have been followed in the Punjab. The Honourable Member is aware that proper representation of communities is regulated by the Government's detailed orders and that annual statements showing the position of each community in the service and the progress made in the recruitment of minorities are printed and made available in the Library of the House. Promotions are, however, not subject to these communal orders as they are determined by merit. The collection of further detailed information in respect of the various categories of staff mentioned by the Honourable Member, with the particulars desired, will involve an expenditure of time and labour not commensurate with the results. Much of the information is, however, contained in the printed communal statements to which I have already asked the Honourable Member to refer.

Information promised in reply to starred question No. 1643 asked by Sri K. B. Jinaraja Hegde on the 12th April, 1939.

INCONVENIENCES ON STATIONS OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

(a) Between sixty-five and eighty per cent. of the stock on all trains is fitted with latrines.

(b) Roofs of all passenger coaches are inspected prior to each rainy season. Owing to shrinkage of the composite roofing during the hot weather and subsequent expansion some small leaks may escape notice during this inspection. These are remedied as soon as they come to notice.

(c) Three compartments to seat 34 intermediate class passengers (increased to four during the busy season) are attached by day trains and two compartments (increased to three during the busy season) by night trains. The average daily number of intermediate class passengers is 23 who travel an average distance of only 23 miles.

(d) Wood and glass shutters are provided in windows of upper class stock. Only wood shutters are provided in lower class carriage windows. These are considered adequate for the purpose.

(e) Considering the restricted space in narrow gauge vehicles, the luggage accommodation provided is reasonable.

(f) All third class carriages are in process of having their seats widened to 16½". 40 per cent. remain to be altered. The wider the seats the less room there is, of course, to move about. All stock is constructed to standard dimensions laid down by the Railway Board.

Information promised in reply to parts (c) and (e) of starred question No. 1660 asked by Mr. B. B. Varma on the 12th April, 1939.

STENOGRAPHERS ON THE EAST INDIAN RAILWAY.

(c) The practice is for each officer concerned to select the stenographer he considers most suitable for his requirements.

(e) The circular letter referred to in the reply already given to parts (a) and (b) of the question is still in force. The orders contained therein have since been amplified to provide for the General Manager's stenographer being granted Rs. 20 per mensem in addition to whatever pay he may be drawing.

Information promised in reply to starred question No. 1661 asked by Mr. B. B. Varma on the 12th April, 1939.

CONFIRMATION OF STAFF OF THE PUBLICITY ORGANISATION ON STATE RAILWAYS.

As regards the East Indian Railway, the Honourable Member is referred to the reply given to Mr. T. S. Avinashilingam Chettiar's question No. 1659 on the 12th April, 1939. The staff then serving in the Publicity Branch of the Eastern Bengal and North Western Railways were confirmed from the 2nd January, 1929, when the posts they held were made permanent. The staff in the Publicity Branch of the Great Indian Peninsula Railway were confirmed from the dates when they joined the Branch.

Information promised in reply to parts (d) to (f) of question No. 1664 asked by Mr. T. S. Avinashilingam Chettiar (on behalf of Mr. Sham Lal) on the 12th April, 1939.

GRIEVANCES OF TICKET COLLECTORS ON THE NORTH WESTERN RAILWAY.

(d) It had been the practice in the case of temporary vacancies of ticket collectors in grade II, to allow the seniormost men in grade I to officiate. This practice was subsequently discontinued and orders issued that ticket collectors in grade I who were considered fit for promotion both to posts of ticket collectors, grade II and to posts of special ticket examiners, grade II should be allowed to officiate as ticket collectors, grade II. In accordance with these orders, ticket collectors in grade I, who were not considered fit for promotion but had been officiating in grade II were reverted to grade I.

(e) No.

(f) The General Manager has since decided that ticket collectors, grade I, considered fit for promotion to grade II, may be allowed to officiate in that grade, even though not fit for promotion to special ticket examiner, grade II.

Information promised in reply to parts (d), (e) and (f) of starred question No. 1676 asked by Pandit Lakshmi Kanta Maitra on the 12th April, 1939.

NEW RULES FOR EXAMINATION FOR RECRUITMENT OF INSPECTORS AND HEAD CLERKS TO SUPERINTENDENTS OF POSTS OFFICES, ETC.

(d) Forty-four per cent. of the applicants and not 50 per cent. were rejected.

(e) As regards the Bombay Circle, the fact is substantially as stated by the Honourable Member. As regards the Bengal and Assam Circle, the percentage of the applicants selected from each unit varied from 43 to 100.

(f) Only those applicants who fulfilled all the prescribed conditions for selection were selected. The proportion of eligible applicants varied, but there was probably also some difference in the standards applied.

Information promised in reply to starred question No. 1677 asked by Bhai Parma Nand on the 12th April, 1939.

SANCTION FOR THE BATALA-BEAS RAILWAY PROJECT.

(a) The Batala-Butari Railway Project was sanctioned in January, 1928. Subsequently it was decided to change the alignment and make the junction at Beas instead of Butari. The detailed estimate sanctioned for the Batala-Beas Project which amounted to Rs. 34,97,955 contained provision for the following :

	Rs.
(i) Acquisition of land	6,49,323
(ii) Earthwork	2,11,427
(iii) Bridges	2,16,359
(iv) Station buildings and residential quarters	4,13,184
(b) Seven.	

(c) The Section from Batala to Qadian was completed and opened in December, 1928. The remaining section from Qadian to Beas was subsequently abandoned. The amount of work carried out on the latter section is as shown below :

Acquisition of land	80 per cent.
Earthwork	91 per cent.
Major bridges	80 per cent.
Minor bridges	21 per cent.
Station buildings and staff quarters	90 per cent.

(d) The track was not laid and the following works were not completed :

- Certain minor bridges.
- Watering arrangements and other station machinery.
- Signalling.
- Fencing.

The work was stopped in the first instance owing to financial stringency.

(e) A statement showing the financial results of working of the Batala-Qadian section for the three years ending 31st March, 1937, is attached. This shows that the section, as an isolated project, is working at a net loss of about Rs. 14,000 per annum. but, owing to the additional earnings brought to the main line by the interchanged traffic with this Branch, the estimated return on the Capital during the three years varied from 3.25 per cent. to 6.87 per cent.

(f) Seven applications were received from September, 1934, to October, 1935, and a deputation waited at Qadian on the General Manager, North Western Railway, on 25th October, 1936, and handed him a memorial. The deputation were informed that the Administration was aware of the points mentioned by them, that an investigation was being actively pursued and that any recommendation to the Government of India would depend on the return estimated as a result of these enquiries.

(g) The figures regarding income and expenditure on the Batala-Beas section were collected at all places along the alignment and through the civil authorities of the Tehsils through which the proposed alignment would pass. The calculations were made both from the probable traffic offering and also by recognized formulæ.

(h) The deputation referred to in the answer to (f) above stated that any one of its members or of the Committee could be called to assist the Railway Administration in collecting data with regard to probable traffic.

(i) The assistance of the Committee was not sought as Sri Hargobindpur had already been visited by the Officers concerned with the project prior to the submission of the original traffic report and it was felt that no useful purpose would be achieved by these officers again visiting Sri Hargobindpur and the other proposed railway stations for further enquiries.

(j) Yes.

(k) The highest bid received for the buildings which were put up to auction was Rs. 1,450. This was considered too low and rejected.

(l) The question of completing the line to Sri Hargobindpur and to Beas was carefully examined, but since the expected return on the estimated cost was found to be inadequate, the project will not be completed.

Statement showing financial results of working new branch lines.

Railway.	Year.	North Western Railway.			Name of Branch.		Batala-Qadian.		Length in miles. 12.04.	Gauge 5'—6". Opened on 20th December 1928.					
		Earning of Branch.		Total Columns 3+4.	Expenses of Branch.		Total Columns 6+7.	Net earnings of branch proper (columns 5 and 8).		Additional earnings minus any loss due to short circuiting or diver- sion of traffic.	Additional expenses calculated at 5% of the normal operating ratio (in- cluding depreciation) obtaining on the existing system of additional ear- nings after deducting loss (Col. 10).	Additional net earnings (Columns 10 and 11).	Total net earnings (Columns 9+12).	Return on Capital (Columns $\frac{13 \times 100}{2}$).	Remarks.
1	2	3	4		5	6			7						
		Capital cost on 31st March plus calcu- lated interest during construction.	Branch line proper.	Guarantee payable by local Govern- ment, etc., if any.	Actual expenditure of branch where- ever ascertainable plus 5% of gross earnings for hire of rolling stock wherever main line rolling stock is used.	Share of other expenditure pertaining to the Branch.									
1934-35	..	9,28,931	36,833	..	..	..	74,178	—37,345	1,07,366	39,822	67,544	30,199	3.25		
1935-36	..	9,28,931	43,530	..	28,473	30,068	58,541	—15,011	1,04,712	39,518	65,194	50,183	5.40		
1936-37	..	9,28,931	42,791	..	29,218	28,096	57,314	—14,523	126,395	48,030	78,365	63,842	6.87		

* Statement showing the number of new appointments made by the different Port Trusts in India since January, 1929 in posts with initial monthly salaries of Rs. 500 and over.

Name of Port.	(1) Rs. 500 and over.				(2) Rs. 1,000 and over.			
	Total.	Europeans.	Anglo-Indians.	Indians.	Total.	Europeans.	Anglo-Indians.	Indians.
Calcutta	16	13	1	2	2	2	..	..
Chittagong	5	4	..	1	..	..	..	..
Madras	6	5	..	1	2	2	..	..
Bombay	27	22	..	5	..	..	..	..
Karachi	5	4	..	1	2	2	..	..

Note.—There were no new appointments to posts carrying an initial salary of Rs. 2,000 and over.

Information promised in reply to part (i) of unstarred question No. 70 asked by Pandit Lakshmi Kanta Maitra on the 12th April, 1939.

AREA UNDER A MEDICAL OFFICER FOR RENDERING TREATMENT TO RAILWAY EMPLOYEES.

Railway.	Average number of stations for which a Sub-Assistant Surgeon is responsible.
Eastern Bengal	14
East Indian	11
Great Indian Peninsula	15
North Western	14

Information promised in reply to unstarred question No. 76 asked by Mr. Muhammad Azhar Ali on the 12th April, 1939.

APPLICATION OF REVISED SCALES OF PAY TO CERTAIN STAFF IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

(a) The Divisional Superintendent, Delhi's circular No. 681-P/0, (and not 681-P-10), dated the 8th October, 1938, was issued under instructions from the General Manager, and involved the abolition of a grade of Assistant Station Masters. It did not involve the grant of the new scales of pay to men entitled to the old ones in any particular post which was retained.

(b) The General Manager.

Information promised in reply to starred questions No. 1708 and 1709 asked by Mr. K. S. Gupta on the 14th April, 1939.

DISPOSAL OF LAND BY THE DELHI IMPROVEMENT TRUST.

Starred question No. 1708.—(a) The Trust have followed the rules for the disposal of land framed, with the previous sanction of the Chief Commissioner, under section 78 (e) and (h) of the United Provinces Town Improvement Act, 1919 (VIII of 1919), as extended to the Province of Delhi. These rules provide for the disposal of land in any of the following ways :

- (i) by private contract ;
- (ii) by tender ;
- (iii) by auction.

(b) The long term leases granted by the Trust are generally similar to the leases which were granted by the Nazul Department before the creation of the Trust. It is understood that the Delhi Municipal Committee has sold land outright by public auction.

(c) The amenities provided by the Trust include metalled roads and lanes filtered water supply, sewers and sanitary conveniences, storm water drains, street lighting, parks and open spaces. The amenities provided by the Committee in the only Municipal lay-out comparable to a Trust lay-out will be similar. The land so far disposed of by the Trust is Nazul, i.e., Government land, and the practice in disposing of this land has always been to offer it on long-term lease and not free-hold. The comparison between the Trust and the Committee is not understood ; in both cases land is offered on known conditions and the lessee or purchaser presumably pays what he thinks reasonable. The premium on a long term lease is not the same as the free-hold purchase price.

(d) There is no general proposal or intention to sell Nazul land held by the Trust free-hold. It is possible that isolated plots may be disposed of free-hold. Land acquired by the Trust may be disposed of on lease purchase terms, i.e., by outright sale on the instalment plan, but the policy has not been finally settled.

DISPOSAL OF LAND BY THE DELHI IMPROVEMENT TRUST.

Starred question No. 1709.—(a) A statement giving the information is attached.

(b) The Trust have developed about 156 acres in the Western Extension for providing housing facilities for middle class persons and about 63.5 acres in the Western Extension and Andha Moghal colony for providing accommodation for the poorest classes. In the Western Extension, the Trust have also provided municipal services in a large area already populated mainly by the middle and poorer classes. The total cost of these schemes is about Rs. 30 lakhs.

Statement giving the number of plots disposed of by the Delhi Improvement Trust and the prices realised.

	No. of plots disposed of.	Prices realized per sq. yd.
1. Western Extension—		
(a) Bungalow plots	40	Varying from Rs. 4-1-0 to Rs. 5-2-0.
(b) Housing plots	6	Varying from Rs. 6 to Rs. 7.
2. Daryaganj South—		
(a) Shop Sites	10	Varying from Rs. 17 to Rs. 22-4-0.
(b) Bungalow plots	8	Varying from Rs. 6-8-0 to Rs. 8-4-0.
(c) Housing plots	25	Varying from Rs. 9-4-0 to Rs. 15-8-0.
3. Garstin Bastion Road	19	Varying from Rs. 20 to Rs. 27.
4. Mondhewala Road	1	Varying from Rs. 15.
5. Qutab Road	2	Rs. 25 and Rs. 26-14.
Qasabpura—		
(a) Housing plots	24	Varying from Rs. 3 to Rs. 5.
(b) Shop Sites	1	Rs. 8.

In all cases the plots have been disposed of by the procedure prescribed by the Trust Land Disposal Rules, framed with the previous sanction of the Chief Commissioner, under section 73 of the United Provinces Town Improvement Act, 1919 (VIII of 1919) as extended to the Province of Delhi.

Information promised in reply to part (b) of starred question No. 1711 asked by Mr. S. K. Gupta on the 14th April, 1939.

APPOINTMENT OF HONORARY SURGEONS AND PHYSICIANS IN THE IRWIN HOSPITAL, DELHI.

(i) A statement is enclosed.

(ii) Reference is invited to rule 4 of the rules for the appointment of honorary medical officers at the Irwin Hospital, a copy of which was laid on the table of the House on the 14th April, 1939, in reply to part (a) of the question. Private doctors desirous of working as honorary surgeons or physicians are required to be persons of good reputation with sufficient experience and high professional skill in their special branches.

Statement showing the Length of Experience and Academic Qualifications possessed by those who are working as Honorary Surgeons and Physicians, etc., in the Hospitals in the Centrally Administered Areas.

	Experience.	Academic qualifications.
<i>Irwin Hospital, Delhi.</i>		
Honorary Surgeon 1	2 years 4 months	M.B., B.S. (Pb.), F.R.C.S. (Edin.).
Senior House Surgeon and Operator in Vienna.	14 years ..	M.B., D.L.O. (Lond.), F.R.C.S. (Edin.).
Honorary Aural Surgeon 1 ..	6½ years ..	M.B., B.S. (Lucknow), D.O.M.S. (Lond.).
Honorary Ophthalmic Surgeons 2—	21 years ..	L.M. & S., D. O. M. S. (Lond.).
1	About 15 years	D.D.S. (Penn, U.S.A.).
2	11 years ..	M.B., B.S. (Pb.).
Honorary Dental Surgeon 1 ..	2 years ..	M.B., B.S. (Pb.).
Honorary Clinical Assistants 2—	About 3 years	M.B., B.S.
1	16 years ..	B.Sc., M.B., D.M.R.E. (Lond.).
2		
Honorary Gynecologist 1 ..		
*Honorary Radiologist 1 ..		
<i>S. J. T. B. Hospital, Kingsway, Delhi.</i>		
Honorary Surgeon 1	About 2 years	M.B., B.S. (Pb.), F.R.C.S. (Edin.).
Honorary Physicians 2—		
1	About 13 years	M.B., B.S. (Pb.), D.T.M. (Wales).
2	About 18 years	M.B., T.D.D. (Wales).
<i>Venereal Dispensary, Delhi.</i>		
Honorary Physicians 2—		
1	15 years ..	M.B., B.S.
2	16 years ..	M.B., B.S. (Bombay), M.R.C.P. (Edin.).

Note.—In addition to the above there is an Honorary Resident Staff of 5 Junior and 5 Senior House Physicians and Surgeons employed on a year's basis from among the newly passed graduates.

*Is also Honorary Radiologist at the S. J. T. B. Hospital, Kingsway.

Information promised in reply to starred question No. 1723 asked by Mr. Kuladhar (Chaliha) (on behalf of Mr. Lalchand Navalrai) on the 14th April, 1939.

NOTICE REGARDING PURCHASE OF SPECTACLES IN DR. SHROFF'S CHARITABLE EYE HOSPITAL, DELHI.

(a)—(c). A notice board in Urdu and Hindi to the effect that patients should purchase the prescribed spectacles from the hospital is hung in the refraction room of Dr. Shroff's Hospital. There has never been a notice board of the kind in English. The notice draws attention to a facility arranged in the interests of the patients themselves and amounts to advice. Its existence is not, therefore, inconsistent with the previous statement.

Information promised in reply to unstarred question No. 81 asked by Babu Baijnath Bajoria on the 14th April, 1939.

ALLOWANCES PAID TO THE FAMILIES OF CERTAIN PERSONS.

(a) The information cannot be supplied without a degree of labour which is not commensurate with the purpose to be served.

(b) On the recommendation of Mr. H. C. Buller, sanction was accorded to the allowance paid to the descendants of the late Raja Uday Narayan being brought to the Sudder Jama of the district of Birbhum.

(c) No. The pension appears to have been stopped in 1844. Jagadananda was the last recipient.

(d) Yes. The pension of the widow was granted to Jagadananda Rai by the Commissioner of Revenue in his letter of the 13th September, 1830. The pension of Jagadananda does not appear to have been paid to anybody after 1844.

Information promised in reply to parts (b) and (c) of starred question No. 1733 asked by Mr. Mohan Lal Saksena on the 15th April, 1939.

ALLEGATIONS AGAINST BRITISH ARMY OFFICERS TRAVELLING TO EUROPE IN S. S. "CONTE BIANCAMANO."

(b) and (c). The statements of the officers against whom this complaint has been made have been obtained. It appears from them that the complainants were intentionally provocative and refused every offer of compromise made to them. Government are satisfied that the incident was trivial, and in the absence of any independent corroboration of the version of either side, are not prepared to take any further action in the matter.

Information promised in reply to a supplementary question to part (c) of starred question No. 1739 asked by Mr. Abdul Qaiyum on the 15th April, 1939.

LEASE AND PURCHASE OF LAND IN KOHAT CANTONMENT.

This does not now arise as the proposal to purchase 92.88 acres of land for the extension of the aerodrome, which would have caused hardship not only to the owners but to the labourers, employed on the land, has been dropped.

- (16) The Registration of Foreigners Act, 1939,
 (17) The Indian Succession (Amendment) Act, 1939,
 (18) The Indian Tariff (Second Amendment) Act, 1939,
 (19) The Coal Mines Safety (Stowing) Act, 1939,
 (20) The Sugar Industry (Protection) Act, 1939,
 (21) The Chittagong Port (Amendment) Act, 1939,
 (22) The Criminal Law Amendment Act, 1939, and
 (23) The Indian Soft Coke Cess Committee (Reconstitution and Incorporation) Act, 1939.

STATEMENTS LAID ON THE TABLE.
 NET EARNINGS OF RECENTLY CONSTRUCTED RAILWAY LINES.

The Honourable Sir Andrew Clow (Member for Railways and Communications): Sir, I lay on the table a statement showing the net earnings for the financial year 1937-38 of recently constructed railway lines.

Statement showing net earnings during the financial year 1937-39 of new lines opened after 1st April 1931, throughout for Traffic for a full year.

Serial No.	Name of project.	Working Railway.	Gauge.	Mileage.	date of opening.	Net income creditable to the project for 1937-38.	Percentage return of income (column 6 on capital outlay).		Estimated percentage return of income on capital outlay some years after opening as estimated originally.
							1936-37.	1937-38.	
1	Chittagong—Dobazari	A. B.	Ft. 3	25.05	10-6-31	—52,878	—1.18	—1.01	8.50
2	Palpur—Parvatipuram	B. N.	5	240.00	31-3-32	67,01,385	7.16	11.56	5.40
3	Kalukhali—Bhatespara	E. B.	5	53.49	1-3-32	—1,03,000	*1.88	*—1.75	5.00
4	Tangla Rangapara	E. B.	3	52.50	6-2-33	(e) 1,39,755	†1.64	2.69	0.68
5	Calcutta Chord Railway	E. I.	5	8.01	1-2-32	—58,203	†—0.18	—0.12	(d)
6	Lucknow Sultanpur Zafarabad	E. I.	5	136.00	25-5-32	3,74,002	2.90	2.87	5.80
7	Jarwha—Pusad	G. I. P.	2	42.65	23-11-31	6,520	0.51	0.19	6.81
8	Jhudo—Pithoro	Jodhpur	3	54.11	1-6-35	2,02,128	2.91	*8.74	6.12
9	Chak Jhumra Kushab	N. W.	5	70.47	12-3-32	2,68,816	1.43	1.58	6.00
10	Sind Left Bank Feeder Railway	N. W.	5	164.49	19-12-31	3,36,092	†3.76	3.64	(c)
11	Pollachi Palghat	S. I.	3	33.45	1-4-32	12,001	(a) 0.21	0.22	5.20
12	Salem Attur Vriddhachalam	S. I.	3	82.53	17-8-31	16,908	(a) 0.26	0.20	5.80
13	Agastampalli—Point Calimere	S. I.	3	5.50	20-1-36	—13,177	(a) —5.36	(a) —3.93	(b) —10.5

* Under investigation. † Revised figures.

(a) Excludes net earnings of existing lines from new traffic interchanged with new railway but estimated return took into account such credit.

(b) Government were committed to the construction of the line as part of the terms of transfer of the Tanjore District Board lines to the South Indian Railway. It was estimated that a loss of Rs. 37,500 would accrue to Government on an outlay of Rs. 3½ lakhs.

(c) The annual loss in working the Sind Left Bank Feeder Railway was estimated at Rs. 4.60 lakhs during the first five years after opening and Ra. 2.63 lakhs after the first five years of opening for traffic. To recoupe the loss the Provincial Government agreed to pay a fixed sum of Ra. 4 lakhs annually for each of the first five years and thereafter the actual loss in working subject to a maximum of Rs. 2 lakhs per annum.

(d) Justified on broad grounds of improving transportation facilities particularly quick despatch of coal traffic to the docks.

(e) Actuals excluding guarantee.

(f) Government of Assam have agreed to pay the actual loss incurred in working the railway for an indefinite period subject to 2 maximum of Ra. 1,75,000 each year provided that, if and when, the line yields a return of over 5 per cent. on its capital cost, the balance will be utilised in repaying sums that may have been paid under the guarantee.

(3) The Calcutta office of the Bank shall remit interest or dividends on securities other than sterling securities, and amounts received from the London office of the Bank under sub-rule (2) without delay to the depositor at an office in India to be specified by the depositor,—

(a) if the office so specified is at a place where there is an office of the Bank or a branch of the Imperial Bank of India, by means of a Government draft, and

(b) in other cases, by a Security Deposit Interest Payment Draft on the nearest Government Treasury,

after deduction of a commission of annas four on every sum of Rs. 100 or part thereof.

9. (1) Withdrawals and payments from deposits and purchases of securities shall not be made save in accordance with the provisions of the Act and on receipt by the Bank of a requisition in writing and in accordance with the provisions of the Act from the depositor, a liquidator acting in accordance with law or a Court of competent jurisdiction, as the case may be.

(2) The Bank shall not be bound, in pursuance of sub-rule (1), to return securities actually deposited, but may substitute therefor new scrip of securities of the same description and amount.

(3) The Bank shall be entitled to charge, for the purchase of securities, any brokerage payable by the Bank in respect of such purchase.

10. (1) The Superintendent of Insurance shall be entitled, free of any fee, to inspect or to require from the Bank any information relating to any security deposited with the Bank under the Act.

(2) The Bank shall, if so required, furnish the Superintendent of Insurance, or any person authorised by him in that behalf in writing with a copy of any entry in any register or book maintained by the Bank relating to any deposit made with the Bank under the Act.

(3) The Bank shall publish in the *Gazette of India* as soon as may be after the 1st January in each year a list in Form IV of deposits made with it under the Act, as at 31st December of the preceding year.

Prospectuses, Tables and Proposal Forms.

11. (1) No person shall supply or exhibit any prospectus or table of premium rates to any other person with a view to the issue of a policy of insurance unless such prospectus or table includes—

(a) a description of the contingency or contingencies to be covered by insurance and the class or classes of lives or property eligible for insurance under the terms of such prospectus or table;

(b) a full statement of the circumstances, if any, in which rebates of the premiums quoted in the prospectus or table shall be allowed on the effecting or renewal of a policy, together with the rates of rebate applicable to each case; and

(c) a copy of section 41 of the Act.

(2) The provisions of sub-rule (1) shall be deemed to have been complied with if to every such prospectus or table of premium rates supplied or exhibited after the date of commencement of the Act is attached in the form of an addendum a statement containing so much of the matters referred to in sub-rule (1) as is not already included in the said prospectuses or tables, but every prospectus and table of premium rates printed after the coming into force of the Act shall have the matters referred to in the said clauses incorporated therein.

12. (1) Every proposal form in the case of life insurance or, in the case of any other form of insurance, the document, if any, forming the basis of the contract, shall contain the statement and copy mentioned in clauses (b) and (c) of sub-rule (1) of rule 11.

(2) The provisions of sub-rule (2) of rule 11 shall apply *mutatis mutandis* to proposal forms, except that, where an addendum is attached to a proposal form, it shall also be signed by the person who signs the proposal form.

Election of Directors by Policyholders.

13. (1) A person shall not be eligible for election as a director of an insurance company under sub-section (1) of section 48 of the Act unless—

(a) he holds, otherwise than by way of assignment or transfer, one or more policies of life insurance issued by the company satisfying the following requirements:—

(i) the policies shall be either whole life policies or endowment life insurance policies, and not encumbered in any way; and

(ii) the total sum assured by the policies, including any bonuses that may have attached to them before the date of election, is not less than Rs. 2,000, where the company has at that date been carrying on life insurance business for not less than 5 years, and not less than Rs. 1,000 in other cases; and

(iii) where the company has been carrying on life insurance business for more than 2 years, each of the policies shall have been in force for not less than one, two or three years, according as the company has at the date of election been carrying on life insurance business for not more than 5 years, for more than 5 but not more than 8 years, or for more than 8 years; and

(b) he is not a director (other than an elected director of the company), manager, legal or technical adviser, managing agent, insurance agent or employee of any insurer, or an employer of insurance agents.

(2) If at any date after election as a director, a person ceases to hold one or more policies of life insurance satisfying all the requirements specified in clause (a) of sub-rule (1) or begins to hold any disqualifying office or employ-

ment specified in clause (b) thereof, he shall forthwith cease to be an elected director of the company.

14. (1) The election of directors under section 48 of the Act shall take place at a meeting of the holders of policies of life insurance issued by the company, which shall be held at the place where the principal office of the company is situated.

Election of directors
under section 48.

(2) Not less than 28 days before the meeting is to be held, there shall be inserted in a newspaper published in the English language and in a newspaper published in an Indian language circulating in the place where the principal office of the company is situated and, if there are policyholders of the company residing in a Province other than that in which the principal office of the company is situated, in a newspaper published in a principal language of, and circulating in, that Province, a notice stating the number of directors to be elected at, and the time and place of, such meeting, which shall be fixed with a view to affording voters the fullest opportunities for attending, and informing policyholders how to obtain admission to the meeting according to the manner hereinafter described. Such notice shall also set forth the qualifications which a person must possess in order to be eligible for election as a director, and shall invite applications from eligible persons prepared to accept office :

Provided that, where a company prints on its policies the qualifications of elected directors as set forth in rule 13, and issues, at least three months before the election, to all existing policyholders whose policies do not contain a statement of those qualifications, for attachment to their policies a slip setting forth those qualifications, the notice to be published in newspapers in accordance with this sub-rule need not set forth those qualifications :

Provided further that a company may, in respect of one or more Provinces, instead of publishing the notice in newspapers, send it by post to every policyholder residing therein.

(3) The applications from eligible persons prepared to accept office as elected directors of the company shall be sent by registered post to the principal office of the company so as to reach it not less than 10 days before the date of the meeting. Such applications shall be made in the English language or in a principal language of the Province in which the principal office of the company is situated. If the number of such applicants does not exceed the number of directors to be elected, all such applicants shall be deemed to have been elected as directors, and it shall not be necessary to hold the meeting of policyholders as previously announced. The company shall in that event inform the policyholders forthwith by notice inserted in newspapers as in sub-rule (2), or by notice sent individually by post or by both methods, of the names of persons elected as directors and of the cancellation of the meeting.

(4) Every policyholder who desires to attend the meeting shall apply to the company for a certificate of admission, such application to reach the company not less than 15 days before the date of the meeting, and the company on being satisfied that the applicant holds a policy of life insurance issued

by the company shall issue a certificate at least 6 days before the date of the meeting. Such certificate shall, if applied for by post, be sent only to the address of the policyholder, or if applied for in person, be delivered only on production of the relevant policy. A certificate of admission shall not be transferable.

(5) No person other than those whose presence is necessary for the conduct of the meeting shall be admitted to the meeting unless he produces the certificate of admission granted to him under sub-rule (4).

(6) The meeting shall be presided over by the Chairman for the time being of the Board of Directors of the company, or in his absence by any director nominated by him, or in the absence of any such director by a chairman elected by the policyholders present at the meeting.

(7) Votes for the election of directors may be given at the meeting either personally or by proxy and in the manner hereinafter provided in this rule. The instrument appointing a proxy shall be in writing under the hand of the appointor in favour of a policyholder, and shall be presented at the principal office of the company not less than 6 days before the date of the meeting.

(8) Every policyholder present at the meeting shall be given one voting paper on his own behalf and one voting paper in respect of each proxy, if any, which he holds. The number of votes to be given on each voting paper shall not exceed the number of directors to be elected and not more than one vote shall be given on each voting paper to any one candidate.

(9) The votes shall be counted by the company's auditors if present in that capacity, or failing them by scrutineers appointed by the meeting and working under the supervision of the Chairman. The result of the ballot shall be announced at the meeting, and in the event of an equality of votes the election shall be decided by lot.

(10) The first meeting of policyholders in accordance with this rule shall be held not later than one year after the commencement of the Act or in the case of a company incorporated after the commencement of the Act, within two years of the date of registration to carry on life insurance business.

(11) An election held in accordance with this rule shall not be invalid merely by reason of the accidental omission to send any notice or other document to, or the non-receipt of any notice or other document by, any policyholder, or of any other accidental irregularity or informality in the observance of the provisions of this rule.

15. (1) A director elected in accordance with these rules shall, as regards retirement from office and all other matters, be subject to the same rules and regulations as the other directors of the company.

Elected directors subjected to the same rules as other directors.

(2) In the event of a casual vacancy arising among the directors elected in accordance with these rules the remaining directors may fill the vacancy by appointing a policyholder who is eligible under rule 13 for election as a director, and the person so appointed shall be subject to retirement at the same time as the director in whose place he is appointed.

Insurance Agents.

16. An individual who desires to obtain or renew a licence to act as an insurance agent shall proceed as follows :—
Issue of licences to insurance agents.

- (a) He shall pay into the Reserve Bank of India or where there is no office of that Bank into the Imperial Bank of India acting as the agent of that Bank or into any Government Treasury, a fee of one rupee for credit under the head " XXXVI Miscellaneous Departments Miscellaneous Fees realised under the Insurance Act, 1938 ", and obtain a receipt therefor.
- (b) He shall also obtain from the officer authorised by the Superintendent of Insurance under subsection (1) of section 42 of the Act for the Province in which the applicant resides, or, if there is no such officer or the applicant resides outside British India, from the Superintendent of Insurance, a form of application for the licence which shall be as prescribed in Form V.
- (c) He shall then send the completed application form together with the receipt to the aforesaid officer or the Superintendent of Insurance, as the case may be, who shall, after taking all reasonable steps to satisfy himself that the application is in order and that the applicant is not disqualified from holding a licence, issue a licence in Form VI :

Provided that where it appears that a former licence of the applicant has been cancelled by the Superintendent of Insurance on the ground that the applicant has knowingly contravened a provision of the Act the officer shall report the matter to the Superintendent of Insurance.

17. Where the Superintendent of Insurance cancels the licence of an insurance agent under subsection (5) of section 42 of the Act he shall :—
Cancellation of licences.

- (a) inform all the officers authorised by him under subsection (1) of section 42 of the Act that the licence has been cancelled,
- (b) require the agent to return the licence issued to him, and
- (c) cause the fact of cancellation to be announced in the *Gazette of India* and in such Provincial Gazette or Gazettes as he deems fit.

Provident Societies.

18. (1) Provident societies which immediately before the commencement of the Act were transacting bond investment business may continue to receive premiums or contributions and to make payments in respect of such business but shall not undertake any new business of that class.
Transaction of bond investment business.

(2) For the purpose of sub-rule (1), ' bond investment business ' means the business of effecting contracts by the issue of bonds, endowment certificates or other documents, whereby in return for one or more premiums paid to the provident society, the payment is insured of a sum or series of sums, at a future date or dates, whether fixed beforehand or determined by chance.

19. (1) Every provident society shall in addition to the matters specified in clauses (a) to (o) of subsection (1) of section 74 of the Act set forth in its rules :—
Rules of provident societies.

- (i) that where a policy is applied for on the life of a person other than the person paying the premiums on such policy, the name of the person paying the premiums and his relationship to the life insured shall be inserted in the policy, the policy shall not be issued till the life insured (or if he be not of age his legal guardian) has given his consent in writing to the insurance being effected, and the amount secured shall not be excessive having regard to the interest of the person paying the premiums in the life insured ;
- (ii) the disqualifications, if any, due to change of occupation, residence, or other specified cause ;
- (iii) the terms upon which any policy may be kept in force for a reduced benefit without liability to payment of further premiums ;
- (iv) a statement to the effect that all policies issued after the commencement of the Act shall have clearly set out therein the matters referred to in section 68 and in clauses (f), (g), (h), (i) and (j) of subsection (1) of section 74 of the Act and those referred to in clauses (ii) and (iii) above ;
- (v) the method of voting at the meetings of the managing body and the number constituting a quorum ;
- (vi) a statement that no dividend shall be declared except as a result of a valuation under subsection (1) of section 81 ;
- (vii) a statement that no bonus other than an interim bonus shall be declared except as a result of a valuation made in accordance with subsection (1) of section 81, that the rate of such bonus shall not exceed that recommended by the actuary, and that no interim bonus shall be declared at a rate exceeding that approved by an actuary ; and
- (viii) a statement that the paid-up capital shall not be treated as part of the society's assets for the purpose of showing a divisible surplus at the time of any investigation made under subsection (1) of section 81, and that where assets of the nature of organisation or preliminary expenses exceed the paid-up capital the fund shall be diminished by the amount of such excess for the purpose of ascertaining the financial condition of the society.

(2) All rules made by a Local or Provincial Government under section 24 of the Provident Insurance Societies Act, 1912, are hereby repealed.

20. (1) The revenue account and balance sheet of a provident society shall be prepared in accordance with Forms VII and VIII respectively, and in their completion regard shall be had to the notes appended thereto.
Forms of accounts and statements.

(2) If it so desires a provident society may submit a profit and loss account in addition to a revenue account and balance sheet.

(3) The statements required under clauses (a) (i) and (b) of subsection (2) of section 80 of the Act shall be prepared in accordance with Forms IX and X respectively.

21. (1) Whenever an investigation is made into the financial condition of a provident society under section 81 of the Act the report of the actuary -
Actuarial reports.

(a) shall, so far as practicable, be prepared in accordance with the regulations and requirements contained in the Fourth Schedule to the Act except that it shall not be necessary to supply a consolidated revenue account in Form G, a statement in Form DDD of additions to and deductions from policies and a statement in Form DDDD of particulars of policies forfeited or lapsed ;

(b) shall contain in the appropriate places the information required in clauses (a) to (e) of subsection (2) of section 81 ;

(c) shall state the proportion of the renewal premium income spent in payment of commission and other expenses in each year during the period since the last investigation after allowing, as the cost of the new business of the year, $7\frac{1}{2}$ per cent. of single premiums and 90 per cent. of first year's premiums falling due in the year after deduction of those unpaid under policies allowed to lapse in the year ;

(d) shall state whether the actuary has taken steps to prevent the policy reserve values from being less than the minimum surrender values ;

(e) shall have appended to it a certificate as prescribed in subsection (2) of section 81 ; and

(f) shall contain a statement that in no case where a policy has been written off as a lapse does there exist any further liability actual or contingent.

(2) Where an investigation into the financial condition of a provident society is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by the Act and these rules.

22. Every document submitted to the Superintendent of Insurance under section 82 of the Act shall be signed by two
Signatures to documents submitted by provident societies.
or more directors where the Society is a company incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby or by the proprietors in any other case, and in addition, in all cases, by the principal officer of the society.

23. The notices referred to in subsection (6) of section 92 of the Act shall be sent by post to the last known addresses of the persons concerned, Notices under section 92 (6). as recorded in the society's books, and certificates of posting shall be obtained therefor :

Provided that the liquidator may at his discretion send all or any of the notices by registered post.

Fees.

24. (1) The fee for registration under section 3 of the Act shall be one hundred rupees for each of the following classes of insurance business done or to be done by the insurer, namely :—
Fees under the Act and the manner of collection.

(i) life insurance,

(ii) fire insurance,

(iii) marine insurance,

(iv) accident and miscellaneous insurance, including workmen's compensation and motor-car insurance :

Provided that where the business done or to be done is marine insurance business relating to country craft or its cargo and no other form of marine insurance the fee for registration shall be fifty rupees for that class of business and provided further that where an insurer who has obtained a certificate of registration for carrying on marine insurance business relating to country craft or its cargo subsequently applies for registration to carry on any other class of marine insurance business the fee for such registration shall be fifty rupees only.

(2) The fee for registration shall be paid into the Bank or where there is no office of the Bank, into the Imperial Bank of India acting as the agent of that Bank or into any Government Treasury for credit under the head "XXXVI-Miscellaneous Departments—Miscellaneous—Fees realised under the Insurance Act, 1938", and the receipt shall be sent along with the application for registration.

(3) The fees payable under subsection (1) of section 20 of the Act shall be paid in the manner provided in sub-rule (2).

Miscellaneous.

25. An actuary investigating the financial condition of an insurer shall, in addition to the reports, statements and abstracts required to be furnished under section 13 of the Act, furnish statements with regard to the following matters :—
Additional particulars to be given by actuary.

(a) whether he has taken steps to prevent the policy reserve values from being less than the minimum surrender values ;

(b) the proportion of the renewal premium income spent in payment of commission and other expenses in each year during the period since the last investigation after allowing, as the cost of the new business of the year, $7\frac{1}{2}$ per cent. of single premiums and 90 per cent. of first year's premiums falling due in the year

after deduction of those unpaid under policies allowed to lapse in the year.

26. The declaration referred to in clause (d) of subsection (2) of section 16 of the Act shall be in Form XI and one copy of the declaration shall be signed in the manner described in subsection (2) of section 15 of the Act.

27. Every insurer, so long as he has policies on the dividing principle remaining in force, shall submit all returns required under the Act or these rules in respect of such business separately from the corresponding returns in respect of other insurance business, and along with the revenue account shall also furnish in respect of such business returns in Forms XII, XIII and XIV respectively. Four copies shall be submitted of each of these three last mentioned returns, of which one of each shall be signed in the manner described in subsection (2) of section 15 of the Act.

SCHEDULE

Form I.

(See Rule 5.)

RESERVE BANK OF INDIA.

To

The Manager,

Reserve Bank of India.

Calcutta.

London, 19

This is to inform you that the.....
have this day deposited the undermentioned securities.

Manager.

Number.	Loan.	Face Value (in sterling).	Market Value (ex-dividend) in sterling.	Interest or Dividend paid up to	Remarks.
To 'a'					

Form II.

(See Rule 5.)

RESERVE BANK OF INDIA.

Securities Department.

No. $\frac{\text{L. T.}}{\text{S. T.}}$

Calcutta,.....19

Certified that the.....
have made the undernoted deposits in terms of the Insurance Act, 1938.

Manager.

		Approved Securities.					Remarks
	Cash.	Number.	Loan.	Face Value.	Interest or Divid. end paid up to	Market Value.	
1	2	3	4	5	6	7	
	</						

Grand Total of columns 2 and 7 Rs.....

Form V.

(See Rule 16.)

*Application for a licence to act as an Insurance Agent for the year ending
31st March 19 .*

- | | |
|---|------|
| (1) Full name of the applicant | (1) |
| (2) Father's name | (2) |
| (3) Permanent home address | (3) |
| (4) Present postal address | (4) |
| (5) Age and date of birth | (5) |
| (6) Does the applicant hold a licence and if so since when has
he been holding a licence ? | (6) |
| (7) What is the number of the licence held, if any ? | (7) |
| (8) Has the applicant been found to be of unsound mind by
a Court of competent jurisdiction ? | (8) |
| (9) Has the applicant been found guilty of criminal mis-
appropriation or criminal breach of trust or cheating by
a Court of competent jurisdiction ? | (9) |
| (10) In the course of any judicial proceedings relating to any
policy of insurance or the winding up of an insurance
company or in the course of an investigation of the affairs
of an insurer has the applicant been found guilty of or to
have knowingly participated in or connived at any fraud,
dishonesty or misrepresentation against an insurer or
an assured ? | (10) |
| (11) Has the applicant's licence been cancelled at any time
by the Superintendent of Insurance and if so when ? | (11) |
| (12) Has an application for a licence ever been refused ? If
so, when and by whom ? | (12) |

Declaration.

I, the applicant, declare that the above answers are true and that the licence for which I hereby apply will be used only by myself for soliciting or procuring insurance business.

Dated 19 . Signature.

N.B.—The attention of the applicant is drawn to section 104 of the Insurance Act, 1938, which provides that whoever in any document required for the purposes of any of the provisions of that Act wilfully makes a statement false in any material particular knowing it to be false shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

Form VI.

(See Rule 16.)

No. of Licence

Licence to act as an Insurance Agent under Part II of the Insurance Act,
1938.

of _____

having paid the prescribed fee and having made the necessary declaration
is hereby authorised to act as an Insurance Agent up to 31st March 19 .

Dated the day of 19

Officer authorised under subsection (1) of section 42 of the Act.
Superintendent of Insurance

Signature of Licence-holder
to be made as soon as licence is received.

NOTE.—If it is desired to renew this licence for a further period the procedure laid down in rule 16 of the Insurance Rules, 1939, shall be followed and applications for renewal should reach the issuing authority at least two months before the existing licence expires.

Form VII.

(See Rule 20.)

Revenue Account of the (here insert name of provident society) for the year ending19

Rs.	A.	P.	Rs.	A.	P.
Dividends to shareholders payable on for the year ending			Balance of Funds at the beginning of the year—		
(This is to be stated here by Societies not supplying a Profit and Loss Account).					
Claims under policies (including provision for claims due or intimated)—			Funds, specified separately according to the classes of contingency set forth in section 65.		
To be specified separately according to the classes of contingency set forth in section 65.			Investment Reserve Fund		
			Dividend Reserve Fund		
Other classes (to be separately specified).			Other Funds (to be separately described).		
Annuities					
Surrenders including Surrenders of Bonus			Shareholders' capital paid up at the beginning of the year.		
			Shareholders' capital paid up during the year.		

LEGISLATIVE ASSEMBLY.

[30TH AUG. 1939.]

STATEMENTS LAID ON THE TABLE.

Form VII—contd.

Rs. A. P.			Premiums—
Bonuses in cash	.	.	
Bonuses in reduction of premiums	.	.	
Expenses of management—			
1. Commission to agents	.	.	
2. Commission and allowances other than those payments contained in item 1.	.	.	
3. Salaries, etc. (other than those contained in items 1 and 2).	.	.	
4. Travelling expenses	.	.	
5. Directors' fees	.	.	
6. Auditors' fees	.	.	
7. Actuarial fees	.	.	
8. Law charges	.	.	
9. Advertisements	.	.	
10. Printing and stationery	.	.	
11. Rents for offices belonging to and occupied by the Society.	.	.	
12. Rents of other offices occupied by the Society.	.	.	
13. Other expenses of management (to be specified).	.	.	
			Total premiums

1st yr. prms.	Renewal prms.	Single prms.
Rs. A. P.	Rs. A. P.	Rs. A. P.

Form VII—concd.

Rs. A. P.		Rs. A. P.	
Bad debts		Consideration for annuities granted	
Other payments (accounts to be specified)			
Shareholders' capital paid up at the end of the year as per balance sheet.		Interest, dividends and rents	
		Less income-tax	
[Profit transferred to Profit and Loss Account if a Profit and Loss Account is submitted.]		Entrance fees	
Balance of funds at the end of the year as per balance sheet.—		Fines	
		Other income (accounts to be specified)	
		[Loss transferred to Profit and Loss Account if a Profit and Loss Account is submitted.]	
Funds, specified separately according to the classes of contingency set forth in section 65.			
Investment Fund.			
Dividend Reserve Fund.			
Other funds (to be separately described).			

Notes relating to the Revenue Account—(Form VII).

1. All items in this account shall be net amounts after deduction of the amounts paid and received in respect of reassurances of the society's risks.

2. A society transacting more than one class of business shall show in its accounts the premium income, the claims and the funds separately for business under each class of contingency prescribed or authorised under section 65. (See rule 18.)

3. If any sum has been deducted from the expenses and credit has been taken for it in the balance sheet as an asset the sum so deducted shall be shown in a separate statement, as follows :—

*Statement regarding preliminary expenses, etc., submitted by the
for the year ending 19*

Balance at beginning of year either of the adverse balance of any profit and loss or revenue account or such bad debts and preliminary and other expenses as may not have been included in the profit and loss or revenue account either as loss or outgo but for which credit is taken in the balance sheet as assets . Rs.

Addition thereto during the year not shown as loss or outgo in either the profit and loss or revenue account . Rs.

Total Rs.

Less amount written off during the year as per profit and loss or revenue account. . Rs.

Balance at the end of year still shown as assets in the balance sheet . Rs.

4. The society may, if it so desires, show in this account the amount of commission on new business separately from commission on renewal premiums.

5. The items on the income side shall relate to income whether actually received or not and the items on the expenditure side shall relate to expenditure whether actually paid or not.

6. Any office premises which form part of the assets of any fund of the society shall be treated as an interest earning investment and accordingly in the revenue account a fair rent for the premises shall be included under the heading "Interest, Dividends and Rents" and a proper charge for the use thereof shall be included in the appropriate place in the expenses of management.

7. The following information shall be supplied in addition, namely, the gross premium income for each class of contingency for which the net premium income is shown separately in the revenue account. (See note 1.)

Form VIII.

(See Rule 20.)

Balance Sheet of

day of

51

	Rs.	A.	P.
Shareholders' capital (each class to be stated separately)—			
Authorized—			
shares of Rs. each Rs.			
Subscribed—			
shares of Rs. each Rs.			
Called up—			
shares of Rs. each Rs.			
Less unpaid calls Rs.			
Balance of Funds—			
To be specified separately as shown in the Revenue Account (Form VII).			
Balance of Profit and Loss Account			

Form VIII—contd.

L1691AD		Rs.	A.	P.
Debiture stock	per cent.	.	.	.
Loans and advances (a)	.	.	.	.
Bills payable (a)	.	.	.	.
Estimated liability in respect of outstanding claims (b).				
To be stated separately in respect of each fund shown in the Revenue Account (Form VII).				
Annuities due and unpaid (b)	.	.	.	.
Outstanding dividends	.	.	.	.
Sundry creditors (including outstanding and accruing expenses and taxes) (a).	.	.	.	.
Other sums owing by the society (a)	.	.	.	.
Contingent liabilities (to be specified) (c)	.	.	.	.

Footnotes to Balance Sheet—(Form VIIID).

(b) These items are or have been included in the corresponding items in the revenue account or profit and loss account. Outstanding and accruing interest, dividend and rents shall be shown after deduction of income-tax or the income-tax shall be provided for amongst the liabilities on the other side of the balance sheet.

(c) Such items as amount of liability in respect of bills discounted, uncalled capital in respect of other investments, etc., shall be shown in their several categories under the heading 'contingent liabilities' or the appropriate items on the assets side shall be set out in such detail as will clearly indicate the amount of uncalled capital.

(d) Either this item shall be shown net or the commission shall be provided for amongst the liabilities on the other side of the balance sheet.

(e) Under this heading shall be included such items as the following which shall be shown under separate headings suitably described :—

Office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future years, adverse balance of profit and loss account, etc. The amounts included in the balance sheet shall not be in excess of cost.

Statement and Certificates relating to the Balance Sheet.

I. There shall be appended to the balance sheet a statement showing separately for every asset which is included in the balance sheet, the full title and particulars of the asset, and the value at which it is included in the above balance sheet, and in the case of assets being stock exchange securities, the nominal value and the market value as at the date of the balance sheet. In stating the market value of a stock exchange security no credit shall be taken in the statement for accrued interest.

II. To the balance sheet shall be appended :—

(a) A certificate signed by the same persons as are required to sign the balance sheet certifying that the values of all the assets have been reviewed as at the date of the balance sheet and that in their belief the assets set forth therein are shown in the aggregate at amounts not exceeding their realisable or market value under each of the several headings "Loans", "Investments", "Agents' Balances", "Outstanding premiums", "Interest, dividends and rents outstanding", "Interest, dividends and rents accruing but not due", "Sundry debtors", "Bills receivable" and the items entered under "other accounts".

Provided that if the persons signing the certificate are unable to certify without reservation that the assets set forth in the balance sheet are so shown as aforesaid, a full explanation shall be given.

- (b) A certificate signed by the auditor (which shall be in addition to any other certificate or report he is required by law to give with respect to the balance sheet) certifying that he has verified the cash balances, the loans and investments.

Form IX.

(See Rule 20.)

Statement under clause (a) (i) of sub-section (2) of section 80 in respect of (here insert name of provident society) for the year ending.....19.....

Contingencies on which sum assured or other benefit is payable.* (Classified according to the contingencies separately specified in section 65.)	New policies effected.			Existing policies discontinued.			
	Number of policies.	Total full sums insured.	Total premium income received.	By happening of contingency insured against.	Surrenders, forfeitures and lapses.	For other reasons.	
				No.	Sum insured and Bonus.	No.	Sum insured and Bonus.
		Rs.	Rs.		Rs.		Rs.
			V2,31 N39 N40.531				

60634

* Where the provident society issues annuities either immediate or deferred the statement shall show the number of each class of such annuities the annual sums payable, and the consideration received or the annual premium in the case of deferred annuities.

Form X.

(See Rule 20.)

Statement under clause (b) of sub-section (2) of section 80 in respect of
(here insert name of provident society) for the year
ending.....19.....

	No.	Sum insured.
		Rs.
Policies effected—		
By husband or wife		
„ son		
„ daughter		
„ father		
„ mother		
„ brother		
„ sister		
„ grandson		
„ grand-daughter		
„ nephew		
„ niece		
„ any other person		
Total		

Form XI.

(See Rule 26.)

It is hereby certified that all amounts received directly or indirectly at credit of the revenue account in respect of business transacted in India referred to in clause (b) of sub-section (2) of section 16 of the Act, whether from the head office of the insurer or from any other source outside India, have been shown in the afore-mentioned revenue account, except such sums as properly appertain to the capital account, and it is further certified that all expenditure, including claims, attributable to business in India, met during the year in question from sources arising outside India, has been shown in the said revenue account except such sums as properly appertain to the capital account.

Form XII.

(See Rule 27.)

Submitted by the (here insert name of insurer) for the year ending

19 .

	Dividing insurance policies insuring money to be paid on death or survival.	Dividing insurance policies insuring money to be paid on marriage.		And so on for each other class of dividing insurance business for which a separate revenue account is submitted.
	No.	*Minimum sum insured guaranteed.	Rs.	
1. Policies at beginning of year				
2. New policies issued				
3. Old policies revived				
4. Old policies changed and increased				
5. Bonus additions allotted				
Total				
Discontinued during year—				
6. By death				
7. By survival or the happening of the contingencies insured against other than death.				
8. By expiry of term under temporary insurances				
9. By surrender of policy				
10. By surrender of bonus				
11. By forfeiture or lapse				
12. By change and decrease				
13. By being not taken up				
Total discontinued				
Total existing at end of year				

*If there be no minimum amount guaranteed to be paid on the happening of the contingency insured against, the column may remain blank.

Form XIII.

(See Rule 27.)

Submitted by the (here insert name of insurer) for the year ending 19 .

	Number of dividing insurance policies effected in the year under review insuring sums payable at death or survivorship.		
	Under table No. 1.	Under table No. 2.	And so on for each other table of dividing insurance business insuring sums payable at death or survivorship.
(1) Number of Policies insuring money to be paid on the death of a male life—			
Effected during the year by—			
the life insured			
his wife			
„ son			
„ daughter			
„ father			
„ mother			
„ brother			
„ sister			
any person other than the above relations			
(2) Number of Policies insuring money to be paid on the death of a female life—			
effected during the year by—			
the life insured			
her husband			
„ son			
„ daughter			
„ father			
„ mother			
„ brother			
„ sister			
any person other than the above relations			
Total number of Policies effected in the year			

If the different tables be not distinguished from one another by numbers, as assumed in the above Form, the headings to the Form may be altered accordingly.

Form XIV.

(See Rule 27.)

Submitted by the (here insert name of insurer) for the year ending 19 .

Age of life on the death of whom the policy monies become payable.	Number of dividing insurance policies effected in the year under review insuring sums payable at death or survivorship.			
	Under table No. 1.	Under table No. 2.	Under table No. 3.	And so on for each other table of dividing insurance business insuring sums payable at death or survivorship.
Under 5 years				
Over 5 and under 10				
„ 10 „ 15				
„ 15 „ 20				
„ 20 „ 25				
„ 25 „ 30				
„ 30 „ 35				
„ 35 „ 40				
„ 40 „ 45				
„ 45 „ 50				
„ 50 „ 55				
„ 55 „ 60				
„ 60 „ 65				
„ 65 „ 70				
„ 70				
Total number of policies effected in the year	(These totals should agree with the totals in Form XIII.)			

If the different tables be not distinguished from one another by numbers, as assumed in the above Form, the headings to the Form may be altered accordingly.

A. H. LLOYD,

Addl. Secy. to the Govt. of India.

United Kingdom-India Trade Agreement Rules, 1939.

In exercise of the powers conferred by sub-section (2) of section 3 of the Indian Tariff Act, 1934 (XXXII of 1934), and in supersession of the notification of the Government of India in the Department of Commerce, No. 780-T. (11), dated the 24th December, 1932, the Central Government is pleased to make the following Rules :—

Rules.

1. *Short title.*—These Rules may be called the United Kingdom-India Trade Agreement Rules, 1939.

2. *Application.*—These Rules apply to goods consigned from the following countries, namely :—

- (a) The United Kingdom of Great Britain and Northern Ireland, and
- (b) The Colonies, British Protectorates, and territories under the British Mandate specified in the First Schedule.

3. *Definition.*—In these Rules—

- (a) “ Act ” means the Indian Tariff Act, 1934 (XXXII of 1934) ;
- (b) “ British Colony ” means any country specified in the First Schedule ;
- (c) “ expenditure on material ” means the cost to the manufacturer of the material at the factory or works, including containers but excluding royalties ;
- (d) “ factory or works cost ” means the cost of production to the manufacturer at the factory or works and shall include the value of containers and other forms of interior packing ordinarily sold with the article when it is sold retail, but shall not include the manufacturer's or exporter's profit or the cost of exterior packing, carriage to port and other charges incidental to the export of the article subsequent to its manufacture ; and
- (e) “ United Kingdom ” means the United Kingdom of Great Britain and Northern Ireland.

4. No article shall be deemed to be the produce or manufacture of the United Kingdom or a British Colony unless the Customs Collector is satisfied—

- (1) subject to the provisions of rule 5 that the article has been consigned from such country ; and
- (2) (a) where the article is unmanufactured, that it has been grown or produced in such country, and
- (b) where the article is manufactured—
 - (i) that it has been wholly manufactured in such country from material produced in such country ; or
 - (ii) that it has been wholly manufactured in such country from unmanufactured materials ; or
 - (iii) that it has been partially manufactured in such country and that the final process of manufacture has been performed in such country, and that the expenditure on material produced and labour performed in such country in the manufacture of the article is not less in the case of an article specified in the Second Schedule than one-half and in the case of other articles than one-quarter of the factory or works cost of the article in its finished state :

Provided that where the goods are consigned from a British Colony the material produced and labour performed in any other British Colony may be reckoned as though it were material produced or labour performed in the colony from which the goods were consigned.

Explanation.—For the purposes of sub-clause (iii) of clause 2 (b) the final process of manufacture shall not be deemed to have been performed in any country in which no process other than a process of mixing, bottling, labelling, packing into retail containers or the like has been performed, but where such process as aforesaid has been performed in the country in which the final process of manufacture has also been performed nothing herein shall render the cost of such process ineligible for inclusion in the computation of the fraction of the factory or works cost of the article in its finished state which represents expenditure on material produced and labour performed in that country.

5. Articles of a description specified in the first column of the Third Schedule which have been consigned from the United Kingdom but are in other respects eligible under rule 4 to be deemed to be the produce or manufacture of a country specified in the corresponding entry in the second column thereof shall be deemed to be the produce or manufacture of that country notwithstanding the fact that they were not consigned therefrom.

6. If the owner of any goods entered for home consumption claims that they are chargeable with a preferential rate of duty, but is unable at the time of entry to satisfy the Customs House procedure for goods entered for home consumption. Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, as the case may be, the Customs Collector—

- (i) shall levy and collect the duty at the standard rate, and, if at any time within a period of three months from the date of payment of duty at the standard rate he receives an application in this behalf from the owner of the goods and is duly satisfied that the goods are entitled to entry at the preferential rate, shall make a refund to the owner of the extra duty levied ; or
- (ii) may, in his discretion, levy and collect the duty provisionally at the preferential rate, subject to the execution by the owner of the goods of a bond in one of the Forms prescribed in the Fourth Schedule binding himself to pay the balance of the duty.

7. (1) No claim that goods are chargeable with a preferential rate of duty shall be considered by the Customs Collector in respect of goods imported by post unless—

- (a) at the time of arrival in British India such goods are covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form) on the wrapper of the package, or
- (b) such claim is made by the owner at any time before delivery of the goods is taken.

(2) If the owner of the goods is unable to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, the Customs Collector shall proceed in the manner prescribed in rule 6.

8. (1) If the owner of any goods entered for warehousing claims that they are chargeable with a preferential rate of duty, but is unable at the time of entry to satisfy the Customs House procedure for goods entered for warehousing. Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 5, as the case may be, the Customs Collector shall assess duty at the standard rate.

(2) If the Customs Collector is satisfied before the goods are removed from the warehouse that they are chargeable with a preferential rate of duty, he shall reassess them accordingly at the time of such removal.

(3) If the goods are removed from the warehouse without the Customs Collector being so satisfied, they may be dealt with in the manner prescribed in rule 6.

9. Where any payment of duty due under a bond has not been made in accordance therewith, and upon demand being made, the Customs Collector may, in his discretion and without prejudice to his power to enforce the bond, levy unpaid balances as levied. recover the amount due at any time as if it were duty short-levied within the meaning of section 39 of the Sea Customs Act, 1878 (VIII of 1878).

FIRST SCHEDULE.

[See Rule 2 (b) and 3 (b).]

LIST OF BRITISH COLONIES.*East Africa.*

- 1. Kenya, Uganda Protectorate, and the Mandatory Territory of Tanganyika.
- 2. Northern Rhodesia.
- 3. Nyasaland Protectorate.
- 4. Somaliland Protectorate.
- 5. Zanzibar Protectorate.

South Africa (including St. Helena).

6. Basutoland.
7. Bechuanaland Protectorate.
8. Swaziland.
9. St. Helena.

West Africa.

10. Gambia.
11. Gold Coast.
12. Togoland under British Mandate.
13. Nigeria.
14. The Camerons under British Mandate.
15. Sierra Leone.

Eastern and Far Eastern.

16. Arab Littoral of the Persian Gulf (i.e., Bahrain, Kuwait and the Trucial Shaikhdoms).
17. Ceylon.
18. Hong Kong.
19. Malaya (i.e., the Straits Settlements, the Federated Malay States and the Unfederated Malay States of Johore, Kedah, Kelantan, Perlis and Trengganu).
20. Mauritius.
21. North Borneo.
22. Sarawak.
23. Seychelles.

Mediterranean.

24. Cyprus.
25. Gibraltar.
26. Malta.

Pacific.

27. British Solomon Islands Protectorate.
28. Fiji.
29. Gilbert and Ellice Islands.
30. Tonga.
31. New Hebrides (Condominium).

West Indian (including the Falkland Islands).

32. Bahamas.
33. Barbados.
34. Bermuda.
35. British Guiana.
36. British Honduras.
37. Jamaica.
38. Cayman Islands.

39. Turks and Caicos Islands.
40. Leeward Islands, i.e., Antigua, Dominica, Montserrat, St. Christopher-Nevis and the Virgin Islands.
41. Trinidad and Tobago.
42. Windward Islands, i.e., Grenada, St. Lucia and St. Vincent.
43. Falkland Islands.

SECOND SCHEDULE.

[See Rule 4 (2) (b) (iii).]

1. Sewing and Knitting Machines (and parts thereof) to be worked by manual labour or which require for their operation less than one quarter of one brake-horse-power.
2. Cycles (other than motor cycles) imported entire or in sections and parts and accessories thereof; excluding rubber tyres and tubes.
3. Motor cars including taxicabs and articles (other than rubber tyres and tubes) adapted for use exclusively as parts and accessories thereof.
4. Motor omnibuses; chassis of motor omnibuses, motor vans and motor lorries; and parts of mechanically propelled vehicles and accessories excluding rubber tyres and tubes.
5. Motor cycles and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof.

THIRD SCHEDULE.

[See Rule 5.]

Description of articles.	Country.
Angostura biters	Trinidad.
	Bahamas.
	Barbados.
	Bermuda.
	British Guiana.
	British Honduras.
	Jamaica.
Rum	Leeward Islands, i.e., Antigua, Dominica, Montserrat, St. Christopher-Nevis and the Virgin Islands.
	Mauritius.
	Trinidad.
	Windward Islands, i.e., Grenada, St. Lucia and St. Vincent.

FOURTH SCHEDULE.

[See Rule 6 (ii).]

FORM A.

KNOW ALL MEN by these presents that I/we _____ of _____ and _____ of _____ am/are held and firmly bound unto the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) in the sum of Rs. _____ to be paid to the Governor-General of India in Council (or, after the establishment of the Federation of India, the Governor-General of India) his successors or assigns for which payment, well and truly to be made I/we bind myself/ourselves and each of us my/our and each of our heirs and legal representatives firmly by these presents sealed with my/our respective seals, dated this _____ day of _____ 19 _____.

WHEREAS I am/we are the importer(s) of the goods named below which to the best of my/our belief fulfil the conditions laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff Act, 1934, for determining their eligibility to a preferential rate of duty under the First Schedule to that Act AND WHEREAS I/we have not been able to produce at the time of making entry of such goods at the Custom House

evidence to satisfy the Customs Collector that those conditions are fulfilled AND WHEREAS the Customs Collector has agreed provisionally to accept duty at the preferential rate pending the production of such evidence and I/we have agreed that if such evidence is not presented to the Customs Collector within three months of the date of this bond or being so presented is not accepted by him as satisfactory I/we will pay to the Customs Collector on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods NOW the condition of this bond is such that if the necessary evidence as aforesaid shall be produced to the Customs Collector within the said period and he shall accept such evidence as satisfactory or if I/we shall pay on demand the difference between the duty paid at the preferential rate and the duty leviable at the standard rate on the said goods, then the above written bond shall be void, otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

FORM AA.

KNOW ALL MEN BY these presents we of and
of (hereinafter referred to as "the Importers")
and we (Indenting House or Bankers) of (hereinafter referred
to as "the sureties") are held and firmly bound unto the Governor-General of India
in Council (or, after the establishment of the Federation of India, the Governor-General
of India) in the sum of Rs. to be paid to the Governor-General of
India in Council (or, after the establishment of the Federation of India, the Governor-
General of India) his successors or assigns for which payment well and truly to be made
we hereby jointly and severally bind ourselves and each of us and each of our heirs
and legal representatives firmly by these presents sealed with our respective seals,
dated this day of 19

WHEREAS we the importers are the importers of the goods named below and we
the sureties have been concerned in the purchase by the importers of the said goods
(are the Bankers of the Importers) AND WHEREAS to the best of the knowledge and
belief of us the Importers and of us the Sureties the said goods fulfil the conditions
laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff
Act, 1934, for determining their eligibility to a preferential rate of duty under the
First Schedule to that Act AND WHEREAS the Importers have not been able to produce
at the time of making entry of such goods at the Custom House evidence to satisfy
the Customs Collector that those conditions are fulfilled AND WHEREAS the Customs
Collector has agreed provisionally to accept duty at the preferential rate pending the
production of such evidence and the Importers have agreed that if such evidence is
not presented to the Customs Collector within three months of the date of this bond or
being so presented is not accepted by him as satisfactory they the Importers will pay
to the Customs Collector on demand the difference between the duty paid at the pre-
ferential rate and the duty leviable at the standard rate on the said goods NOW the
condition of this bond is such that if the necessary evidence as aforesaid shall be pro-
duced to the Customs Collector within the said period and he shall accept such evidence
satisfactory or if the Importers or failing them the Sureties shall pay on demand the
difference between the duty paid at the preferential rate and the duty leviable at the
standard rate on the said goods, then the above written bond shall be void, otherwise
the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

FORM B.

KNOW ALL MEN by these presents that I/we of and
of am/are held and firmly bound unto the the
Governor-General of India in Council (or, after the establishment of the Federation
of India, the Governor-General of India) in the sum of Rs. to be
paid to the Governor-General of India in Council (or, after the establishment of the

Federation of India, the Governor-General of India) his successors or assigns for
which payment well and truly to be made I/we bind myself/ourselves and each of us
my/jour and each of our heirs and legal representatives firmly by these presents sealed
with my/our respective seals, dated this day of 19

WHEREAS I am/we are a regular importer(s) of goods which fulfil the conditions
laid down by the rules made under sub-section (2) of section 3 of the Indian Tariff
Act, 1934, for determining their eligibility to preferential rates of duty under the
First Schedule to that Act AND WHEREAS it is likely that from time to time I/we may
not be able to produce at the time of making entry of goods at the Custom House evi-
dence to satisfy the Customs Collector that those conditions are fulfilled and that the
goods, particulars of which are contained in the bill of entry, are assessable to customs
duty at the preferential rate AND WHEREAS the Customs Collector at
has agreed that if, having regard to the nature or particulars of such goods as detailed
in such bill of entry, he is of opinion that it is likely that the necessary evidence is
capable of being produced to satisfy him that the goods are entitled to be assessed
for customs duty at the preferential rate he will provisionally accept duty on such
goods at the preferential rate pending the production by me/us of the necessary evi-
dence, and I/we have undertaken that in every such case I/we will within three months
from the date of making entry of such goods present such evidence to the Customs
Collector and that if such evidence is not in every case presented within the period
aforesaid or if being presented it is not accepted by the Customs Collector I/we will
forthwith on demand pay to the Customs Collector the difference between the duty
paid on such goods at the preferential rate, and the duty leviable at the standard rate
AND WHEREAS it has been further agreed with the Customs Collector that the security
given by these presents shall cover a total sum representing the difference between such
rates of duty of Rs. and that if and whenever the total unadjusted
claims by the Customs Collector against me/us in respect of such unpaid duty shall
amount to more than Rs. the Customs Collector may refuse to consider
the possibility of evidence being procurable though not available at the time of making
entry of any further goods unless I/we shall offer to the Customs Collector and he shall
be willing to accept a further bond in similar terms hereto for such amount as the
Customs Collector shall decide NOW the condition of the above written bond or obliga-
tion is such that if the necessary evidence as aforesaid shall be produced to the Customs
Collector within three months from the respective dates or making the entry from time
to time of any such goods and the Customs Collector shall accept such evidence or if
the difference between the duty paid on any such goods at the preferential rate and
the duty leviable at the standard rate shall from time to time be paid by me/us on the
demand of the Customs Collector then the above written bond or obligation shall be
void ; otherwise the same shall be and remain in full force and virtue.

Signed, sealed and delivered
by the above named in the
presence of—

[Commerce Department Notification, No. 20-T. (21)39, dated 17th June 1939.]

REGISTRATION OF FOREIGNERS (EXEMPTION) ORDER, 1939.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I lay on
the table a copy of the Registration of Foreigners (Exemption) Order,
1939.

Registration of Foreigners (Exemption) Order, 1939.

No. 21/32/39-Political, dated the 21st June 1939.—In exercise of the power con-
ferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the
Central Government is pleased to make the Declarations hereinafter set out in this
Order :—

1. That the provisions of the Registration of Foreigners Rules, 1939 (hereinafter
in this Order referred to as the Rules) shall not apply to, or in relation to, any person
who has not attained the age of sixteen years.

2. That the provisions of the Rules, except such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to, any subject of His Majesty.

3. That the provisions of the Rules, except rule 8 and such of the provisions of rules 4, 14, 15 and 16 as apply to, or in relation to, passengers and visitors who are not foreigners, shall not apply to, or in relation to,—

(a) any foreigner in the service of His Majesty ;

(b) any British protected person ;

(c) the wife and any child of—

(i) any person duly appointed by a foreign Government to exercise diplomatic functions ; or

(ii) any consul or vice-consul ;

(d) any person who is a subject of the Sultan of Muscat and Oman ;

(e) any person of Asiatic birth who is a subject of any State having sovereignty over any territory of which the boundaries are coterminous with the boundaries, external or internal, of India ; or

(f) any foreigner not specified in any of the preceding clauses of this Declaration who enters British India solely in transit to a destination beyond British India, for so long as he is authorised to travel in British India under a licence previously obtained by him from the Registration Officer of the place at which he enters British India and complies with such conditions as to route and other matters as may be specified in the said licence.

4. That the provisions of rules 4, 15 and 16 of the Rules shall not apply to, or in relation to, any passenger to whom Declaration 2 or 3 of this Order applies and who enters, or departs from, British India on board any vessel travelling solely between a port in British India and a port in Burma, Ceylon, French India, or Portuguese India.

5. That, subject to the condition that he has obtained permission from the Registration Officer to land in British India, the provisions of the Rules except rules 8 and 14 shall not apply to, or in relation to, any passenger who arrives in British India on any vessel in transit to a destination beyond British India and who re-embarks and continues his journey on the vessel on which he arrived in British India.

6. That the provisions of the Rules except rules 8 and 14 and sub-clause (d) of sub-rule (1) of rule 16 shall not apply, for so long as the vessel on which he is employed remains at a port in British India, to, or in relation to, any seaman as defined in the Rules who is not a resident of British India and does not land in British India for discharge.

(Sd.) H. J. FRAMPTON,

Deputy Secretary to the Government of India.

REPORT ON THE PROGRESS OF THE SCHEMES FINANCED FROM THE GRANTS FOR RURAL DEVELOPMENT.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I lay on the table a copy of the Report on the progress of the schemes financed from the grants for Rural Development for the period 1st January to 30th November, 1938.

Report on the Progress of the Schemes financed from the Grants for Rural Development.

A statement of the progress up to the end of December 1937, of the schemes financed from the Government of India's grants for rural development in the provinces and the local administrations was presented to the Legislature on the 29th March 1938. The statement below furnishes particulars of the progress since made up to the end of November 1938. Allotments from the second grant

have since the presentation of the last report been made to the Punjab, Central Provinces and Berar, Coorg and Delhi also. The balance to be allotted at the end of the period covered by this report was Rs. 83,48,615, which will be made available as and when funds are required.

MADRAS.

	Allotments from the Expenditure up to Government of India's grant.	
	Rs.	Rs.
(1) Village communications ..	4,47,540	4,27,558
(2) Rural water supply including protected water supply ..	5,26,810	3,52,515*
(3) Rural sanitation including a Health Unit ..	3,00,000	1,79,118
(4) Discretionary grants by Collectors	48,650	48,370
(6) Establishment	..	2,035
Total ..	13,73,000	10,59,542

*This includes expenditure up to 31st December 1938.

2. A total sum of about Rs. 3,00,767 as indicated below has been resumed from the allotment for redistribution on a contributory basis :

	Rs.
Village communications	15,202
Rural water supply	1,64,464
Rural sanitation including a Health Unit ..	1,20,821
Discretionary grants by Collectors	280
Total ..	3,00,767

The net allotment thus stood at Rs. 10,72,233 and the expenditure at Rs. 10,59,542.

3. The progress of the different schemes during the first eleven months of 1938, was as follows :—

(1) *Village communications*.—A sum of Rs. 6,881 was spent during the period under report. In all, about 90 miles of earth work formation, 43 miles of metalling, 185 miles of road construction and improvements to about 75 miles of existing cart tracks and roads have been completed, besides construction of numerous culverts and bridges.

(2) *Rural water supply including protected water supply schemes*.—The amount spent under this head during the year ending 31st December 1938, was Rs. 11,927, bringing the total expenditure to Rs. 3,52,515. Altogether about 645 well works and 7 protected water supply schemes have been completed. The construction of a few more wells is still in progress.

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(3) (a) *Rural sanitation*.—This scheme was closed with effect from 31st March 1937, as stated in the last report. The difference of Rs. 8,164 between expenditure under the head as indicated above, viz. Rs. 1,79,118 and the figure as last reported viz., Rs. 1,87,282 represents the sale proceeds of concrete slabs for bore-hole latrines, etc., credited to the head after the close of the scheme.

(b) *Poonamallee Health Unit scheme*.—This experimental scheme of intensive health work has completed its third year of working. The various aspects of work done by the staff of the Health Unit during the eleven months ending 30th November 1938, are briefly described below :

(i) *Vital statistics*.—There were 1,788 births and 987 deaths in the area of the Unit as against 1,704 births and 1,061 deaths during the corresponding period of 1937. There was a distinct fall in deaths, particularly of infants, infant mortality being 265 giving a rate of 148.21 as against 306 during the same period in 1937, with a rate of 179.58. The fall was appreciable in the group below one month. There were 8 maternal deaths with a rate of 4.30 per mille as against 12 maternal deaths with a rate of 6.8 in the first eleven months of 1937. The low maternal mortality and the reduced infant mortality are attributed to people taking greater advantage of the free midwifery service and ante-natal and infant clinics provided. The cause of every death was, as usual, investigated and placed on record.

(ii) *Vaccination*.—The Health Inspectors carried out 9,517 primary and re-vaccinations.

(iii) *Epidemic diseases*.—There were 8 stray attacks of cholera resulting in death in 4 cases. The incidence of small-pox was greater, with 42 attacks and 8 deaths.

In the case of cholera, measures for a systematic disinfection of all infected houses and daily chlorination of all water supplies in the affected area were adopted as a matter of routine. Preventive inoculation among the contacts and in the neighbourhood was also carried out. In the case of small-pox, vaccination was adopted as the main preventive measure. There is at present less opposition from the people to these precautionary measures than before.

Preventive inoculation for enteric was also carried out in addition to disinfection and chlorination as in the case of cholera.

(iv) *Maternity and Child Welfare*.—The activities of the Health Unit staff under this head are very much appreciated by the public. The work in this field is entirely advisory except in the matter of conducting labour cases. During the period under report the midwives of the Health Unit conducted 1,248 cases of labour out of 1,788 births as against 1,140 cases out of 1,704 births in the corresponding period of 1937. The percentage of confinements conducted by the Health Unit staff has gradually increased and it is now 69.8 per cent., as compared with 66.3 per cent., for the same period in 1937. If the number of maternity cases attended to by other midwives working in the area of the Health Unit is also taken into account, the percentage of births getting skilled assistance comes to 76.6. This high percentage for a rural population in the third year of work of the Unit is quite encouraging.

In addition to attending to deliveries, the whole maternity staff does intensive house visiting both for educating the public and for registering all ante-natal cases. The Woman Medical Officer paid 2,844 house visits, while the Health Visitors and Midwives have recorded 20,258 ante-natal and 10,018 post-natal visits, besides numerous visits to infants and children under school going age. The ante-natal registration has reached the very high figure of 98.5 per cent. the remaining 1.5 per cent. being mainly due to late arrivals into the area or cases conducted in a Local Fund Hospital brought from outside the Health Unit area. About 283 clinics and numerous mother classes were held. The staff of the Health Unit also treated cases of minor ailments, while the more difficult ones were referred to hospitals.

(v) *School hygiene*.—The medical inspection of school children was completed last year and during this year the schools were visited to advise treatment for the defects already noted and to give health talks. Boys were encouraged to keep their houses clean. Advantage was also taken of the monthly meetings of school teachers to speak to them on health subjects.

(vi) *Health education*.—The education of the public by means of magic lantern lectures, cinema shows and group talks on health subjects was continued. In all, the Health Unit staff delivered 248 lectures with magic lanterns, 66 with cinema and 425 without the aid of either. They also gave numerous talks at schools, in villages and at clinics. Six health exhibitions were held. Health propaganda was also carried on through leaflets. These measures have resulted in a better response from the people.

(vii) *Hookworm*.—The result of the survey for hookworm has revealed that the infection is widespread in the area. Mass treatment is carried out, the total number treated during the period under report being 1,844. A special survey is now in progress among the school going population, the number so far examined being 167, out of which 132 or 79 per cent. were positive.

(viii) *Laboratory work*.—Apart from the test of urine, faeces and blood, attempts have been made to send samples of motions and vomits from all suspected cases of cholera for examination. In connection with water supply, samples of water from bore wells were sent for laboratory test and all doubtful sources were abandoned. The area of the Unit appears to be filarial. A filarial survey is in progress.

(ix) *General sanitation*.—It is still found difficult to make the people understand that it is to their advantage to keep their houses and immediate surroundings clean and sanitary. At the instance of the Health Unit staff, 679 houses were white washed, 23 windows were provided to houses, 1,835 back yards were cleaned, 829 fly breeding places and 415 mosquito breeding places were attended to, 100 latrines and 115 earth drains were constructed and 132 soakage pits were dug for disposing of waste water. The people were encouraged to construct simple bore hole latrines in their houses by the supply of concrete slabs at one-third cost.

(x) *Water supply*.—The existing sources of water supply in the area consist mainly of shallow wells, supplemented by tanks in a few cases. These are quite unprotected and are liable to be a source of danger in times of epidemics. A scheme for the provision of protected water supply by means of bore wells was therefore drawn up and during the year 8 borings were completed.

(xi) *Expenditure*.—The expenditure during the first eleven months of 1938 was Rs. 21,560-12-5, of which a sum of Rs. 12,219-12-4 was met from the rural development grant allotted in 1936-37, and the balance from the contribution made by the Rockefeller Foundation.

(xii) *General*.—The Health Unit recorded satisfactory progress and it continued to attract distinguished visitors and also students of Public Health.

(4) *Discretionary grants by Collectors*.—A sum of Rs. 1,213 was spent during the period making up a total expenditure of Rs. 48,370. The balance of the allotment (Rs. 280) has been resumed.

(5) *Anti-malarial operations*.—All anti-malarial schemes taken up for execution from the grant were completed prior to 1938, and an account of the schemes carried out was given in the last report. An expenditure of Rs. 1,141 was incurred during 1938, mainly on effecting improvements to the anti-malarial drainage works constructed at Gudalur in the Nilgiris. The total expenditure on these schemes upto 30th November 1938, was Rs. 49,946.

4. 1936-37 *Allotment*.—In all a sum of Rs. 14 lakhs was sanctioned to districts on the basis of rural population, as shown in the following statement, twelve lakhs from the allotment of Rs. 15 lakhs made in 1936-37 and two lakhs from the amounts resumed out of the grants made in 1935-36.

Name of the District.	Amount of grant sanctioned.
	Rs.
1. Anantapur	33,830
2. Arcot, North	71,170
3. Arcot, South	81,670
4. Bellary	29,170
5. Chingleput	51,330
6. Chittoor	50,170
7. Coimbatore	85,500
8. Cuddapah	31,500
9. Godavari, East	61,830
10. Godavari, West	39,660
11. Guntur	65,330
12. Kanara, South	46,670
13. Kistna	39,660
14. Kurnool	36,170
15. Madura	64,170
16. Malabar	1,20,170
17. Nellore	50,160
18. Nilgiris, The	4,670
19. Ramnad	53,670
20. Salem	82,830
21. Tanjore	73,500
22. Tinnevely	56,000
23. Trichinopoly	60,670
24. Vizagapatam	1,15,500
	14,00,000

Besides the grant of Rs. 14,960 sanctioned from the reserve and referred to in the last report, a special grant of Rs. 10,833 for the provision of a protected water supply scheme for the Pannaikadu village in the Madura district and another grant of Rs. 660 for the acquisition of lands covered by the anti-malarial operations in Chintapalle village in the agency tracts of the Vizagapatam district were sanctioned from the reserve kept with Government during 1938.

5. A sum of Rs. 2,78,879 out of the above grants and another sum of Rs. 68,146 from local contributions were spent during the period under report as shown below :

	Amount spent from the grants.	Amount spent from local contributions.
	Rs.	Rs.
Rural water supply	1,48,279	32,959
Rural sanitation	10,553	1,357
Village communications	97,676	24,759
Encouragement and development of loan and sale co-operative societies	9,126	..
Formation and encouragement of co-operative societies for consolidation of holdings.	..	..
Poonamallee Health Unit scheme	12,220	9,341
Establishment	1,025	..
Total	2,78,879	68,416

6. The progress of the schemes during the period under report was as follows:

(1) *Rural water supply*.—About 518 works relating to the construction of new wells and repairs and improvements to old ones were completed and 388 works were in progress. The protected water supply scheme in the Nilgiris, for which a special grant of Rs. 4,960 was sanctioned in 1937 was also completed.

(2) *Rural sanitation*.—The expenditure incurred under this head was mostly on the construction of bore hole and dry earth latrines. In all, about 70 sanitation works were completed and 41 works were in progress.

(3) *Village communications*.—The works falling under this category related to the formation of, and repairs to, roads, village streets and cart tracks and to construction of culverts and bridges. About 149 works were completed and 113 were in progress.

(4) *Encouragement and development of co-operative loan and sale societies*.—Subsidies to the extent of Rs. 11,924 were sanctioned for the construction of 11 godowns at a total cost of Rs. 49,200 in the districts of Coimbatore (1), Godavari West (1), Madura (1), Malabar (1), Ramnad (1), and Salem (6). A sum of Rs. 19,525 was also sanctioned from provincial funds as loans to three of these societies to enable them to meet their share of the cost of the godowns. In the remaining cases, the societies found the required capital from other sources.

Two of the societies in the Chittoor district which were granted subsidies and loans in 1937, decided not to construct godowns and so surrendered the amounts. One society in Chittoor continued to receive the grant of a subsidy of Rs. 20 per mensem towards the cost of its establishment.

(5) *Formation and encouragement of co-operative societies for consolidation of holdings*.—It was only towards the end of August 1938, that the grant was made available for this purpose. The District Officers have been permitted to meet from the grant two-sixths of the fees payable for obtaining encumbrance certificates and for registration of documents; one-sixth being met by the societies concerned from their own funds and the remaining half being remitted by the Provincial Government. No expenditure was however incurred in this connection during the period under report.

7. The grant had hitherto been spent, as a rule, only on contributory basis, the villagers contributing a third of the cost of the schemes undertaken for their benefit. Representations were made to the Government that a strict enforcement of this principle stood in the way of the scheduled castes and other poorer classes of the rural population benefiting to any reasonable extent from the grant. The contributory principle was therefore relaxed from the middle of May 1938, and

the District Officers were permitted to receive smaller contributions than the prescribed minimum or to forego such contributions *in toto*, subject to the condition that the amount of the grant so spent should not in any case exceed 20 per cent. of the grant allotted to their districts.

BOMBAY.

	Allotments from the Government of India's grant.	Expenditure up to 30th November 1938.
	Rs.	Rs.
(1) Agricultural schemes including animal husbandry ..	2,31,260	1,79,761
(2) Industrial schemes	39,196	25,725
(3) Public Health and sanitation	74,599	63,802
(4) Rural water supply	76,709	30,420
(5) Village communications	80,407	50,473
(6) Education	50,709	47,852
(7) Propaganda in the districts	31,468	31,468
(8) Special Agricultural and Industrial schemes ..	29,062	29,062
(9) Miscellaneous	20,925	20,925
(10) Unallotted reserve	4,27,665	..
Total ..	*10,62,000	4,79,488

*Includes allotments from Rs. 5,00,000 (second grant) earmarked but not yet allotted by the Government of India.

2. *Agricultural schemes including animal husbandry.*—The distribution of seeds of improved varieties of paddy, sugarcane, cotton, machni, wheat, bajri and tobacco was carried out on an extensive scale in almost all the districts of the province.

In the Belgaum district 4,600 acres of land were sown with improved seeds of paddy, 7,16,750 sets of the J. 213 variety of sugarcane were supplied to cultivators and 600 acres were sown with improved strains of nagli.

In the Bijapur district 900 bags of Jayavant cotton seed, 148 bags of wheat and 100 bags of jowar were distributed through the agency of the Famine Relief Association.

In the Dharwar district 380 bags of improved strains of paddy were distributed.

In Kanara the amount utilised represents the pay of Kamgars who were engaged for spraying betelnut gardens as a preventive measure against the disease known as Koleroga.

In Ratnagiri, a subsidy of Rs. 1,000 was given to the taluka development association for the purchase of improved seeds. A palm-spraying machine was purchased for demonstration purposes at a cost of Rs. 31-5-0.

In Ahmednagar district Rs. 1,425 were spent on the purchase of improved seeds. Rs. 2,612 were spent in East Khandesh district to help cultivators in horticultural operations, crop-protection by means of gun-clubs, conservation of soil and the construction of a cattle dipping 'vat'. Rs. 5,500 were spent in West Khandesh for work done by the taluka development associations, prevention of soil erosion and cattle breeding.

The taluka development associations of Ahmedabad and Kaira districts were given grants for supplying to the agriculturists improved seeds and implements for cultivation. A sum of Rs. 200 was spent in Broach and Panch Mahals district for popularising B. D. S. cotton seeds. In almost all districts, fruit culture has been organised in rural areas on a wider scale. In the Belgaum district pomegranate cultivation has been introduced in the Gokak Canal tract. An improved variety of pineapple has also been introduced in the Chandgad mahal and the Khanapur taluka of the same district.

In the Bijapur district the nursery maintained at the district headquarters functioned during the year. But as it is found that it is not self-supporting, it has been decided to transfer it to the taluka development association.

In the Dharwar district 250 grafts of mango, 150 of lemon and 75 of mosambi were supplied to growers.

In the Kanara district 240 mango grafts, 344 pineapple suckers and 75 coconut seedlings were distributed in the villages.

In Kolaba 1,000 cashewnut seedlings and 450 pineapple suckers were distributed.

In Nasik district 8,980 canes of improved varieties were distributed.

In Satara district improved seeds and 1,237 mango-grafts were supplied to farmers. In Sholapur district improved implements were given to cultivators.

In Surat wheat No. 224, pine-apple suckers and plant pullers were supplied at concession rates. Rs. 1,020 were utilised for purchase of sugarcane crushers, peerless guns, wheat thrasher Allan-Gandhi harrows, etc. In Thana Rs. 3,730 were spent on the development of varkas land, control of mango hoppers, control of betel vine wilt, development of Ulhas valley, distribution of seeds, silage making, conducting a grain depot and the manufacture of bone meal.

The trained bunding sub-overseer appointed for the Belgaum and Bijapur districts supervised the construction of 16 bunds. In Poona district a grant of Rs. 700 was made for the pay and travelling allowance of the bunding overseer.

A cattle breeding farm opened at Yedhalli in Bijapur district is doing good work. One breeding bull has been purchased during the year under report in addition to the 5 cows purchased previously.

In Poona district subsidies were given of Rs. 200 to each of the 10 taluka development associations and Rs. 600 for stud-bulls and Rs. 300 for the travelling veterinary dispensary. Stud bulls were also maintained in the districts of Broach and Panch Mahals, Surat and Thana.

The improved implements kept in 6 implement depots opened in the Belgaum district were freely availed of by the cultivators.

Twenty-three improved gul furnaces were built in the sugarcane tract of Hukkeri, Chikodi and Athni talukas of the Belgaum district under the supervision of an officer of the Agricultural Department. Trained masons were employed by the Village Improvement Association, Belgaum, with a view to making their services available to cultivators free of charge.

The pumping plant installed at Kasap in the Kolaba district irrigated an area of 14½ acres for vegetable crops. Similarly, the Balsad 'rahat' at Vayal in the same district irrigated 2½ acres. Two Balsad 'rahat' were fitted up during the year on the Kundalika valley which irrigated vegetable and sugarcane crops.

3. *Industrial schemes.*—In the Belgaum district 35 Rhode Island Red and White Leghorn fowls were distributed at half price, the other half being met from the grant. Four poultry incubators and brooders have been located at 4 centres in the district for the advantage of the neighbouring villagers.

The poultry farm opened at Karjat in the Kolaba district distributed 401 hatching eggs of the White Leghorn and Rhode Island Red breeds. Six White Leghorn hens and 3 cocks were also supplied at concession rates. Thirteen Rhode Island Red fowls were obtained from the farm at Kirkee and distributed free of charge.

Out of the 52 birds in the poultry farm at Bijapur 48 succumbed to a contagious disease. A scheme for the prevention of such disease has been drawn up in consultation with the Director of Agriculture.

Poultry farms are being encouraged in the East Khandesh, West Khandesh, Nasik, Satara and Sholapur districts. A poultry kamgar made a survey in four talukas of East Khandesh and advised the poultry breeders in regard to the feeding and maintaining of fowls. The Yellur Egg Sale Society in Satara district is carrying on the industry on a co-operative basis. In Sholapur district a farm was established at Khardi.

Poultry breeding is going on in the Ahmedabad, Surat, Thana and Kaira districts. In Thana the poultry farms of the White Leghorn and Rhode Island Red breeds under the management of the S. P. H. High School, Bordi, are reported to be doing well.

The instructor appointed in the Ratnagiri district to give demonstrations to the weavers in the improved methods of handloom weaving completed his course of instruction at 5 centres out of the 9 selected for the purpose and is now working at the sixth.

At Kusumbe in West Khandesh district students are taught to prepare agricultural implements and carpets. The taluka development association, Taloda, has started a hand-loom for making carpets and horse-belts. 85 villagers including 35 Bhils have been trained in weaving. Paper baskets are prepared in two villages. In Nasik district the weaving class at Vavi was successful. A weaving society has been started at Vinchur with a subsidy of Rs. 800. In Satara district a grant of Rs. 400 has been sanctioned for butter-making industries at Bhilwadi and Masnehiwadi. Propaganda for bee-keeping has also been started.

4. *Public Health and sanitation.*—(a) *Bore-hole latrines.*—One hundred and thirty-nine bore-hole latrines have been dug in the villages of the Belgaum district.

(b) *Child welfare.*—In the Ratnagiri district the District Executive Committee has sanctioned Rs. 470 towards the cost of training 8 dais. Three have already completed their course and two more are under training. Similarly, in the Bijapur district four dais have completed their course and two are under training.

(c) *Gambusia fish.*—Two post-graduate students of the Karnatak College, Dharwar, are carrying on experiments with Prof. Gideon of the same college with a view to introducing *Gambusia* fish in wells where guinea worm is common. The experiment is expected to be completed by the end of January 1939. Rs. 600 have been sanctioned for it.

In Ahmednagar district a grant of Rs. 700 has been made for the training of dais. Arrangements have been made with the district local board to convert step-wells into draw-wells involving expenditure to the extent of Rs. 2,000. In East Khandesh district the villagers are taking advantage of the dispensaries at Fattehpur and Mhaswad. Bore-hole and trench latrines have been constructed in 7 villages in West Khandesh district. The Bhil Sudhar Samiti in Sakri taluka has opened several medical relief centres in the Bhil area. In Nasik district one dai and six school teachers have been trained in elementary medical knowledge. In Poona district the following grants have been sanctioned :—

- (1) Rs. 500 to Lady Health Visitor Scheme, Mundhava.
- (2) Rs. 500 to Village Panchayats and Village Improvement Committees for medical centres.
- (3) Rs. 500 for travelling allowance to Doctors who visit medical centres.
- (4) Rs. 1,000 to the maternity home at Indapur.
- (5) Rs. 100 to Christa Seva Sangha for purchasing medicines.
- (6) Rs. 500 for maternity and child welfare.

In Satara district four dai training classes were organised by the Health Association and 83 dais were successful in the test. A contribution of Rs. 500 was sanctioned to the association.

In Ahmedabad district Rs. 2,200 were allotted for the maintenance of village sanitation and maternity homes and nurses. In Kaira, table dispensaries were opened at 5 villages in Kapadvanj taluka and at one village of Matar taluka.

In Surat an aggregate amount of Rs. 1,525 was spent for starting and maintaining table dispensaries, training of village dais in maternity hospitals, for employing qualified midwives to instruct village dais on hygienic methods and labour cases and for free distribution of quinine in malarial tracts.

In Thana district 10 boxes containing Ayurvedic and Allopathic medicines were purchased and were given in charge of teachers who were specially trained for 10 days in the civil hospital.

In Broach and Panch Mahals district Rs. 960 were spent in Wagra taluka in lighting streets, cleaning wells and streets and filling up pits in the villages.

5. *Water supply.*—A grant of Rs. 3,590 has been sanctioned in the Dharwar district for various water works. Out of these the construction of wells at Madanbhavi, Koliwad and Ganjur is in progress.

In West Khandesh district a special well has been constructed for the scheduled class people. A special grant for village water supply has been allotted in Sakri taluka. The village panchayats have repaired, constructed and converted some step-wells into draw-wells. In Satara district Rs. 135 have been spent on the repair of a Harijan well and Rs. 60 on the construction of a trough for the cattle at Vaduth.

In Broach and Panch Mahals district Rs. 663 were spent on deepening wells, excavating village tanks, building ovaras, and repairing water troughs. In Thana district a permanent bandhara near Sanjan has been built during the year. The tank at Mamoli in Kalyan taluka has been deepened, and the boring of wells is likely to be taken up in the near future.

6. *Communications.*—In the Belgaum district a grant of Rs. 100 was made to the villagers of Kangrali for planting trees along an approach road constructed by them.

In the Dharwar district construction of roads at Harobelwadi and Madanbhavi and of an approach road at Ugginkeri is in progress. Culverts at Mugad, stone pavings at Shelabhavi and a bridge at Bhadrapur have been constructed.

Repairs to 5 roads in the Pen taluka and an approach road to Thal village in the Alibag taluka and 10 approach roads in Roba taluka of the Kolaba district have been undertaken by the local village improvement committees.

The Chafe-Jaigad road undertaken in the Ratnagiri district has been completed. An amount of Rs. 2,113 was spent on the work during the year under report. The construction of a jetty at Umroli in the same district was subsidised with a sum of Rs. 150 from the village improvement grant.

In East Khandesh the villagers have constructed 3 roads of 2 to 4 miles in length. In West Khandesh district permanent roads have been constructed in one village, and 5 roads repaired in 5 villages. One culvert has also been constructed. In Nasik district 4 village approach roads have been constructed. In Satara district roads and gutters have been repaired in about 70 villages. In Poona district six cart tracts have been repaired by the villagers.

In Broach and Panch Mahals district village roads, approach roads, bridge, etc., have been repaired. In Surat a sum of Rs. 5,380 was spent on road improvement works; while in Thana a road at Valvada has been constructed at a cost of Rs. 250.

7. *Education.*—The three touring libraries started in the Belgaum district continue to work satisfactorily.

In Ahmednagar district Rs. 75 were given for conducting night-classes. The Bhil Sudhar Samiti in West Khandesh district has opened 11 schools for Bhils. The District Local Board, Nasik, is building a boarding house at Peint for Kokani boys and Rs. 2,000 have been earmarked by way of subsidy to the institution. The scheme of subsidising the gaathi schools continues. In Poona district 50 copies of a publication "Prathamik Shikshan" (Primary Education) have been purchased and supplied to village libraries. In Satara district Rs. 50 were granted to the boarding house managed by the villagers of Khanapur. In Sholapur District seven circulating village libraries have been started, and 700 books purchased. The school teachers under the supervision of the mamlatdars arrange for the circulation of the books.

8. *Propaganda*.—The sets of slides supplied to the Belgaum district Co-operative-Institute were exhibited by the propaganda officer during the course of his tour.

In Ahmednagar district grants to the extent of Rs. 1,487 have been paid for encouraging village improvement work in general. In West Khandesh and Nasik districts magic lantern lectures are arranged.

9. *Miscellaneous*.—In Dharwar district an amount of Rs. 28 was spent on the purchase of petty articles. In Bijapur an amount of Rs. 132 was spent on repairs to model huts constructed for the backward classes.

An agricultural and cattle show was organised at Mohadi in West Khandesh district. Rs. 2,000 were earmarked for opening Nagli Stores (Grain Banks) in Nasik district. Three such stores have been opened.

In Broach and Panch Mahals Rs. 317 were spent for constructing a library building and surrounding neem trees with pucca otas. In Bombay suburban district Rs. 500 were utilised in building three blocks of tenements for mahars at Ghatkopar.

10. *Special agricultural and industrial schemes*.—These schemes included—

(a) Improvement of the buffalo.

(b) Scheme for the improvement of poultry.

(c) Co-operative egg collecting, grading and marketing.

Out of these three schemes, scheme (a) was absorbed into the ordinary activities of the Agricultural Department from 1937-38 and scheme (c) was discontinued from 1937-38.

In addition, premia were given to six approved poultry farms who are co-operating with the Live Stock Expert to Government in poultry improvement.

BENGAL.

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
<i>First grant.</i>	Rs.	Rs.
(1) Establishment of seed, paddy and crop demonstration centres.	1,09,000	1,08,900
(2) Improvement of cattle and fodder crops	1,75,000	1,74,200
(3) Improvement of poultry	500	500
(4) Propaganda work in districts	20,000	19,700
(5) Wireless transmission in Midnapore	17,000	16,700
(6) Establishment of an Agricultural Institute at Daulatpur	50,000	30,000

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
(7) Establishment of coir spinning and weaving demonstration parties	40,700	40,700
(8) Establishment of Union Board Dispensaries, improvement of water-supply and grant to Sriniketan ..	3,95,000	3,81,800
(9) Attachment of agricultural farms, etc., to secondary schools and provision of play-grounds and village halls	2,34,000	232,600
(10) Grants-in-aid to Boy-Scouts, Girl-Guides and Bratachari movement	20,000	20,000
(11) Minor drainage and flushing schemes	3,03,000	2,76,000
(12) Improvement in Chittagong Hill Tracts	30,000	29,200
(13) Discretionary grants to Commissioners and District Officers	2,05,800	2,02,500
Total first grant ..	16,00,000	15,32,800

Second grant.

(1) Improvement of rural water-supply	2,20,700	1,85,700
(2) Provision of playing fields and recreation grounds for villages and village schools	70,900	61,000
(3) Improvement of village communications—		
(a) Excluding waterways	72,900	65,300
(b) Including waterways		
(4) Improvement of rural sanitation	12,300	6,300
(5) Extension of cattle-improvement scheme to more districts	79,800	97,300
Total second grant ..	4,56,600	4,15,600
GRAND TOTAL ..	20,56,600	19,48,400

2. *Scheme for establishment of seed, paddy and crop demonstration centres, (first grant)*.—Cultivation of a different crop in the various centres (approximately 450) was attended with success except in a few farms where the crops were damaged by flood.

3. *Improvement of cattle and fodder crops (first grant) and extension of cattle improvement scheme to more districts (second grant)*.—The total number of stud bulls distributed in various districts is 1,100. Up to the 31st October 1937, 35 lakhs of Napier grass cuttings had been issued and 14,000 scrub bulls castrated. Since then a further 2,512 maunds of Napier grass cuttings and 166 maunds of fodder seeds have been issued to cattle owners and 25,237 scrub bulls have been castrated. 8,006 progeny of stud bulls have been inspected. The great majority of stud bulls are in good serving condition.

The excess over the allotment has been met from the funds allocated from the Provincial revenues to be eventually recovered from the Government of India.

4. *Improvement of poultry (first grant)*.—A good number of cockerels, eggs and breeding fowls have been issued to villagers with instructions as to the proper method of poultry keeping.

5. *Propaganda work in the districts (first grant).*—Loudspeakers and gramophones were purchased and despatched to the District Officers. Some special gramophone records were prepared and distributed.

6. *Wireless transmission in Midnapore (first grant).*—The actual expenditure incurred by the All-India Radio who have been entrusted with the installation and maintenance of the Radio sets is Rs. 16,700. The unspent balance will be utilised in full during the current financial year and further expenditure will be incurred from provincial revenues in continuing this scheme.

7. *Establishment of an Agricultural Institute at Daulatpur (first grant).*—The expenditure incurred on this account so far is Rs. 30,000. The balance of Rs. 20,000 is expected to be spent in full during the remaining months of the current year.

8. *Establishment of coir spinning and weaving demonstration parties (first grant).*—Spinning and weaving demonstration parties were formed and located in selected districts. 330 students were admitted of whom 216 were actually trained. Out of this number 119 have taken up coir spinning for their livelihood. Vacational classes for training in the manufacture of coir have been started by various public institutions and rural reconstruction societies. Many women have adopted coir manufacture as a part-time occupation. Further expenditure on this scheme is being met out of provincial revenues.

9. *Establishment of Union Board Dispensaries, etc. (first grant) and Improvement of rural water-supply (second grant).*—

	Number of projects approved.	Number of projects carried out.
(a) Union Board Dispensaries	123	116
(b) Water-supply—		
Tube-wells	2,985	2,241
Masonry wells	377	253
Tanks	109	66
Ring wells	293	231
Other kinds of wells	216	187
Ring wells in Terrai and improvement of existing sources of water supply in Darjeeling District ..	Fully carried out.	

10. *Grant to Sriniketan (first grant).*—All the five village health societies contemplated in the scheme have been started and are working satisfactorily. The societies will become self-supporting from the 3rd year.

11. *Attachment of agricultural farms, etc., to Secondary Schools and provision for play-grounds and village halls—(first grant).*—The original sanctioned allotment was Rs. 1,80,000 under the Director of Public Instruction. It was supplemented by a further allotment of Rs. 54,000 under the Home Department. The unspent balance of the grant is expected to be fully utilised during 1938-39.

12. *Minor drainage and flushing scheme—(first grant).*—It was decided that these schemes should be executed by District Boards under the supervision of the Engineer Officers of Government, after the schemes are selected and approved both by Government and the District Boards concerned. It was also decided that one-third of the estimated cost as well as the future maintenance charges of each individual scheme should be borne by the District Boards concerned and the remaining two-thirds would be met out of the Government of India's first grant. On this principle 30 schemes in 15 districts were selected and approved out of which 9 have been completed, 14 are nearing completion and the remaining 7 have not yet been taken up.

13. *Improvement in Chittagong Hill Tracts—(first grant).*—The details of the expenditure incurred are :—

	Allotments from the Government of India's grant. Rs.	Expenditure upto the end of November 1938. Rs.
1. Rangamati water supply scheme	5,000	5,000
2. Water supply	17,300	17,200
3. Clearing rivers of snags	200	200
4. Construction of small bridges and communications ..	3,500	3,500
5. Draining of Dhebas	2,000	2,000
6. Agricultural and Industrial improvement for exhibition	800	600
7. Agricultural and Industrial improvement	1,200	700
	30,000	29,200

14. *Playing fields and recreation grounds and improvement of village communication—(second grant).*—The allotments made from the Government of India's second grant are nearly exhausted.

15. *Improvement of rural sanitation—(second grant).*—Some antimalaria and drainage works have been carried out and other sanitary works (*viz.*, conservancy arrangements and the like) are in progress.

UNITED PROVINCES.

	Allotments from the Government of India's grant. Rs.	Expenditure upto 30th November 1938. Rs.
1. Main scheme	7,00,000	7,31,335
2. Departmental (Agriculture) schemes	3,28,000	2,10,625
3. Kumaun schemes	50,000	50,000
4. Public Health schemes	3,16,000	1,83,094
5. Industrial schemes	70,000	18,981
6. Publicity schemes	36,000	15,894
	15,00,000	12,09,929

The last mentioned five schemes totalling Rs. 8,00,000 were finally wound up in February 1938 and unspent balances aggregating to Rs. 3,21,407 were resumed by the Provincial Government. This amount was made available for allotments under the main scheme. With the resumption of unspent balances, these schemes closed.

Expenditure incurred under the 'main scheme' up to 30th November 1938, amounted to as under :

	Rs.
Main scheme	6,66,714
Other items, <i>viz.</i> , rural communications, water and seed supply ..	64,621
	7,31,335

Out of the balance about 2.40 lakhs have already been placed at the disposal of the District Officers to be spent on rural development activities in accordance with the instructions issued by the Government of India. The balance unallotted amounts to Rs. 50,872.

The Provincial Government have issued a separate report regarding all schemes of rural development under their control including those financed from the Central Fund.

PUNJAB.

	Alotments from the Government of India's grant. Rs.	Expenditure upto 30th November 1938. Rs.
<i>First grant.</i>		
(1) Consolidation of holdings	2,01,766	2,01,766
(2) Sanitary improvements in Gujrat district	8,829	8,829
(3) Bore-hole latrines in the Gurdaspur district	10,000	9,084
(4) Water supply schemes	2,25,322	1,00,800*
(5) Serum cellars	20,225	18,953
(6) Reconstruction of Veterinary Hospitals in Rohtak district	12,000	11,478
(7) Construction of 10 Veterinary Hospitals	60,000	59,032
(8) Broadcasting scheme	48,040	44,835
(9) Tanning scheme	75,920	71,983
(10) Fruit growing	62,000	62,000
(11) Well boring	25,898	25,898
(12) Discretionary grants	1,00,000	95,087
Total	8,50,000	7,09,835

*Includes Rs. 1,000 and Rs. 2,390 on account of expenditure incurred in connection with cinema films and loud-speakers and sheep development originally sanctioned in Government of India letter No. D-3170-B., dated the 23rd August, 1935.

Second grant.

(1) Water supply schemes	1,48,019	..
(2) Consolidation of holdings	1,81,006	1,44,789
(3) Reclamation of Choas	12,830	972
(5) Village Industries	4,270	1,664
(5) Award of prizes for good cattle belonging to the members of Co-operative Societies	3,000	..
(6) Village improvement scheme through Co-operative Department	2,000	..
(7) Construction of a normal school for vernacular teachers to give training with emphasis on domestic science	51,200	..
(8) A centre for training teachers to run Girls Guides Companies and Blue Bird Flocks	10,000	10,000
(9) Scholarships for the training of Dais and Nurse Dais in rural areas	10,500	2,037
(10) Appointment of Lady Assistant to the Inspector General of Civil Hospitals, Punjab	18,375	14,717
(11) Sheep development in the South West Punjab	5,380	..
(12) Development of indigenous sheep breeding in the Hariana tract	8,240	..
(13) Chakwal tahsil soil conservation project	11,000	6,773
(14) Cinema films and loudspeakers	21,000	3,100
(15) Coloured pictures and posters	10,000	1,150
(15) Work in the Army	4,500	415
(17) Well boring	18,000	15,586
(18) Village improvement schemes through District Officers Reserve	91,547	18,486
	153	..
Total	6,11,000	2,19,689

First grant.

2. (1) Consolidation of holdings—

(a) *Co-operative Department.*—An area of 52,764 acres has been consolidated during the period under report at a cost of Rs. 88,393 which gives an average of Rs. 1-10-9 per acre. Large areas are under operation. The movement is gaining momentum and the work is proceeding satisfactorily. The total area consolidated from the commencement of the scheme upto date comes to 1,27,693 acres. The work is of the utmost importance as it is much the quickest way of increasing the peasant proprietor's income. This increase runs from 10 to 25 per cent.

(b) *Revenue Department.*—Successful operations have been carried on in the Sialkot, Rohtak, Gujrat and Jhelum districts during the year. The Punjab Consolidation of Holdings Act and the rules thereunder were enforced in the above districts during the period under report. By the end of November 1938, consolidation of 26,566 acres was completed and an area of 42,807 acres was in hand. The scheme has been a success and the zamindars of several other villages have applied for consolidation of their scattered holdings, but for want of funds the work could not be undertaken. The two grants made by the Government of India of Rs. 50,000 each for this scheme have been spent. The operations are now being financed from the Provincial Development Fund.

(2) *Sanitary improvements in the Gujrat district.*—Sanitary improvements consisting of street paving, drainage and the making of wells safe from contamination have been completed at a cost of Rs. 26,486. Two-thirds of this total cost has been met from equal contributions by Dehat Sudhar Committees and the District Boards.

(3) *Bore-hole latrines in the Gurdaspur district.*—Three thousand one hundred and forty-six latrines have been put up in rural areas of this district at a cost of Rs. 9,084. The work however, was brought to a premature close to determine the safety or otherwise of these conveniences on the purity of the sub-soil water.

(4) *Eight Water supply schemes—*

(i) *Palampur water supply scheme, district Kangra, estimated cost Rs. 21,841.*—This work has since been completed. The accounts are being closed.

(ii) *Vehoa water supply scheme, district Dera Ghazi Khan, estimated cost Rs. 30,003.*—The pump house and storage and sedimentation tanks are well advanced. Machinery has arrived and is being set up. The work is expected to be completed within two or three months.

(iii) *Sakhi Sarwar water supply, district Dera Ghazi Khan, estimated cost Rs. 36,008.*—Boring work for the tube well No. 1 is nearly completed. One set of pumping machinery has been delivered and the other is on order. Full liabilities have been incurred for the work. It is expected that the work will be completed by March 1939.

(iv) *Burekhel water supply, district Mianwali, estimated cost Rs. 22,583.*—The work has been completed and is in use. The accounts are being closed.

(v) *Choa water supply, district Shahpur, estimated cost Rs. 30,666.*—The work is in hand. All materials have been delivered at site and pipeline construction has been begun. It is expected that the work will be finished by March 1939.

(vi) *Toba village water supply, district Jhelum, estimated cost Rs. 45,454.*—The work has been completed and is in use.

(vii) *Jabbi village water supply, district Shahpur, estimated cost Rs. 27,343.*—The scheme for the Joint Jabbi and Dhokri water supply in place of the original Jabbi scheme is under examination.

(viii) *Sanawan village water supply, district Mianwali, estimated cost Rs. 8,401.*—The work has been completed and is in use.

(5) *Serum cellars*.—One hundred and forty-one serum cellars have been completed at a cost of Rs. 18,953.

(6) *Reconstruction of Veterinary Hospitals at Rohtak*.—The Veterinary Hospital at Rohtak has been completed at a cost of Rs. 11,478.

(7) *Construction of Veterinary Hospitals in rural areas*.—All the Veterinary Hospitals have since been completed at a cost of Rs. 59,032.

(8) *Broadcasting scheme*.—During the period 1st December 1937 to 31st March 1938, twelve receiving sets continued to work in some of the villages of Karnal, Gurgaon and Rohtak districts. The villagers showed a keen interest in the rural programme and many applications for installation of community sets were received from those villages where sets were not installed. The rural programme comprising the following subjects was much appreciated :—

Use of improved implements, sowing of good crops, digging of manure pits, ventilation and local and foreign news.

The programme was also made more instructive by including in it talks on subjects of health, removal of social evils, civic responsibilities, indebtedness, etc.

Instruction was combined with entertainment to make the programme more attractive to the village folk by broadcasting dramas portraying village life, stories and dialogues bearing on rural reconstruction subjects.

With the opening of the Lahore Broadcasting Station by the All-India Radio, the scheme was transferred from Delhi to Lahore on 1st April 1938. Twelve sets installed in villages were delivered to the Deputy Commissioner, Gurgaon, for maintaining them in the district of Gurgaon and a sum of Rs. 1,000 has been placed at his disposal for this work.

Since the transfer of the Punjab Rural Broadcasting scheme from Delhi to the Lahore Radio Station it has been possible to devote more funds towards the improvement of the rural programme. The installation of sets in villages at Government expense has, however, been abandoned. Considerable success has been achieved in making the programme suitable for the rural areas and further efforts in this direction are being continued.

(9) *Tanning scheme*.—The scheme was started in the year 1935-36 with an allotment of Rs. 75,920. A sum of Rs. 28,000 has been spent on the acquisition of land and the construction of buildings for the Tanning Institute at Jullundur. Machinery and equipment worth about Rs. 30,000 has been purchased. The Institute has become popular as a large number of *chamars* and educated persons have received and are receiving training in tanning by modern methods therein.

The services of the Research Assistant were dispensed with in the beginning of the current financial year as no funds were available to retain him. During his stay he produced samples of leather tanned with *Carissa Spinaria* leaves. They are much superior to the samples tanned with babool with the aid of starch and other substances. The research work was continued in the Laboratory attached to the Institute by the students and the Chemical Assistant who is paid from the provincial grant.

Two travelling demonstration parties—one in the Multan and the other in the Gurgaon district—gave popular demonstrations to *chamars* in improved methods of tanning. These proved useful and popular, but they had to stop work in the second week of April 1937, owing to lack of funds.

(10) *Fruit growing*.—The scheme is divided into two parts—

(a) Making arrangements for the supply of plants at cheap rates from various reliable nurseries provided for the purpose—Rs. 47,000.

(b) Establishment of Fruit Preservation and Canning plant on a semi-commercial scale for experimental purposes, etc.—Rs. 15,000.

As regards (a), the nine nurseries at District headquarters and other important places in the province, viz. [Samli (Murree Hills), Sargodha, Lyallpur, Muzaffargarh, Gujranwala, Gurdaspur, Jullundur, Montgomery, Karmal], which were financed from the grant, have proved of great help in the supply of fruit plants at comparatively cheap rates in the province.

(b) The Fruit Preservation and Canning Plant which was established as an experimental measure on semi-commercial scale has given a great impetus to this industry and has awakened considerable interest in the public in general. A good number of visitors and prospective fruit preservers have been coming to visit the plant and to get an idea of the cost and method of manufacture of various products. During the period from 16th November 1937 to April 1938 about 1,400 bottles of lemon squash, orange squash and lime juice cordial were manufactured in addition to the manufacture of about 150 lbs. of marmalades and canning some grape fruit. In the summer of 1937 about seven hundred bottles of tomato ketchup and tomato juice and about 500 lbs. of pear jam were prepared besides the canning of about 800 tins of pears. These products are finding a ready sale in the market.

(11) *Well-boring*.—The overhead charges of Re. 0-12-0 per foot were temporarily abolished from 1st June 1938 on all agricultural bores as was done on the previous occasion on receipt of the first grant from the Government of India. This concession gave a considerable stimulus to well boring.

(12) *Discretionary grants*.—A sum of Rs. 95,087 has been spent out of the total sum of Rs. 1,00,000 granted for this purpose. The general nature of this grant was described in the report for the period ending with 31st July 1936.

Second Grant.

3. (1) *Water supply schemes*.—No expenditure was incurred upto 30th November 1938 on any of the following water supply schemes as funds were allotted for them only recently :—

(a) Hissar water supply schemes.

(b) Hoshiarpur water supply schemes.

(c) Kangra water supply schemes.

(2) *Consolidation of holdings*.—This has already been dealt with in para. 2 (1).

(3) *Reclamation of Chos.*

(4) *Village Industries.*

(5) *Award of prizes for good cattle belonging to the members of Co-operative Societies.*

(6) *Village improvement schemes through Co-operative Department.*

No noteworthy progress has so far been made owing to the fact that the actual allotment of funds has been made only recently.

(7) *Construction of a normal school for women vernacular teachers to give training with emphasis on domestic science*.—As the estimates for the work were recently sanctioned, no expenditure has been incurred, on this scheme upto 30th November 1938.

(8) *A centre for training teachers to run Girls Guide Companies and Blue Bird Flocks*.—The work has been finished at a cost of Rs. 21,626, out of which a sum of Rs. 10,000 has been met from the Government of India's second grant for this purpose.

(9) *Scholarships for the training of Dais and Nurse Dais in rural areas.*—The scheme for the training of *Dais* and *Nurse Dais* was implemented on 1st October 1938. Fifty *Nurse Dais* and a hundred trained *Dais* have been awarded scholarships of Rs. 15 and Rs. 10 per mensem each respectively. The remaining scholarships will be awarded from 1st April 1939.

In selecting candidates for training as *Nurse Dais* and *Dais* only women from rural areas have been chosen, the number selected for each district being based on the rural population of that district.

(10) *Appointment of a Lady Assistant to the Inspector General of Civil Hospitals, Punjab.*—When Dr. E. Hamilton Browne, M.B., Ch.M., D.T.M., W.M.S., who was selected for this post, assumed charge of the appointment on 15th February 1937, there had been no regular and systematic inspection of Women's Hospitals or Women's Sections of Civil Hospitals for a period of 12 years, i.e., since 1925 when the post was discontinued on account of financial stringency.

On 1st January 1937, there were 52 Women's Hospitals and 38 Women's Sections of Civil Hospitals under the charge of medical women in the province. There is at present a total number of 103 Women's Hospitals and Women's Sections of Civil Hospitals in the Punjab under the charge of women doctors.

The Women's cadre of the Punjab Civil Medical Service consisted of 2 Women Assistant Surgeons and that of the Punjab Subordinate Medical Service of 34 Women Sub-Assistant Surgeons on 1st January 1937. Since then the Women's cadre of Assistant Surgeons has been increased to 5 and that of the Punjab Subordinate Medical Service to 48 Women Sub-Assistant Surgeons.

During this period Dr. Hamilton Browne has, in addition to inspections of Women's Hospitals and Women's Sections, made a survey of Tehsil Headquarters in which no women Sub-Assistant Surgeons were employed to find out the facilities provided, the use made of the hospitals by the women of the *ilaqa*, the general conditions of the hospitals, towns and *ilaqas* with special reference to requirements in regard to female medical aid, e.g., isolation of the towns in the districts, their distance from the nearest women doctor, etc. These inspections have proved very instructive and illuminating and have served to illustrate to a startling degree, the great need for medical women in the rural areas of the province.

(11) *Sheep development in the South West Punjab.*—No expenditure has been incurred on this scheme so far.

(12) *Development of indigenous sheep breeding in the Hariana Tract.*—On account of the severe fodder famine in the Hariana tract it has not been found possible to incur any expenditure under the scheme during the period under report.

(13) *Chakwal tahsil soil conservation project.*—Spurs have been built in the Jhelum river bed to prevent erosion of part of the area of village Murid on the Sauj Khas which was in great danger of destruction from the effects of erosion. In spite of heavy rains in 1938 the damage done by floods to the spurs (which had been built and pitched with sand bags and stones and 30,000 shisham plants) was not serious and was easily repaired while the condition of the plantation is reported to be very good. No damage has been done to the village or its fields.

Experimental work in bund construction with a view to controlling the flow of water from the Suria unclassified forests in the Chakwal tahsil of the Jhelum district is also in progress. The bunds constructed so far held up a large quantity of silt while the result of sowings and plantings along the contour trenches is reported to be satisfactory.

(14) *Cinema films and loudspeakers.*—Five films have been purchased from the Indian Red Cross Society and Universal Pictures India Limited. The Coronation technicolour film has been shown to soldiers in the Punjab in almost all Cantonments.

(15) *Coloured pictures and posters.*—The making of pictures suitable for rural areas is not an easy job and requires not only technical skill on the part of the artist but also necessitates thorough acquaintance with rural life in the province. Combination of these qualities is rarely found in an artist and it was only after a great deal of labour on the part of the artist and the Commissioner, Rural Reconstruction, Punjab, that four suitable pictures have been produced. These pictures are still in the course of printing and more pictures will follow in due course.

(16) *Work in the Army.*—A model wall showing ventilation, chimneys and other necessities of a village home has been constructed in Lahore Cantonment for demonstration to soldiers. It is proposed to construct similar walls in each Cantonment in the Punjab. Portable models are also under preparation for demonstration to soldiers serving in the Punjab.

The Commissioner, Rural Reconstruction, Punjab, is in touch with Army Headquarters and various commands to find out other possible ways of assisting military authorities in teaching rural reconstruction to their Punjab personnel.

(17) *Well-boring.*—This has already been dealt with in para. 2 (11).

(18) *Village improvement schemes through District Officers.*—Out of the amount of Rs. 91,547 allotted to the following District Officers a sum of Rs. 18,486 was spent up to the end of November 1938, on village improvement schemes, e.g., improvement of village roads, street pavement, making of drains and pits for manure and improvement of water supply in villages :—

1. Ferozepore.
2. Lahore.
3. Amritsar.
4. Gurdaspur.
5. Sheikhpura.
6. Rawalpindi.
7. Attock.
8. Montgomery.
9. Jhang.
10. Muzaffargarh.

BIHAR.

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
1. Village communications	2,96,400	2,15,135
2. Rural water supply	4,20,210	3,34,287
3. Miscellaneous	1,22,000	89,168
4. Village welfare schemes	80,000	16,330
5. Unallotted reserve	48,890	..
	9,67,500	6,54,920

2. Village communications.—During the period under review 805 schemes were sanctioned of which 584 were taken up. In the Patna Division some of the road projects could not be taken up owing to the apathy of the local people who preferred that the grant should be spent on irrigation schemes. In the Tirhut Division the villagers have shown appreciation of the value of the Government grant and have co-operated in the execution of the schemes for village communications. In the district of Champaran there has been no expenditure under this head, whereas it is reported from the district of Saran that the villagers are not showing much keenness for the construction of roads, and some of the roads made out of the grant are already being encroached upon by the people who are in the habit of making encroachments on public roads. Action has been taken in some cases under Section 133 of the Criminal Procedure Code to check this growing tendency on the part of the villagers. It is also reported that in the Tirhut Division, the whole of which is subject to severe annual floods and inundations, and particularly in the district of Saran, the roads made out of the rural development grant have suffered substantial damage and are in a state of disrepair.

In the Bhagalpur Division progress has been generally satisfactory in the district of Bhagalpur, but in the Monghyr district it has been rather slow partly because of the difficulty of getting land and partly because of the unwillingness on the part of the villagers to contribute either in cash or in kind. The latter cause has considerably handicapped the progress in the district of Purnea. The incidence of floods has had the same damaging effect on the roads constructed out of the rural development grant in this Division as in the Tirhut Division.

In the Chota Nagpur Division the soil is peculiarly suitable for road making and lasting roads requiring very little recurring expenditure on maintenance and repairs have been and can be made from the grant in this Division. The main difficulties experienced have been the lack of enthusiasm of the people for road projects as compared to irrigation schemes, the difficulty of proper supervision owing to the large area of the districts, the difficulty in getting gifts of land from the landlords or tenants and the unwillingness of the villagers to contribute one-third of the cost.

3. Rural water supply.—3,422 schemes were sanctioned and 2,492 taken up. As already reported in previous years, the villages show much greater enthusiasm for water supply schemes than for village communications, and the Provincial Government agree with the unanimous view of the District Officers that money on water supply schemes is better spent to the greater and more permanent benefit of the rural population than on village communications. Satisfactory progress has been reported from all parts of the province in the execution of water supply schemes. In Bihar proper, these schemes have proved of particular benefit to the depressed classes for whom there were previously no wells, but the District Officer of Saran reports that it is difficult to secure the one-third contribution for the construction of the wells from the depressed classes either in cash or as labour. The members of the depressed classes mostly earn their livelihood by working as day labourers and find it difficult to work without any remuneration on the sinking of wells for any length of time as it affects their sole means of livelihood. Suggestions have been made by local officers to tide over these difficulties which are receiving the consideration of the Provincial Government. The District Officer of Saran also reports that the construction of a type of wells which is suitable for drinking purposes as well as for the purpose of irrigation has proved a great success in that district. The construction of new wells in the district of Muzaffarpur is reported to have greatly alleviated the sufferings of people from the scarcity of good drinking water and there is still a general clamour for more wells in the Sadr sub-division of that district. The sinking of wells has proved somewhat difficult in Jamui sub-division of the Monghyr district owing to the rocky nature

of the sub-soil. Lack of co-operation and general apathy in the construction of wells on the part of the backward Santal population has also been reported from the Banka sub-division in the district of Bhagalpur. Apart, however, from these instances, little difficulty has been experienced in the construction of wells which, generally speaking, has proved to be a great success and has been fully appreciated by the people.

4. Miscellaneous projects.—These consist of construction of sluice gates and small drainage regulators and projects for repairs to and strengthening of private embankments bordering the river Gogra in Saran and are confined to the Tirhut Division only. It is, however, reported that these works have not achieved the objects for which they were constructed and have not been able to withstand the heavy floods to which the greater part of the Tirhut Division is subject. The District Officer of Saran considers it more suitable to utilise the money under this head for desilting of drainage channels in the interior which have become choked up with silt. In the districts of Champaran and Darbhanga, the grant was spent on desilting of tanks which were rendered useless by deposit of sand due to earthquake and those which had been neglected for a long time by their proprietors owing to their straitened circumstances. The renovation of these tanks has proved of considerable benefit to the villagers and their cattle and has also provided villagers with reservoirs of water for minor irrigation. By far the most important project in this category that has been undertaken is the Bharthua Chaur drainage scheme in the district of Muzaffarpur which has now been completed. The completion of this project has proved a great economic asset as it has brought into cultivation hundreds of acres of fertile land which were previously a useless swamp and breeding ground for mosquitos. A similar project estimated to cost about Rs. 1,800 was sanctioned in the Hajipur sub-division of the Muzaffarpur district but has not yet been taken up.

5. Village welfare schemes.—The scheme contemplates an intensive programme of rural reconstruction at selected centres by setting up village organisations on co-operative lines. The programme of work includes, among other things, the introduction of improved methods of agriculture, encouragement of cottage industries, improvement of village sanitation, provision of good drinking water, expansion of primary education and introduction of social amenities like village sports, reading rooms, etc. Work has been started in four selected centres, one in each division. In each centre, which comprises a group of four or five villages, there are a Rural Welfare Officer and a Village Guide who with the assistance of a Rural Reconstruction Committee carry out the whole programme.

Among the improvements effected the following deserve special mention :—

- (i) **Mass literacy** :—Holding of night schools in the centres have been much appreciated by the villagers, and at one centre about 200 adults have been made literate, while at another there are 33 literacy centres where 750 students receive education at night and a girls' school with 30 girl students and similar work is in progress at the other two centres. A village library with over 600 books is maintained at one centre, a reading room at another and Scouting has been introduced at two centres.
- (ii) **Village sanitation** :—Attempts have been made to teach the villagers how to keep their environments free from filth and dirt. Preparation of soakage-pits, disinfection of wells and inoculation of children and cattle have received attention in all the villages under these centres. Fortnightly cleaning of villages is an important item of the programme. Wells were disinfected and new wells were sunk at some places.
- (iii) **Other items** :—Among other items, attempts made to develop cottage industries and to effect agricultural improvements and for the settlement of village disputes are worthy of mention.

6. *General remarks.*—In view of the difficulty of supervision of the work of village communications by the Sub-divisional Officers and of the still greater difficulty of maintaining these roads, the Provincial Government have, with the concurrence of the Government of India, transferred the work in regard to village communications to the District Boards subject to the condition that the control of expenditure and power of sanctioning individual schemes will rest with the District Officers. This decision, it was hoped, will result in satisfactory execution of the schemes of village communications and will ensure the future maintenance of the roads constructed out of the grant. The Provincial Government have, however, recently decided with the concurrence of the Government of India that the entire balance remaining out of the sums placed at the disposal of the District Officers in the Chota Nagpur Division, Patna Division, as also of the District Officers of Santal Parganas and Bhagalpur, and 75 per cent. of the grant available in the district of Monghyr shall, subject only to the retention of funds to meet commitments already made, be diverted to water supply schemes. Such schemes may be either new schemes or repair schemes and will consist of the construction of

(a) Ahars (reservoirs) and

(b) *Bandhs* and *Danrs* (embankments for conservation of water) and the desilting of tanks.

Progress has been somewhat slow due to the enforcement of the principle of one-third contribution, but nevertheless the Provincial Government are of opinion that this condition should be retained as an integral part of the scheme.

CENTRAL PROVINCES AND BERAR.

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
1. Rural water supply	1,20,000	95,963
2. District Officers' discretionary grants	1,00,000	75,759
3. Welfare of aboriginal tribes in scheduled districts ..	40,000	33,528
4. Cheap plan dispensaries in villages	15,000 } + 14,000 }	17,360
5. Experiments in poultry farming	10,000	9,068
6. Improved bulls for District Councils	30,000	22,230
7. Farm in Mandla district	30,000	25,188
8. Additional Debt conciliation Boards	1,00,000	1,00,000
9. Cinemas on lorries for demonstration work ..	20,000	19,220
10. Purchase of boring plants	15,000	13,945
11. Storage accommodation for cultivators' produce ..	20,000	6,708
12. Travelling dispensaries in rural areas	19,476	11,373
Total	5,33,486	4,30,342

2. *Rural water supply.*—The scheme contemplates the construction of 211 wells in the 19 districts of the province and the improvement of water supply in *raiayatwari* areas by the construction of 28 new wells and one tank, repairs to 38 wells, 10 tanks and the construction of a water channel. The expenditure against this grant is less than that shown in the last report. The reason for the reduction of Rs. 18,989 is that District Councils to whom the money is advanced in the first instance were required to refund the unspent balance on works which they have completed. It was hoped that the entire grant would be utilised by the close of March 1938, but the local bodies could not fulfil the condition in respect of their contributory share and most of them have applied for further extension of time till the middle of June 1939, which has been sanctioned by the Provincial Government.

3. *Discretionary grants.*—As previously reported the whole of the expenditure under this head is devoted to the construction of new wells, new tanks, repairs of old wells and tanks, repair of roads and construction of causeways on village roads. Such works number 308 in all of which 246 have been completed. The balance left on the 1st December 1938, on account of 62 works which are in progress, will be expended during the forthcoming hot weather.

4. *Grant for the welfare of aboriginal tribes.*—The schemes sanctioned by the Provincial Government include travelling dispensaries, construction of new roads and wells or repairs thereto and a small contribution to a dispensary in the Chanda district for the treatment of aboriginals suffering from a disease called "yaws". These works are 33 in number. A sum of Rs. 9,000 was allotted for the maintenance of two travelling dispensaries for two years in the Raipur and Mandla districts. These dispensaries have done useful work. A cheap plan dispensary at Khamla in the Betul district will soon be established. The link road from Khapa to Lutia in the Chhindwara district has now been completed. It has provided a valuable means of access to the Batka-Khapa Jagir, one of the wildest and most inaccessible regions in the Chhindwara district inhabited by aboriginal tribes. Of the remaining 29 works, 24 have since been completed. It is hoped that the balance of the grant will be expended during the year 1939-40.

5. *Cheap plan dispensaries.*—Out of the first allotment of Rs. 15,000 cheap plan dispensaries have been provided for Atnair in the Betul district, Kurkheda, and Bhamragarh in the Chanda district, Mounda in the Nagpur district, Mohta in the Betul district and Bilaigarh in the Raipur district. The first four dispensaries have already started working and the construction of buildings at the latter two places is expected to commence soon.

From the second instalment of Rs. 14,000 seven additional dispensaries are proposed to be opened at Sahaspur Lohara in the Drug district, Raipur forest village in the Amraoti district, Lamta in the Balaghat district, Barhi in the Jabulpore district, Baldi in the Nimar district, Karanjia in the Mandla district and Chicholi in the Betul district.

6. *Experiments in poultry farming.*—On the Borgaon Farm, suitable poultry houses, hens, etc., have been provided as already reported in the previous report, but owing to the gradual increase in the number of birds the present accommodation is not enough, and steps are being taken to provide additional accommodation at an estimated cost of Rs. 666.

Birds and eggs produced on this farm are advertised in rural areas through the agency of the demonstration staff of the Agriculture Department and also by exhibiting the birds at the 'Farmers Day' demonstrations on Government farms fairs and exhibitions.

On the Telinkheri Farm the poultry breeding experiments made good progress during the year under report. The number of birds was 475. During the year 22 improved cocks were distributed in the province. Fifty-three hens and pullets, eight cocks and 799 eggs for hatching were sold.

7. *Provision of bulls for District Council.*—In addition to 100 bulls and 19 buffalo bulls mentioned in the last report 63 additional bulls have been distributed free of cost out of the Government of India grant to District Councils and other institutions during the period under report. It is expected that the whole of the allotment will be spent by the end of the current financial year.

8. *Opening of a farm in the Mandla district.*—In addition to the buildings referred to in the last report, the following buildings are to be constructed during the current financial year :—

1. Central hall.
2. Overseer's quarters.
3. Implement shed.

The running expenditure of the farm is now being met from provincial revenues.

An area of 125.44 acres was put under kharif crops. Various types of kodon, kutki, groundnut, tur, soyabean, til, paddy, etc., were tried.

The rabi cropping includes various types of wheat, gram, linseed and peas which are at present under trial.

A considerable portion of the farm has been improved by laying out "bunds", roads, etc. Plots for raising transplanted paddy are also being laid out.

Twelve pure Malvi cows have been obtained to start a breeding herd there. These will be headed by a bull from Powarkhera (Hoshangabad) farm.

Eight pure Murrah buffalo-cows have also been purchased for the same purpose at a cost of Rs. 852. It is hoped to spend the balance of the grant during the ensuing financial year.

9. *Debt Conciliation Boards.*—Out of the five, centres, viz., Chhindwara, Damoh-Hatta, Amraoti-Chandur, Khandwa, and Ramtek-Umrer, at which Debt Conciliation Boards were set up with the aid of the Government of India's grant, the Amraoti-Chandur centre alone is now working, its expenditure being met from provincial revenues. The rest have been closed down.

10. *Cinema outfit for demonstration work.*—The fittings and equipment of both the Cinema Demonstration Lorries have been completed. They are now being used for demonstration work in the interior of the province. Spare parts worth about Rs. 200 have been ordered and the available balance of Rs. 580 will be utilised during 1939-40.

11. *Purchase of two well-boring plants.*—As already stated in the last report both the units ordered through the Indian Stores Department have been received. Some special tools, etc., are to be ordered during the current year. The remaining amount is likely to be spent during the next financial year.

12. *Storage accommodation for cultivators' produce.*—The work of constructing the godowns at Raipur and Bilaspur has been nearly completed and the one at Drug will be completed very shortly. A sum of Rs. 12,000 will be spent during the current financial year towards the construction of these three godowns. In all the three places growers' associations have been organised. As regards the two godowns to be constructed in the Nagpur district, it is hoped to construct one at Kohli during the current financial year and materials for the same are being ordered through the Indian Stores Department. The other godown at Kalamba will be constructed during 1939-40 and it is hoped to expend the balance by that time.

13. *Travelling dispensaries.*—Out of the allotment from the second grant sanctioned by the Government of India, twelve additional travelling dispensaries have been started during the period under report.

14. *General.*—From the second grant a sum of Rs. 33,485 was distributed as under :—

	Rs.
Cheap plan dispensaries	14,009
Travelling dispensaries	19,476

Programmes of works relating to other schemes have been prepared and are under examination.

NORTH-WEST FRONTIER PROVINCE.

	(a) Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
1. Drinking water supply schemes	81,401	41,842
2. Inter-village communications	2,027	350
3. Rural sanitation	6,650	..
4. Village irrigation channels	16,783	..
5. Village demonstration plots scheme	11,015	5,222
6. Fruit cultivation scheme	9,268	6,079
7. Discretionary grant including grant for control of hill torrents in D. I. Khan	86,906	86,906
8. Improvement of village roads	5,137	5,137
9. Anti-malarial Measures	15,000	15,000
10. Marketing facilities for local industries	2,106	2,106
11. Bara irrigation	4,264	4,264
12. Industrial shops	7,500	7,500
13. Manufacture of Shora Bone Meal	18,075	18,075
14. Unallotted reserve	33,888	..
	3,00,000	1,92,481

(a) The details differ from those given in the last report and are based on the latest information. The allotment of Rs. 10,000 shown in the last report for the opening of school farms has been withdrawn and credited to the Reserve.

(b) No expenditure will be incurred from the second grant under the heads shown against item Nos. 7—13.

2. *Drinking water supplies.*—During the period under report thirty-three water supply schemes were sanctioned. Proposals from the districts were received very late and the expenditure upto the 30th November 1938 is therefore small. Every effort is being made to complete the schemes before the close of 1938-39.

The automatic water-diviner and boring plant which was purchased in 1937-38 to carry out a sub-soil survey has not given satisfactory results in the Dera Ismail Khan district owing to the sub-soil water being saline. It is being now tried in the Bannu district.

3. *Inter-village communications.*—Fourteen schemes under this head have been sanctioned. Expenditure has been small owing to delay in submitting the schemes by districts. Every effort is being made to complete the schemes before the close of 1938-39.

4. *Rural sanitation.*—The sum of Rs. 6,650 for rural sanitation schemes has been sanctioned for the construction of pucca drains and metalling of kacha streets in Peshawar and Kohat districts.

5. *Village irrigation channels.*—Nine schemes under this head have been sanctioned during the period. The expenditure upto the 30th November 1938 is nil, as sanction has only recently been accorded. Efforts will be made to complete the schemes before the close of the current financial year.

6. *Village demonstration plot schemes.*—Village demonstration plot schemes were started in March 1938 and sixteen holdings have been selected at different places in the province. The plots are being supervised by Kamdars under the instructions of the Agricultural Assistant appointed for the purpose.

7. *Fruit cultivation scheme.*—The fruit cultivation scheme was started in February 1938 in order to assist the cultivators in combating the diseases of fruit trees. The work is in progress and the zamindars are beginning to appreciate the services of this orchard-servicing unit, and to adopt the necessary measures themselves.

ASSAM.

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
Rural water supply	3,92,326	2,13,000
Village roads	1,70,858	1,04,000
Village sanitation	50,998	39,000
Discretionary grants for public utility	64,015	33,000
Boro irrigation	40,000	39,961
Cattle breeding	65,000	33,000
	7,83,197*	4,62,060

* Includes allotments from Rs. 5,00,000 (second grant) earmarked but not yet allotted by the Government of India.

2. The Boro irrigation scheme is now complete. Allotments from the second grant have only been made in some areas and for some of the items of the scheme. The expenditure actually incurred during the period against the second grant under water supply, village roads, village sanitation and public utility, in places where allotments from the second grant have been made, is reported to total Rs. 24,923. In many areas the programme for expenditure from the first grant is being amalgamated with that for the second grant.

3. Progress of schemes—

(a) *Rural water supply.*—In the non-excluded areas 197 wells and 13 tanks were constructed and 2 old tanks renovated. The contribution of the villagers took the form of free supply of lands, labour and free carriage of materials. Progress was delayed in many cases by one or more of the following causes—

- (1) Delay in the selection of sites.
- (2) Lack of expert staff and skilled contractors.
- (3) Early rains.
- (4) Attempts to secure cash contributions, which in the great majority of cases failed.
- (5) Failure of borings.

The experience with the ring wells constructed has, in the Surma Valley at least, not been encouraging. Only in one subdivision (South Sylhet) were they found so satisfactory that the programme is being pursued. Elsewhere the Provincial Government are in favour of tube wells rather than tanks, which are liable to pollution. There are some complaints, however, of tube well water having an unpleasant taste.

In the excluded areas 13 wells were constructed and some water springs improved. The local contribution towards this scheme was mostly in the shape of free labour supplied by the villagers.

(b) *Village roads.*—In the non-excluded areas 136 miles of village roads and a large number of culverts and bridges were constructed. Some roads and bridges were also improved or widened. Land for the roads was obtained free. The maintenance of these roads will provide a problem in the future. The most important of the road projects, viz., the construction of a road from Jarain to Dawki in the Khasi and Jaintia Hills, is still in progress, but the portion completed has since been taken over by the District Officer for maintenance.

In the excluded areas two and a half miles of village road, ten miles of bridle path and one bridge were constructed and steps taken for the protection of another bridge. The villagers supplied free labour.

(c) *Village sanitation.*—The bulk of the money was spent in the construction of wells, tanks, village roads, bridges and culverts, the reclamation and cleansing of old tanks, the repairing of existing roads, the construction of drains and in anti-malarial measures. Land and labour were given free, as also cash contributions in some cases.

(d) *Discretionary grants.*—In the non-excluded areas, these grants were mainly used to supplement the allotments for village roads and rural water supply. Allotments were also made for expenditure on poultry breeding, purchase of books for village circulating libraries, purchase of *charkas* and Jacquard machines, construction of irrigation channels, excavation and improvement of waterways for boats, anti-malarial measures, raising of bunds for helping boro cultivation, cultivation of *jhara* grass to stop spread of water hyacinth, duck rearing, and for assisting some night schools and a leper colony. Some of the schemes were assisted by the supply of free land and labour by the villagers and among the notable sanitary improvements was the introduction of borehole latrines in a number of villages.

In the excluded areas the most important work taken up was the construction of a new building at Aijal in the Lushai Hills for the manufacture of rugs by the Lushais, which the Superintendent considers will materially raise the economic condition of the people. The work is in progress. The principle of local contribution and the condition that the amount spent by the District Officer at his discretion should not exceed ten per cent. of the allotment for the district were waived in this case by the Government of India in view of the peculiar conditions of the district. Money has also been spent on village roads and water supply and the opening of channels to irrigate terraces for wet rice cultivation in the North Cachar Hills, where it is most desirable to encourage the system in preference to shifting cultivation.

(e) *Boro irrigation.*—The amount shown under this head was spent in paying off the balance of the price of the pumping sets purchased during the preceding period (1st July 1936 to 30th November 1937) and in purchasing spare parts for the old machines. A balance of Rs. 38-0-9 only has been surrendered by the Director of Agriculture which with the permission of the Central Government may be diverted to other schemes. The Department had 24 pumping sets—20 purchased with funds from the Government of India's grant during the previous years and 4 purchased with funds provided by the Government of Assam. Of these, 3 were out of order, 1 was hired out to a private individual, 5 were kept as reserve against emergency, and 15 were actually employed in carrying out

demonstrations of the cultivation of *boro* paddy under mechanical irrigation. The 15 pumping sets were distributed as shown below :—

Goalpara district	..	..	..	..	..	3
Nowgong district	..	..	..	..	..	3
Sylhet district	..	..	..	..	..	9
						15

With the help of these 15 machines about 22,000 maunds of *boro* paddy were harvested from about 3,000 highas (about 1,000 acres) of land, compared with about 20,000 maunds of paddy obtained by means of 17 pumps from about 4,000 highas in the preceding year. The Director of Agriculture regards the result as a satisfactory improvement in respect of the area actually cultivated and of the outturn. Three individuals were encouraged by the success of the experiment to purchase pumps for themselves through the Provincial Government.

Cattle breeding.—On the basis of an original programme to supply 168 bulls, 96 bulls were distributed in groups during the year to different districts, with maintenance allowances not exceeding Rs. 5 per mensem. In some cases no maintenance allowances were needed. Among the bulls purchased in the previous year 3 died and 2 having been discarded as unsuitable were sold in auction. Taking into account 52 bulls previously issued 148 were in service on 1st December 1938, and a total of 4,451 cows have been served. This work is much appreciated and there has been a demand for bulls from all parts of the province. The number of bulls ultimately to be supplied has therefore been raised to 208. Thirteen stockmen were employed to supervise the groups. The total expenditure on this head has been Rs. 18,098-13-9 to date.

A sum of Rs. 15,000 paid to the Livestock Improvement Association of Assam is included in the expenditure of Rs. 28,099. This sum has been distributed to the subdivisional branches of the Association by the Provincial Executive Committee for the purchase and maintenance of bulls and for holding Cattle Shows. The work of organisation has been an uphill task, but has been gaining strength by experience.

4. General remarks—

(a) *Local contributions.*—It has generally been found difficult to persuade the villagers to contribute in cash. Consequently schemes for the opening of ring wells and tube wells have only proceeded with great difficulty and much delay. On the other hand there has been a great deal of labour given free particularly for work on roads, which according to the estimation of the local officers in many cases compares favourably with the Government's grant and in some cases far exceeds it. In the absence of a complete departmental agency to supervise and check the work it is naturally difficult to assess accurately the value of such free labour, and in respect of the first grant some District Officers have not attempted to do so.

(b) *Maintenance.*—In one or two cases Local Boards have represented either that the works carried out are not up to such standards as would justify their maintenance from the Local Funds, or that they have not the means to provide maintenance for works for which they were not responsible. In general, indeed, the poverty of most local bodies in Assam is likely to make this question of maintenance an important and difficult one.

(c) *Inspection.*—The Divisional Commissioners have furnished very full reports on the works carried out to the Provincial Government, which show *inter alia* the local contributions, as estimated, and the dates and agency of inspections. The *boro* irrigation and cattle breeding schemes have also been constantly watched by officers of the Agriculture Department and by the District Officers.

ORISSA.

				Allotments from the Government of India's grant. Rs.	Expenditure up to 30th November 1938. Rs.
1. Village communication	..	..	..	1,27,515	1,14,990
2. Rural water supply	..	..	..	1,59,685	1,32,768
3. Village uplift	..	..	..	2,300	2,058
4. Village welfare scheme	..	..	..	10,000	4,053
5. Cattle breeding	..	..	..	10,000	10,000
				3,09,500	2,63,869

2. The allotments for Village communication and Water supply reported last year had to be redistributed according to the requirements of certain localities. The progress of the schemes is explained in the following paragraphs.

3. In Cuttack district, out of 454 communication projects 324 have been completed, 46 cancelled and 84 are in progress, and out of 591 water supply projects, 393 have been completed, 77 cancelled, 91 are in progress and 30 have not yet been taken up. The Collector reports that the progress of work is usually slow owing to the reluctance of the villagers to bear their share of the cost either in the shape of labour or otherwise.

4. In Balasore, out of 139 projects for communications, the Collector reports that 71 schemes have been completed, 42 are in progress, 11 have not yet been taken up and 15 were abandoned owing to practical difficulties and lack of village co-operation.

Out of 283 schemes for water supply 191 have been completed, 31 are in progress, 43 have not yet been taken up and 18 abandoned, the villagers having taken no interest in them.

5. In Puri, out of 94 communications and 181 water supply projects sanctioned, 78 and 158 projects respectively have been completed and the remaining are in progress.

6. In Sambalpur, out of 286 projects for village communication and 250 for rural water supply 259 and 229 projects respectively have so far been completed and the remaining 27 and 21 projects are expected to be completed before the close of the year. The Deputy Commissioner reports that good communications have resulted in greater mobility in rural areas and agriculturists are able to select the market where they can sell their articles at the most favourable terms instead of disposing of them in their village at whatever price they will fetch. The execution of water supply projects has been of immense help to the villagers. They have relieved the villagers of their anxiety during times of scarcity of water and have to a great extent diminished the danger from epidemic diseases.

7. In Ganjam, 2 communication, 32 water supply and 7 village uplift schemes have been completed and only 2 water supply schemes are pending completion.

8. In Koraput, 21 well projects and 9 roads have been completed. The Collector reports that the inhabitants of the district are lazy and conservative in their habits and show little active desire to improve their material condition. This is not surprising as the majority of the population belong to the aboriginal tribes. It is, however, hoped that the successful completion of the works will encourage villagers to come forward for grants and show a spirit of co-operation, though it is very likely that in this district it can only be a slow and gradual process.

9. No provision has been made so far for the future maintenance of the works executed from this grant. The question is under examination.

10. The village welfare scheme which is being worked at Derserdeuli in the district of Cuttack and to which a sum of Rs. 10,000 has been allotted records a history of gradual progress and is active in 4 villages adjacent to the centre. The staff employed consists of one welfare officer, one guide and one kamdar. A Dai (nurse) has been trained in the Cuttack General Hospital and is also working in the village welfare centre. The general features of the work done at the centre are indicated below :—

(i) *Public Health and sanitation*.—General lectures on personal hygiene and village sanitation were given in each of the four villages. The nutritive value of different diets was explained to the villagers. Easing in open places was discouraged and trenched latrines were introduced. Clearance of village roads once a week was organised. Roads measuring 220 yards in length were repaired and new roads measuring 500 yards were constructed. 3 tanks were cleared and one tank was excavated. 37 persons were vaccinated against small-pox.

(ii) *Literacy*.—Reading of newspapers and delivery of lectures on welfare topics were continued on two days every week. Three night schools for adults and one school for girls were started. A school house was also constructed. The school for girls had subsequently to be closed owing to fall in attendance.

(iii) *Cottage industry*.—Eri culture and spinning of eri yarn were continued by six persons. Spinning by spinning wheels was demonstrated. Instructions on cotton spinning were given to seven persons. Three cowherd boys were induced to spin through takli. A spinning competition was organised and 25 persons took part in it. The villagers produced 65 dhoty pieces, 14 saris, 10 lungis and 38 yards of mosquito curtain which were all purchased by the local people.

(iv) *Agriculture*.—The Department of Agriculture supplied seeds free of cost for demonstration to work out the agricultural programme. People were encouraged to grow vegetables and fruits in their bari-lands. Local fruit trees were utilised for graft-making. Four compost pits were made in Derserdeuli.

(v) *Improvement of cattle*.—Three cultivators were induced to cultivate Napier's fodder and Guinea grass on small plots. Cuttings were supplied free. 20 cows were served by the bull of the Utkal Gomangal Samiti, and 4 calves have been born—one male and 3 female. The calves show distinct signs of improvement.

(vi) *Village amenities*.—Poran-path was continued. 4 magic lantern lectures were given. Some games were arranged. The students of the adult schools arranged a picnic. Two melas were organised by the villagers.

(vii) *Disputes*.—A panchayat of 5 members was formed in each of the four villages. A central panchayat was also formed which includes the local zamindars and the welfare officers besides prominent men of the villages. This central panchayat arbitrated a long standing dispute among the villagers of Derserdeuli. Ten other village disputes, both civil and criminal, were also successfully settled by the central panchayat.

11. The foregoing is a somewhat bare account of the work done during the year. On the whole greater attention has been paid to the improvement of the sources of water supply than to communications. In the nature of things work of this nature, which depends mainly on the co-operation of the villagers for its success, is bound to be an uphill task. Apathy, ignorance, caste prejudice as reflected in disinclination to do any manual labour, and the lack of mutual trust among the rural population have to be overcome. When these factors are taken into consideration there is every reason to think that the scheme has on the whole been worked successfully and has been appreciated by the masses in the country-side : and on the assumption that fresh grants will be forthcoming from the Central Government, the Provincial Government look forward with confidence, to another year of useful activity.

SIND.

	Alotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
1. Agricultural schemes	35,000	30,393
2. Industrial schemes	21,600	9,917
3. Discretionary grants	81,400	51,790
	1,38,000	92,100

2. Before describing the progress made during the period under report, it is necessary to point out that the whole aspect of the work of rural reconstruction in this province has been changed since the appointment of the Special Officer for Rural Reconstruction. The main features of the new programmes are as follows :—

- (a) While work of a general nature, especially that undertaken by the Agricultural and Industries Departments and general schemes of water-supply and sanitation, is undertaken throughout the districts, a small area has been selected for intensive development in each district.
- (b) A District Improvement Committee has been set up in each district and Village Committees formed in the villages selected for intensive improvement.
- (c) The work done from the Government of India's grant and that done from the grants now provided by the Government of Sind is now in accordance with a single definite programme, although expenditure from the Government of India's grants is confined to definite heads.

3. *Agricultural and Industrial schemes*.—

(i) *Agricultural schemes*.—The 18 seed and implement depots mentioned in the previous report continued to function. They sold about 11,804 maunds of pure seed of improved varieties of cotton, rice, juwar, bajri and oil seeds and 39 improved agricultural implements and they complied with 381 requisitions for the hire of implements. A new feature of the work was that the depot kamgars were sent into the villages to demonstrate the working of improved types of ploughs, and improved methods of cultivation. It is hoped to increase the number of depots to 33 in the future.

(ii) *Industrial schemes*.—The work of cottage industries was during the period under report practically confined to demonstrations in soap making and rope-making. In the latter case the Demonstrator has continued to work in Sukkur, but it is proposed shortly to send him to the talukas of the Upper Sind frontier.

4. *Discretionary grants*.—The expenditure from the Government of India's grant under this head is confined to improvement of water-supply, sanitation and hygiene. New features during the period under report were—

- (i) The provision of a considerable number of tube wells in Thar Parkar and Hyderabad districts, and in the areas selected for intensive improvement.
- (ii) Construction of bathing ghats.
- (iii) Supply of cess-pool carts.
- (iv) Supply of village medicine chests.
- (v) Improving and deepening of tanks.
- (vi) Encouragement to the junior Red Cross movement.

The touring medical officer has continued to do good work in the Upper Sind frontier district.

5. *General remarks.*—The progress made since the appointment of the Honorary Officer for Rural Reconstruction has been very real and substantial and in the areas selected for intensive development there is already a new spirit in the villages. A Publicity Officer has also been appointed and he has been furnished with material for cinema and magic-lantern shows. The Provincial Government intend further to provide a substantial amount for rural improvement in the budget for the forthcoming financial year.

DELHI.

	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
I. Improvement of water supply	70,500	43,566
II. Communications	12,500	12,074
III. Reserve	17,000	10,691
Total	1,00,000	66,331

2. (I) *Improvement of water supply.*—The commitments mentioned in the report for the period ending the 31st December 1937 have been met. In addition repairs are in progress to 34 depressed class wells in three *zails* and in one village of a fourth *zail*. Two tube wells and a test bore are also being made. The estimated cost of these new works, which have not yet been paid for, is Rs. 9,368.

The liabilities under this head are thus—

	Rs.
For works completed (all paid for)	43,566
For works in progress	9,368
	52,934

To this may be added about Rs. 17,000 for further works sanctioned and to be completed within a few weeks so that the expenditure incurred or now foreseen is Rs. 70,000 roundly.

II. *Roads and communications.*—The works completed in addition to those already reported are improvements to the Nangloi-Magholpur road at a cost of Rs. 1,093-1-3, and to short stretches of unmetalled roads at Khera Khurd and Neb Serai at a cost of Rs. 125. The villagers contributed half the total expenditure upon the latter work. The total expenditure under this head thus amounts to just over Rs. 12,000 against the allotment of Rs. 12,500.

III. *Deputy Commissioner's reserve.*—The expenditure under this head is largely indistinguishable from that under head II and the item of Rs. 1,093 referred to under Head II has in fact been transferred from Head III since the last report was submitted. The works completed are culverts at Katwaria Serai and Silampur at a cost of Rs. 7,951. The works in progress are the construction of an irrigation bund at Mehpalpur, the digging of ponds at Puth Khurd and Bawana and the metalling of approaches to Khera Khurd canal bridge. The estimated cost of these works is Rs. 6,100.

The liabilities under this head are therefore as follows :—

	Rs.
For works completed	10,692
For works in progress	5,950
For works sanctioned but not yet begun (Khera Khurd canal bridge approaches)	150
Total	16,792

3. *Summary.*—Including actual disbursements, payments due to contractors, and all sanctioned items, the progress of expenditure against the sanctioned allotment of Rs. 1,00,000 is as under :—

I. Improvement of water supply	69,934
II. Roads and communications	12,074
III. Deputy Commissioner's reserve	16,792
Total	98,800

The small balance is reserved for the present for emergent cases.

In almost all works under Head I, villagers have been made to contribute either in labour, cash or kind during the year under report. Due to the famine conditions prevailing this year, cash contributions have been made only in a few cases. Under Heads II and III contributions have been made in the shape of labour.

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	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
	Rs.	Rs.
(1) Improvement of village roads and construction of small bridges and culverts	23,250	27,209
(2) Propaganda for improvement of agriculture and sanitary conditions	22,750	19,160
(3) Improvement of live stock	1,000	1,583
(4) Discretionary grant	3,000	3,000
Total	50,000	50,952

The excess expenditure, *vis.*, Rs. 952 is debitable to the second grant of Rs. 50,000.

2. *Improvement of village roads and construction of small bridges and culverts.*—Further improvements and repairs were carried out on the Bhinai Kekri road, the Beawar Jalia Kotra road and the Srinagar Kanpura road which were originally selected. The works on the latter two roads afforded relief to villagers in the areas where distress is prevalent due to the failure of the crops.

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3. *Propaganda for improvement of agriculture and sanitary conditions.*—Three agricultural assistants aided by eight agricultural demonstrators, toured the villages and did propaganda and demonstration work. Practical demonstrations were given of cleaning village streets, providing drainage, and filling pits and depressions. Quinine was distributed during the malarial season. The plan of agricultural operations included experiments in the following crops :—

Wheat, barley, oats, gram, linseed, sugarcane, tobacco, lucerne, mungold, barseem, cotton, groundnut, maize, bajra, jawar, early arhar and soya beans.

Trials were carried out in the cultivators' own fields in selected villages and as a result of these experiments some of the cultivators have now adopted improved seeds, notably Punjab C. 591 wheat, giant Jaunagar bajra, and Co. 290 sugarcane.

The Sindwahi gur boiling furnace was demonstrated at 7 places.

Demonstrations were also given of :—

- (1) the manufacture of rain watered compost ;
- (2) the preparation of bone char manure ;
- (3) silage making ;
- (4) the use of green manure ;
- (5) the use of cover crops ;
- (6) line sowing of cotton ;
- (7) drying of cotton seed to eradicate the pink bollworm ;
- (8) interculture of cotton by the Indore ridger ;
- (9) control of juar smut by the treatment of seed with copper sulphate solution ;
- (10) control of the Katra insect and white ant by the application of poisoned bran ;
- (11) destruction of field rats by poison ;
- (12) clarification of cane juice by the activated carbon process ; and
- (13) the use of improved implements such as the monsoon plough Kans plough and seed drill.

The season was unfortunately unfavourable to agricultural experiments owing to the severe shortage of rain.

Agricultural demonstrations and exhibitions of improved seeds were organised on the occasions of the Teja fair at Kekri and Beawar and the Pushkar fair. Cinematograph shows of agricultural films were also provided.

Five Indore ridgers were sold during the year under report.

Instructions on the following subjects were given to villagers by the Agricultural Assistants :—

Care and improvement of live stock, fruit and vegetable farming, rural sanitation, education, co-operation and social reform.

Free supply of medicines was made to villagers in the more unhealthy tracts by school teachers, in whose charge 100 medicine chests, purchased through the Public Health Department, United Provinces were placed. This system proved a success.

4. *Improvement of live stock.*—Of the 4 bulls of the Tharparkar and Hariana breeds maintained for breeding purposes, one died. 2 bulls are still immature. The remaining bull covered 33 cows during the year.

5. *Discretionary grant.*—The grant of Rs. 3,000 was allotted for the following purposes :—

(1) Construction of a causeway across the nullah in mile 4 of the Beawar Jalia Kotra road—Rs. 2,000.

(2) Propaganda for better living in rural areas—Rs. 1,000.

The work of constructing the causeway has been completed.

Two Sub-Inspectors were engaged on Rs. 40 each per mensem with effect from the 1st September 1937 for conducting propaganda on better living. During the period under report, these Sub-Inspectors opened thirteen societies in the district, and did propaganda work as a result of which the villagers began to abandon their more wasteful habits and curtailed expenses on funerals and on social festivities.

	COORG.	Allotments from the Government of India's grant.	Expenditure upto 30th November 1938.
		Rs.	Rs.
(1) Discretionary grant		17,346	11,439
(2) Water supply schemes		52,585	33,126
(3) Rural sanitation—Angers		3,000	1,333
(4) Cattle breeding		1,740	982
(5) Veterinary shed		1,260	1,100
(6) Bee-keeping		3,000	3,000
(7) Village communications		4,289	1,134
Total		83,200	52,114

2. *Discretionary grant.*—The grant was utilised for sinking four wells for drinking water in places where the need for it was keenly felt, restoring a tank, repairing two channels, constructing a dam across a stream for the purpose of irrigation, putting up a spar-bridge and for clearing noxious weeds such as lantana. Silage pits were opened in important centres and the method of preserving succulent fodder for cattle was demonstrated to the public. The results in all these cases are satisfactory.

3. *Water supply schemes.*—During the year under report twelve tanks were restored, two channels were excavated, an anicut was constructed and twelve wells were sunk, and all these works are in good condition. They have been accomplished to the best of advantage of the rural population and the results achieved can be said to be satisfactory.

4. *Rural sanitation.*—In all 280 bore-hole latrines were constructed and the people were advised to have bore-hole latrines wherever necessary, as a result of which, the sanitary condition of some of the rural areas has improved considerably.

5. *Cattle-breeding.*—Five bulls, two Gir and four Murrah buffalo bull calves were bought during the year for distribution to various co-operative credit societies, and to cattle owners with a view to improve cattle breeding in important villages.

6. *Veterinary sheds.*—The construction of two suitable sheds for housing breeding bulls was completed at a cost of Rs. 1,100.

7. *Bee-keeping.*—A sum of Rs. 3,000 was spent towards the purchase of necessary machinery for extracting honey from box-hives. Bee-keeping is taken up as a subsidiary industry in a large scale throughout the province.

8. *Village communications.*—Two village roads were opened, and three repaired and were made fit for vehicular traffic. The condition of these roads is good.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I lay on the table.*

- (1) Central Government Appropriation Accounts of the Defence Services for the year 1937-38.
- (2) Central Government Audit Report—Defence Services 1939 (including report on the Appropriation Accounts of the Defence Services for 1937-38).
- (3) Commercial Appendix to the Appropriation Accounts of the Defence Services for the year 1937-38 and the Audit Report thereon.
- (4) Appropriation Accounts of Railways in India for 1937-38 ; Part I—Review and Part II—Detailed Appropriation Accounts.
- (5) Railway Audit Report 1939.
- (6) Capital Statements, Balance Sheets and Profit and Loss Accounts of Railways in India including the Balance Sheet and the Profit and Loss Account of the Tatanagar Workshops.
- (7) Balance Sheets of Railway Collieries and Statements of all in costs of coal for 1937-38.
- (8) Central Government Finance Accounts 1937-38 and the Audit Report 1939.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

INSERTION OF NEW SECTION 42-B.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B) be continued.”

The House will recollect that the Bill, copies of which are in front of them, was introduced by Sir Sultan Ahmad in July, 1937. The House adopted a motion for the circulation of the Bill in February, 1938 and the opinions have all been received. It would have been possible to make a motion on the further stages of the Bill last Session but I understand that that Session was somewhat congested and no motion was made. In consequence, this motion for continuance is necessary. We attach some importance to the Bill and if the House adopts this motion, I propose at a later date to make a motion for referring it to a Select Committee.

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

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B) be continued.”

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : The objection, so far as I remember, taken at that time was to the use of the words “ Federal Railway Authority ”. The Assembly at that time discussed this matter at great length. The point was how this Assembly could be asked to acquiesce in Federation when they have not given their verdict to this effect.

*Not included in these debates, but copies have been placed in the Library of the House—E. of D.

Now, as regards the words which are used here, viz., “ the Federal Railway Authority ”, there is no such thing in existence at present and how can this proposed new section confer any powers at present on that Authority and how can this section, therefore, be enacted ? I would like the Honourable Member to explain that point.

The Honourable Sir Andrew Clow : That, I submit, is a point that we might discuss when the Bill comes up. Obviously it would not confer any powers at present on the Federal Railway Authority because no such authority is in existence.

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

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B) be continued.”

The motion was adopted.

THE INDIAN RUBBER CONTROL (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move :

“ That the Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar be added to the Select Committee on the Bill further to amend the Indian Rubber Control Act, 1934.”

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think this motion is necessary. Sir Nripendra Sircar is succeeded by the Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar. He was a Member of this House when the Bill was introduced ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar succeeds me really. Some doubt on this position was cast and

Mr. President (The Honourable Sir Abdur Rahim) : The Chair follows the latest ruling of Sir Shanmukham Chetty reported in “ Decisions from the Chair ”, 1931-34, at pages 42 and 43. The Chair does not think it is necessary for the Honourable Member to make this motion.

THE INDIAN ARBITRATION BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I introduce the Bill to consolidate and amend the law relating to Arbitration.

THE INDIAN TEA CESS (AMENDMENT) BILL.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Tea Cess Act, 1903, 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 Indian Tea Cess Act, 1903, for a certain purpose.”

The motion was adopted.

The Honourable Dewan Bahadur Sir A. Ramaswami Mudaliar : Sir, I introduce the Bill.

THE MEDICAL DIPLOMAS BILL.

Mr. G. S. Bozman (Secretary, Department of Education, Health and Lands) : Sir, I beg to move for leave to introduce a Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935.

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

“ That leave be granted to introduce a Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935.”

The motion was adopted.

Mr. G. S. Bozman : Sir, I introduce the Bill.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908, 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 Code of Civil Procedure, 1908, for a certain purpose.”

The motion was adopted.

The Honourable Mr. J. A. Thorne : Sir, I introduce the Bill.

THE INDIAN CENSUS BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I beg to move for leave to introduce a Bill to provide for certain matters in connection with the taking of the census.

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

“ That leave be granted to introduce a Bill to provide for certain matters in connection with the taking of the census.”

The motion was adopted.

The Honourable Mr. J. A. Thorne : Sir, I introduce the Bill.

THE INDIAN SALT (AMENDMENT) BILL.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I move for leave to introduce a Bill further to amend the Indian Salt Act, 1882, 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 Indian Salt Act, 1882, for certain purposes.”

The motion was adopted.

The Honourable Sir Jeremy Raisman : Sir, I introduce the Bill.

MOTION RE REPORT OF THE PACIFIC LOCOMOTIVE COMMITTEE.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That the Report of the Pacific Locomotive Committee be taken into consideration.”

I need not dwell on the circumstances in which this Committee was appointed because these will be within the recollection of this House. Just about a year ago they voted a supplementary grant for the purpose of defraying the costs of the Committee. The report has been in the hands of Honourable Members for about two months, and I trust that they have studied it carefully. The Committee had a difficult and arduous task and I am sure all Honourable Members will agree with me that they have brought to it both a wealth of varied experience and very devoted care and attention. I might mention that they covered 7,000 miles of our Railways, travelling frequently at speeds at which we would not allow Members of this House or the public to be carried, and they visited all our leading broad-gauge workshops. I shall have occasion to recur later to the value to India of this report. But I might mention that it is not only to India that I believe it will be found valuable : the British Minister of Transport, speaking a short time ago, said of this Committee's work that “ this is a magnificent example of collaboration and on behalf of the Ministry I welcome all the work that has been done.” This report will be studied in other countries also and I believe that it makes a contribution of lasting value to the problems with which it deals. It puts not merely laymen like ourselves but those who have made a life-long study of these matters in possession of new light on this very difficult subject.

Now, the report is a long and complex one and, obviously, I cannot attempt to deal with more than its broad conclusions in a speech of this kind. So we have circulated to Honourable Members a pamphlet which deals with the detailed recommendations and gives a brief indication of the action which the Railway Board are taking or the action which is contemplated on each of these recommendations. I do not propose to refer to these details further in this speech ; but, of course, if any Honourable Member wishes to raise any point arising out of that pamphlet, I shall do my best to deal with it in my reply.

If Honourable Members will look at the terms of reference they will find that they fall into two groups ; the first three deal with the past and the second three with the future : and I propose to deal with the subject in that order. So far as the past is concerned, I think four main issues arise. These relate to, first, the policy of standardization ; secondly, the choice of the Pacific type of locomotives ; thirdly, the actual design of the locomotives ; and fourthly, the placing of the orders before the engines had been fully tried. Of these, the first two need not detain us long. As regards the policy of standardization, I do not think we need have any hesitation in coming to the conclusion that it was a wise step. It did create certain difficulties by transferring responsibility to a considerable extent from England to India. This increased the difficulties of co-ordination and references will be found to that point in the Committee's report. But both from the financial and administrative point of view it

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was obviously sound and I might add that if we can embark on the construction of broad gauge locomotives in India, the progress made with standardization will be one factor—an important factor—which has made that possible.

As regards the choice of the Pacific type, I do not think we need feel any hesitation in endorsing the Committee's view that the Standardization Committee were justified in adopting that type. They observe :

“ The Pacific is the most widely adopted passenger type in the world, and no criticism can justly be levelled at its employment in India on appropriate services ”.

The advantages of this type have been well expressed in a quotation which I take from a leading engineering journal in England. They say :

“ There is no steam locomotive type more popular the world over for the haulage of express passenger trains than the ‘ Pacific ’. It has proved itself in service through many years of experience in all countries, and has rarely been found wanting. Its bogie, properly designed and maintained, gives good control on the straight and on curves, its small carrying wheels at the back obviate rear overhang, whilst permitting the use of as wide a fire-box as the gauge allows, and its six coupled wheels provide adequate adhesion without excessive axle loads for trains of considerable weight ”.

To this I would merely add that the wide fire-box was of particular importance in India in view of the advantage of burning second class coal. That is one of the main factors which led to the choice of this type.

Coming to the design, the Committee found that as power units the engines appear to have been justified. Attention has naturally and, quite rightly, been concentrated on the engines as vehicles and so I venture to remind the House that the design of engines as power units is of primary importance. The first duty of a locomotive is to carry a load. I have no time to enlarge on that point but would just like to give one illustration. I am going to take the XC engines which are the heaviest and most powerful of the three types and which are running, among other places, between Lahore and Karachi. There the introduction of these engines has meant that six engines now do what required ten before and that we have been able to increase the load on the trains from 350 to 540 tons. What does it mean? It means that whereas formerly we were able to accommodate 120 inter class passengers and no third class passengers at all, we have now accommodation for 80 inter class passengers and 483 third class passengers and we carry an Indian Dining Car as well. It has also meant that the fuel per ton mile has been cut by 25 per cent. and that the estimated saving annually from these engines in that area alone is 5½ lakhs of rupees. They have also enabled the Sind Express which carries a large number of third class passengers to be run more or less to the same timings as the Mail. I may remind the House that these engines since their introduction have run 25 million miles and have never had an accident.

As vehicles, however, the Committee find that the original design was defective. I think on this point I had better quote the most relevant passage of the report in full. What they say is this :

“ The engines were, therefore, not suitable as vehicles for high speed operation ”,

and, after referring to the hitherto baffling fact of the differing performances of these engines in different areas and in different times, they go on as follows :

“ The engines were what might be termed border line cases. The degree of side control provided was not of such a value that all the engines hunted all the time. Its value was such that if the bogie and engine generally were maintained in good order, and if the track was rigid and in good line and level, an engine might run satisfactorily for long periods. On the other hand, because of the border line nature of the engines as designed, they were extraordinarily sensitive to track irregularities ; although track might appear satisfactory when examined in the usual way, it may, when the load is applied, provide differences in gauge and level sufficient to initiate hunting as was proved by experiment on the Bombay, Baroda and Central India Railway ”.

The truth is that there was insufficient appreciation of one fact on which the Committee lay great stress, and that is the inter-dependence of the locomotive and the track. What they say is this :

“ The most important consideration in the investigation of the performance of a locomotive as a vehicle, and of the track upon which it runs, is that they are in effect two parts of the same machine ”.

It is this fact, as the Committee observe in the paragraph I have omitted, that explains the puzzling differences between the performances of these engines in different parts of India. All our recent research—and we know now a great deal more about hunting than we did a year ago—goes to show that dangerous hunting is initiated by some defect or some weakness in the track. That need not be a defect which is capable of being seen by ordinary inspection. We have now secured records which show very accurately the forces exercised by the flanges of the wheels on the rails. And these show that if an engine is run a number of times over the same stretch, high flange forces are set up at the same spot in each case and that you can remove that danger from high flange forces and oscillation by attending to the track at the appropriate point.

Now, it is rather important that we should be clear as to the results that flowed from the defective design. I mention this because I read in one journal the suggestion that the designers were responsible for the Bihta accident. That, of course, is quite frankly nonsense if not something worse than that, and that is an attempt to create prejudice. Sir John Thom's report made it clear that the Bihta accident would not have occurred had the speed limits then in force been strictly observed. What he said was :

“ There is nothing in the evidence to justify the conclusion that the track at the site of the accident would have been distorted by an engine running steadily or by an XB engine running at 45 miles per hour or under ”.

What, then, are the results that can be fairly attributed to this weakness in the design? In the first place, a great deal of trouble in the shops and sheds, both on repairs and on the very numerous alterations that were carried out. In the second place, a good deal of extra labour on the track. In the third place, in some areas traffic difficulties owing to the speed restriction. In the fourth place, a very large amount of experiment and research which was culminated in the report now before the House. Although all these effects—and I have dealt only with the unfortunate effects of the design and not with the fortunate effects—can be attributed to a design which we now realize to be defective, I do not feel

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myself that we can attribute any negligence to the designers in this respect. Granted the choice of the Pacific Engine, and that, as the Committee observe was justified, there is no evidence that they did not bring all the skill and experience that were available to their task. The designs were based on the best principles of Pacific design elsewhere. The bogies, where we now see the main defect to have lain, were copied from a well-tried standard design. When defects began to appear, an untiring series of experiments were tried, and an immense number of alterations were made. Actually the first change that was made, a change that was carried out on all the engines was a change in the direction of the main recommendation made by the Committee. But, unfortunately, its effect appears to have been masked by other alterations which were introduced and it would seem now that the process was not carried nearly far enough. I am referring to the strengthening of the control springs of the bogie in the front. At that time it was not possible to measure accurately the effect of any alteration to be introduced. That has only been made possible by recent invention. Throughout I cannot find any reason for believing that the Railway Board and those subordinate to them did not keep fully abreast of the growth of the practice and theory on this subject. Indeed the Report itself indicates that they have made themselves a valuable contribution to international thought on the subject. In fact those who were responsible for the design cannot in my view be blamed for applying knowledge which they did not possess and which no one else possessed at that period.

Now, I come to the question of the purchase of engines. I think this raises two issues which can best be discussed separately. The first is the purchase of a large number of engines before any trial was made in this country. The second is the "continued purchase", that is the purchase of certain engines after some had been running for some time. I am going to deal with the second question first because it is a minor issue in my view and I shall come back later to the question of purchase without trial. Actually all the XCs were purchased before any trial so that the second issue of continued purchase relates only to XAs and the XBs. In the case of XAs, 27 were ordered after the first batch had been working for six months and during that period there have been no complaints whatever. A further 21 were ordered seven months after that when there had been some experience of unsatisfactory running. But as the Committee point out, just after that decision orders were sent home to suspend work on the batch then under construction in respect of both the bogie castings and the hind trucks. Further experiments were continued and further alterations were made and when it was believed that a satisfactory solution has been found an order was given to go ahead.

The case of the XBs is very similar. 27 were ordered after the first batch had worked for a few months and during that time in the case of these locomotives again there had been no complaints. A further batch of 16 were ordered for two Railways, after the first batch then in service for a little over a year, that is ten engines for the East Indian Railway and six for the Madras and Southern Mahratta. During that year there had been trouble on one of these Railways—the East Indian

Railway—and elsewhere and there had been a derailment at Talandoo. Curiously enough in that derailment the Railway officers were disposed to blame the engine, while the Senior Government Inspector found difficulty in accounting for the distortion of the track. But the information in the possession of the Board just before the contract was placed was that the troubles on the East Indian Railway had been cured by the alterations introduced after experiment, and that the engines had been restored to mail traffic. On the only other railway for which they were being ordered, the Madras and Southern Mahratta, the engines had also been running satisfactorily.

There were, however, two locomotives ordered later after the engines could be regarded as fully tried out and these two were ordered in 1934 for the Madras and Southern Mahratta Railway. The Railway asked for them specially and, as I said earlier, they have given constant satisfaction on that railway, although they were running at one time up to speeds of 70 miles an hour. Apart from this last order of two locomotives in respect of which I do not think any one can question its reasonableness, no order was placed for any of the three types after 1930. And I do not feel myself that in 1930 those responsible had any reason to feel that the troubles which had been experienced, and they were then few, were anything more than what engineers call the teething troubles. For these, they believed that if a solution had not already virtually been found, there was no reason for thinking at that date they were up against serious difficulty.

I might, however, add, that the period which engineers seem to regard as adequate for trials is about two years. At least that is the period mentioned in the Committee's report, in paragraph 185; so that it would be hardly unfair to say that all the engines, except those two ordered in 1934, were ordered without trial or without full trial; and that is obviously the point at which the Railway Board are most open to criticism. Now, sir, the House will find reasons for the step—and it was a change of policy, it was a departure from the policy previously followed and from the policy they are following now—the reasons for that step are given in paragraph 185 of the Report. To put them very briefly, the reasons were first, the desirability of introducing Indian standard types, secondly, the immense importance, in view of the coal resources of India and the phenomenal rise in coal prices which had taken place, of securing the right type of coal for the Pacific type engines; and, thirdly, the deterioration in the locomotive position as a result of the war and the post-war period, which necessitated the purchase of a large amount of new engines. I would remind the House that we expect a locomotive to last for 40 years so that the purchase of an obsolete type means that you are landed with obsolete engines for more than a generation. Moreover, I think it is worth pointing out that if any extensive trial was to be given to the engines, it would have been necessary to order a considerable number. The Committee point out that one administration observed that they would require a complete link for the trial of the engines. In the light of what we now know, it is quite clear that trials of that type on one or two railways would not have been adequate. The XBs might have been well tried on one or two railways and given entirely satisfactory running, but they might prove unsatisfactory elsewhere. After summarising the reasons

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ing between the flanges of the wheels and the track and thus to judge of the suitability of the different steps that occur to engineers for the removal of any trouble.

Now, the Committee appear to be satisfied that normally with these engines as at present devised, the more dangerous flange forces are exercised by the front pair of coupled wheels, that is, the front pair of the six driving wheels. The essence of their most important proposals means the transfer of pressure from these wheels to the bogie at the front. It is not exactly a transfer because fairly obviously you get the same amount of control at the front from a less amount of pressure, very much on the principle of the lever or crowbar. What I might describe as the core of the Committee's proposals would be found on page 60 of their report where they say :

"The best that can be done on the engine has been clearly shown to be the reduction of coupled wheel flange forces ; this can be achieved by increasing, so far as is practicable, the side control of the bogie, having regard to the characteristics of the hind truck. This, in essence, is the most important practical measure which can be taken in engine design, to reduce the reactions on the track."

And the most important recommendations in the Appendix are designed to this end. Thus, for example, they recommend that the strength of the bogie control springs, both the initial strength and the maximum strength, on compression, should be very greatly increased. In other words, the bogie should have less freedom of movement, so that when the engine starts to swing, there will be a greater centring force on it. At the same time, they want to prevent a high degree of friction there when the bogie moves on its slides so as to avoid a force which would counteract the effect of those springs. If my description has been in the least clear, I do not think Honourable Members will have much difficulty in following the first few and important recommendations in the Appendix.

Coming to the back of the locomotive, to the trailing wheels, to the connection between the engine and tender and the tender itself, the recommendations, as far as I have been able to follow them, are designed to ensure that oscillation at the rear is damped down, and you do not get forces set up which would neutralise or diminish the effect of the control springs at the front. The recommendation that new engines should have control springs for the hind truck is obviously based on the same considerations. The recommendations as regards the maintenance of the engines are fairly straightforward ; the better the degree of maintenance the less likely you are to have oscillation and hunting. I do not think Honourable Members will have any difficulty at all in following the recommendations regarding the speed and the track.

Let me try, in conclusion, to analyse the position regarding the future. India has 284 locomotives of types XA, XB and XC. How are we to assess their value ? The bulk of them have rendered and are rendering excellent service. So far as the biggest group is concerned, the XAs, I can find no evidence that they have proved at all unsuitable for the work they were designed. They have a much lighter load, axle-load than the B. E. S. A.—4.6.0 s, and they were designed for mixed traffic on branch lines. I cannot find any record of trouble there. Such trouble as did arise was due to the fact that they had to be used for other work,

because on certain sections the track was not regarded as strong enough for the B. E. S. As, which the Committee suggest might have been purchased. The XCs gave trouble in the early years, but they had never had any derailment, nor is there any record of distortion in the last five years, so that I think the designers can reasonably claim them as successes. The XBs have admittedly given more serious trouble, although as I said earlier they have not given trouble everywhere. On the Madras and Southern Mahratta Railway, for example, they are regarded as definitely successful.

But many of the engines are subject at present to speed restrictions which impair their universal usefulness, and we should naturally like their removal. And the removal of relaxation or any other restrictions now in force must depend on our being satisfied that the flange forces which are being exercised are thoroughly safe. We have not, of course, completed the series of experiments which the Committee has recommended ; but so far as they go, they afford very gratifying confirmation of the soundness of the conclusions in the Report. We know now, what I do not think we knew two years ago, how hunting originates. We have the means now, which we certainly did not have two or three years ago, of estimating the extent of the danger involved in increasing the flange forces and the oscillation set up, and of knowing what effect the experiments and alterations are having, and we believe, I admit not for the first time, but I think this time with more solid grounds that the Committee have provided us with a means of curing hunting. So that our hope is, that thanks to this valuable Report, and the enormous amount of work that preceded it, all those engines have many years of excellent work before them. If this hope is fulfilled, we are clearly in a better position, so far as the locomotives are concerned, than if the more cautious policy alluded to by the Committee had been followed. I do not put that forward as a complete justification for action taken between 1928 and 1930, but it is a very relevant consideration in judging of the success of the policy then followed. I would only repeat, finally, that we have reason to be deeply grateful to the Committee and deeply appreciative of their work.

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

"That the Report of the Pacific Locomotive Committee be taken into consideration."

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) :

Sir, I wish to move :

"That the further discussion on the Report of this Committee be adjourned till the Delhi Session."

When I move this, I do not wish to give any undue importance to the action of those who are absent from their seats today. Anyhow, Sir, the fact remains that about 44 Members of this House are absent today, and whatever may be the grounds on which they have absented themselves today, whether they were based on any misunderstanding or on grounds which were unjustifiable—this is a matter for their constituencies to judge,—I think we should adjourn the further discussion till the Delhi Session.

As far as my personal opinion is concerned, I do not think that the absence of any Member of this House on the grounds given out in the Press on an occasion like this is justifiable. That is my personal view,

[Sir Muhammad Yamin Khan.]

but, anyhow, the fact remains that this is a very important Report, and since the Government wish to take a serious view of the findings of this Committee and also prompt action which will have a great effect on the future policy of the Railway administration, I think it is only right that this House should give another opportunity to those Honourable Members who have absented themselves today, though in our opinion their absence is quite unjustifiable, to have their say, so that the Government also may have the benefit of their views in taking action on this important Report. I think, Sir, this House will enhance its reputation if it shows a kind of gesture even to those with whom we do not agree and whose absence, I repeat, is most unjustifiable, that we are ready to accommodate them and give them another opportunity to express their views on this important Report. Probably they may be feeling sorry and they may have to revise their action very soon and we do not know whether they will find themselves present in the House in the near future. But whatever it may be, this is my suggestion that the further discussion on this motion be adjourned to the Delhi Session, and I move it.

Mr. President (The Honourable Sir Abdur Rahim) : That is not the proper form. The Chair thinks what the Honourable Member means is that the debate on this motion do now stand adjourned.

Sir Muhammad Yamin Khan : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : Motion moved :
“ That the debate on the motion moved do now stand adjourned.”

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : I am afraid the Government are not in a position to accept the motion moved by my Honourable friend. Surely his own presence here shows that he does not consider that there was any good ground for abstaining from being present in this Session.

Sir Muhammad Yamin Khan : I have made it clear.

The Honourable Sir Muhammad Zafrullah Khan : I am merely endorsing what the Honourable Member has said and I am sure he has no objection to my stating it in those terms. In any case I do not see how business which is to be brought before the House is to be sifted on the principle that certain kinds of business are important and should be brought before the House when all Parties choose to attend and certain other items of business are not so important and may be proceeded with when some are absent. The absence of a certain Party from the House is extremely regrettable, but Government consider that all business that is brought before the House, whether by Government or by non-official Members, deserves the attention and consideration of the whole House. I am afraid, if Sir Muhammad Yamin Khan's motion were to be adopted, the House might as well adjourn altogether because no business could be transacted on that principle. I regret very much that Government are not able to take the view of the matter that Sir Muhammad Yamin Khan takes.

Sardar Sant Singh (West Punjab : Sikh) : I would like to support the motion of Sir Muhammad Yamin Khan, though on somewhat different grounds. As the Honourable the Communications Member pointed out,

there is no doubt that this report has been with us for two months. But you also cannot gainsay this fact that the report is of a highly technical nature. Though we have tried to separate the two portions, namely, the technical portion from the general portion, I think I am voicing the feeling of all the Members of the House when I say....

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh : Muhammadan Rural) : No, no.

Some other Honourable Members : No, no.

Sardar Sant Singh : Let me finish what I am saying. Without hearing me, you want to say “ No ”. I am saying that most of the Members have not been able to follow the technical portion of this report. The Government with its host of advisers on these technical matters can understand the implications of this report....

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Do the Government understand ?

Sardar Sant Singh : I should think so, I should presume so.

Mr. M. A. Jinnah : Sir Andrew Clow said that he did not.

Sardar Sant Singh : In that case that is a greater reason. This statement showing the action taken or proposed to be taken upon the Pacific Locomotive Committee's recommendations was handed to us only this morning and we have not been able to go through it. What I propose to place before the House is this. I will request the Honourable the Communications Member to grant us the facility of seeing some of the technical experts of the Government in connection with the report.

Mr. President (The Honourable Sir Abdur Rahim) : That is a very different thing from the proposition which has been put forward by Sir Muhammad Yamin Khan.

Sardar Sant Singh : What I am saying is this. The ground on which this proposition should be accepted is that we should be given facilities to see some of the experts of the Railway Board and understand those portions which are obscure to us, and for that reason the debate may be adjourned. That is my submission.

Sir Abdul Halim Ghuznavi : Mr. President, I oppose this motion. Sir Muhammad Yamin Khan has made out a case on the floor of this House that as the Hitlers and Mussolinis of the Congress are unable to attend or will not attend, therefore, the discussion of this important matter should be postponed.

An Honourable Member : Chamberlains and Daladiers !

Sir Abdul Halim Ghuznavi : My Honourable friend suggests that because the Members of the Congress Party would not choose to be present here, therefore, the Members of the Assembly should agree to a proposal for postponing such an urgent matter. I could have understood if there was some serious difficulty on the part of these Hitlers and Mussolinis in attending, but what is the ground of their absence from this House today ? The ground is that the Indian troops were sent without the knowledge of these Hitlers and Mussolinis.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not discuss all that. That question is not before the House. Whatever their motives may be, it does not matter.

Sir Abdul Halim Ghuznavi : My Honourable friend, Sardar Sant Singh, says that sufficient time has not been given to us to study the report. Months ago this big pamphlet was sent to every Honourable Member.

Sardar Sant Singh : But facilities were not available to us.

Sir Abdul Halim Ghuznavi : He wants to understand the technical side of this report. He will never understand that.

An Honourable Member : Have you understood it ?

Sir Abdul Halim Ghuznavi : I do not care to understand the technical side. I am here to see to the protection of the lives of the people and the avoidance of risk and accident ; the technical aspect may be taken care of by the technical engineers. On these grounds, I oppose the adjournment.

Mr. F. E. James (Madras : European) : I must oppose the suggestion that the debate should be adjourned to the Delhi Session. It undoubtedly is most unfortunate that the Members of the largest Party in the House have been directed by an extra constitutional body to abstain from performing their duties here and I think no one is sorrier for that order than the majority of those Members themselves. While we regret their absence and share their disappointment at not being able to carry on the burdens of legislation with their fellow legislators, I do not think that that is any reason why business that was known to be coming before this House should be postponed. I can quite understand that the report presents some difficulties to the understanding of some of the Honourable Members and there might perhaps be a case for an adjournment of the discussion for a few days. And if the Railway Board could provide facilities for Sardar Sant Singh to go on hunting on an XB engine no one would be happier than myself, but I am bound to confess that I should not be willing to accompany him. But there is another aspect of the matter which I think we, as practical men, should consider, and that is this. As it is, we usually find the greatest difficulty during the Budget Session in coping with the business that comes before the House. This is a comparatively light Session and I do not think that a mere addition of Members to the House will necessarily enable the House to give greater consideration to the report, and if it is postponed until the Budget Session there is no guarantee that there will be found time for it.

I remember my Honourable friend from Madras, Mr. Satyamurti, whose absence we all noticed at question time, in spite of the fact that Mr. Lalchand Navalrai endeavoured to take his place, not with very great success I am bound to confess—I remember Mr. Satyamurti agitating, year after year, for adequate time during the Budget Session to be given for the discussion of the Public Accounts Committee Report. What happened year after year was that it was postponed until the end of the Session and then we were told that there was no time. I am rather apprehensive that the same thing may happen in connection with this report. This is a technical report. The House cannot possibly consider its technical aspects. It is not qualified to do so, even if Sardar Sant Singh should spend his time during the next 25 years on a hunting engine. But there are certain main recommendations that are of great importance and, therefore, I urge very strongly that the debate be

concluded during the present Session. If it would meet the wishes of Members, who have only received this morning this summary of what has been done by the Railway Board, to have the debate postponed for two or three days, then I would ask the Honourable the Railway Member to consider that request.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, apart from the fact that the Members of a Party or individual Members are absent, I would ask the Government to take into consideration the fact that they gave notice of this motion to the Assembly Department too late and you will notice, Sir, that notice of this Motion was issued by the Assembly office on the 21st August, and it might have reached Members on the 25th or 26th. We had hardly time to read the bulky volume of the report which is going to be discussed today. You may look to our inconveniences. The last speaker has suggested that at least some time should be given for the consideration of this bulky report. I hope the Government will so arrange the business that this matter may be taken up by the middle of September next.

Mr. M. A. Jinnah : I do not wish for a single moment to urge the Government to stop its business because some Party is not present here but I do urge upon the Government to carefully consider the request of this House to adjourn the debate for a reasonable time. You must remember that after all the non-official Members have got many other things to attend to.

An Honourable Member on the Government Benches : So have we.

Mr. M. A. Jinnah : It is all very well for the Government to bring up this business. You are paid to attend to your business. We have got many other things to attend to, besides attending to the business of the Legislature. We do not get anything more than Rs. 20 a day. Therefore don't you compare your difficulties with ours. It is a fact that many of the Honourable Members have got very important matters to attend to. You have got the Secretariat behind you. You have got all that army of staff sitting in the office box to assist you. You send this agenda to us about the end of August and you expect all the Members to be ready to debate and discuss these recommendations which are of a complicated and technical character. I can understand the attitude of the Leader of the House. It is perfectly justifiable. We are not going to stop our business because some people are not present here. That I can understand. I, therefore, urge upon the Government that time should be allowed to the Members to study this report and not to force us to a division. There is no urgency. The Government can bring this matter up on the agenda after ten days or a week, so that Honourable Members may look into it properly and be ready to participate in the debate in an intelligent manner.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, the Leader of the House has opposed the suggestion made by my friend, Sir Muhammad Yamin Khan. I do not think Government should force their view on this House, because on this occasion there is an objection from practically all the elected Members.

Mr. President (The Honourable Sir Abdur Rahim) : There is a motion before the House by Sir Muhammad Yamin Khan that the debate do stand adjourned. That means that the debate will have to

[Mr. President.]

be adjourned indefinitely but other suggestions have been made that some time may be allowed to Honourable Members to study the report more carefully. These are two distinct matters.

Mr. M. A. Jinnah : May I move an amendment to the motion of Sir Muhammad Yamin Khan—that the debate be adjourned till the 15th September.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think any amendment is necessary. A suggestion like that can well be put before Government without any motion or amendment.

Mr. Muhammad Azhar Ali : An amendment has been suggested by Mr. Jinnah that the matter be postponed for a week or ten days. I was going to support that suggestion. Government should accept the suggestion as a sort of gesture to the non-official side.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must recognise the distinction between the suggestion that has been made by some Members and the motion of Sir Muhammad Yamin Khan. If Sir Muhammad Yamin Khan's motion is accepted, there will be no discussion this Session and it will have to be renewed afterwards with the special permission of the House.

Sir Muhammad Yamin Khan : If Government will agree to the suggestion made by my Leader, then I will withdraw my motion at once.

The Honourable Sir Andrew Clow : I do not think the arguments adduced for postponing the debate for a long time have very much validity. As regards Sardar Sant Singh's complaint, the Railway Board is there all the time and they are always ready to assist any Member in regard to the technical matters. As regards these matters of detail Honourable Members will remember that I did not discuss them in my speech at all.

Mr. M. A. Jinnah : But we may have to discuss them.

The Honourable Sir Andrew Clow : But if there is a desire to take this up at a slightly later date, I think we could meet the desire of the House on that matter ; and this matter could be taken up after Lunch on any half day, if that will suit the desire of the House.

An Honourable Member : Not today ?

The Honourable Sir Andrew Clow : On some later day, immediately after Lunch, if that will suit the House.

Mr. M. A. Jinnah : Provided it is not brought up at least for a week.

The Honourable Sir Andrew Clow : Yes.

Sir Muhammad Yamin Khan : Then I withdraw my motion.

The motion was, by leave of the Assembly, withdrawn.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 31st August, 1939.

LEGISLATIVE ASSEMBLY.

Thursday, 31st August, 1939.

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

MEMBER SWORN.

Mr. Douglas Colin Campbell, M.L.A. (Government of India : Nominated Official).

Mr. President (The Honourable Sir Abdur Rahim) : Before proceeding to the business of the day, the Chair would like to draw the attention of Honourable Members to the fact that the seating arrangements have been altered today, and the arrangements that used to prevail before have been restored. The Chair thought that since the Members of the Congress Party had decided not to attend this Session at all, it might conduce more to the convenience of the Members if the seats on the left, instead of remaining vacant, were occupied by other Members moving up to those seats. But the Chair received a representation yesterday after the rising of the Assembly on behalf of a large Group that they would not like to occupy the seats thus left vacant, especially as it might happen that the Congress Members might change their decision and decide to reoccupy their seats. Owing to this objection on the part of a large group of Members to the seating arrangements made yesterday, the Chair ordered the alteration that has been made today.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

†28*—37*.

APPEAL IN THE BANDRA PASSENGER BOAT COLLISION CASE.

38. ***Mr. Lalchand Navalrai :** (a) Will the Honourable the Commerce Member be pleased to state if it is a fact that an appeal has been preferred by the British India Steam Navigation Company in the Bandra passenger boat collision at Kiamari's case ?

(b) Is it a fact that a reference was made to the Commerce Department that a representative on behalf of the Government of India be appointed to represent Government side in the High Court in England ?

†These questions were withdrawn by the questioners.

(c) Have the Government of India appointed any such representative? If not, for what reasons have Government not arranged for such a representation?

(d) Have Government made any other arrangement to safeguard public interests and the interests of the victims of that collision before the High Court in England? If so, which? If not, why not?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : (a) and (b). Yes.

(c) and (d). The Government of India did not make any arrangements for their representation at the appeal or the representation of other interests before the High Court in England as, after careful consideration, they came to the conclusion that such arrangements were not necessary.

Mr. Lalchand Navalrai : May I know from the Honourable Member if Government made any representation or gave any evidence there in order to present the view of the Government of India with regard to this tragedy?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I should like to explain that the appeal was to the Admiralty Court, where no question of fact would be raised, but purely technical questions relating to navigation laws would be examined. We also understood that the Board of Trade would be represented by counsel at such appeal. Therefore, it was considered superfluous to have a special legal representative of the Government of India in connection with that appeal.

Mr. Lalchand Navalrai : May I know whether, with regard to the compensation, which has been the subject of my question here, to the heirs of these victims, that question was pertinent to the Admiralty Court or the High Court, or not?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : It was not.

Mr. Lalchand Navalrai : And it will be pertinent before the Board of Trade and the other Board mentioned by the Honourable Member?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The Board of Trade was represented by counsel before the Court of Admiralty in England. The question of compensation to the victims was not pertinent before the Court, and, therefore, neither the Government of India nor the Board of Trade through counsel could have raised any question about compensation.

Mr. Lalchand Navalrai : Will that question be pertinent to the Government of India?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : No, Sir, but it will be pertinent before a Civil Court if the parties go before a Civil Court.

Mr. Lalchand Navalrai : But if the parties do not.....

Mr. President (The Honourable Sir Abdur Rahim) : That is all hypothetical.

†39*—43*.

REPRESENTATION FROM INDIANS IN SOUTH AFRICA ABOUT RECENT LEGISLATION.

44. *Mr. Muhammad Ashar Ali (on behalf of Dr. Sir Ziauddin Ahmad) : (a) Will the Education Secretary be pleased to state whether Government received any representation from Indian settlers in South Africa about recent legislation?

(b) Did the Government of India get any report from the High Commissioner for India in South Africa?

(c) Was any representation made by the Indians in South Africa that our representatives should be withdrawn?

(d) Will Government lay on the table the statement describing the correct position and the action which the Government of India have already taken or propose to take to ameliorate the condition of Indians in South Africa?

Mr. G. S. Bozman : (a) and (c). Yes.

(b) Government have been in constant touch with their Agent General in South Africa.

(d) An Act, designed mainly to restrict Asiatics in the Transvaal to their present trading licences and residential sites during the next two years, was passed in the Union Houses of Parliament on the 12th June. Negotiations on the objections of principle raised by both the Government of India and the Indian community in South Africa are still in progress and are of such a nature and at such a stage that I regret I am unable to make any statement.

Sardar Sant Singh : May I know if Government will be in a position to make a full and complete statement about the situation in South Africa during this Session?

Mr. G. S. Bozman : I am unable to prophesy.

Mr. Lalchand Navalrai : May I know if the Government of India have made any representations to the Government of the Union of South Africa?

Mr. G. S. Bozman : I have already stated that negotiations are in progress.

Mr. Muhammad Nauman : With regard to the answer to part (b) of the question, may I know what is the content of the report which Government have received from their Agent General?

Mr. G. S. Bozman : I have stated that Government are in constant touch with their Agent General in South Africa. There is no specific report.

Maulana Zafar Ali Khan : Do Government contemplate having recourse to retaliation because of South Africa treating Indians in such a manner?

Mr. G. S. Bozman : I must repeat that I am unable to prophesy.

†These questions were withdrawn by the questioner.

REMOVAL OF ILLITERACY OF ADULT POPULATION IN THE CENTRALLY ADMINISTERED AREAS.

45. *Mr. N. M. Joshi : Will the Secretary for Education, Health and Lands be pleased to state whether in the centrally administered areas any special efforts are being made by Government or by Local Bodies to remove illiteracy of the adult population ; if so, will Government be pleased to state briefly what they are ?

Mr. G. S. Bozman : A statement containing the information is laid on the table of the House.

Mr. N. M. Joshi : May I ask that the Honourable Member might read his statement if that statement is not very long because my question does not require a very long statement, as otherwise the Honourable Member is putting me at a disadvantage by laying the statement on the table.

Mr. G. S. Bozman : I have no desire to place the Honourable Member at a disadvantage, but the point is that there are four centrally administered areas, and conditions in these areas vary one from another.

Mr. Lalchand Navalrai : May I know, now that this literacy campaign has been started in Sind, have the Government of India given any help to the province of Sind ?

Mr. G. S. Bozman : I understand that the question refers to centrally administered areas.

Mr. N. M. Joshi : In view of the fact that the House has sufficient time during this question hour to hear even a fairly lengthy reply, will the Honourable Member kindly read out his statement ?

Mr. G. S. Bozman : Sir, answers to questions are prepared irrespective of whether there is a large attendance in the House or not. The statement has been laid.

Mr. N. M. Joshi : May I ask, Sir, whether it is not for you to decide whether the Honourable Member should read the statement or not ? If the statement is long, it need not be read, but if it is not long, he can read it in five minutes.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not know if the statement is long or not, or whether it consists of a lot of figures ?

Mr. N. M. Joshi : It only consists, I believe, of half a page.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable the Secretary for Education, Health and Lands has no objection, he may read the statement.

Mr. G. S. Bozman : I have no objection, Sir. The statement is as follows :

Ajmer-Merwara.

Twelve adult schools were being maintained by the District Board and the Co-operative Department up to the 31st July, 1939, in rural areas, but these schools had to be closed owing to the scarcity prevailing in the province at present. Two adult schools are, however, being continued in urban areas.

Baluchistan.

Owing to financial reasons, neither Government nor local bodies have been able to make any special efforts to remove adult illiteracy, but classes for adults have been started recently in some of the private schools in Quetta.

Coorg.

One night school is being run by the District Board and another has recently been started by Co-operative Society.

Delhi.

There are at present 19 schools for adults in the province—15 managed by the District Board in rural areas, three by urban local bodies and one (for prisoners) by the Prisoners' Aid Society in the District Jail. A scheme for the extension of adult education is under consideration by the local authorities.

Mr. N. M. Joshi : May I ask whether the Government of India are interested in the question of the removal of illiteracy of the population in the centrally administered areas ?

Mr. G. S. Bozman : Yes, Sir.

Mr. N. M. Joshi : May I ask whether the Government of India will make a plan for removing the illiteracy within a reasonably short period and if there are any difficulties, will they state them ?

Mr. G. S. Bozman : I can inform the Honourable Member that the educational policy in all the centrally administered areas is now very closely under review.

Mr. N. M. Joshi : May I ask when the Government of India began to take the review of this situation ?

Mr. G. S. Bozman : A particular review has been undertaken since the arrival of the new Educational Commissioner.

Mr. N. M. Joshi : May I ask how long that review will take ?

Mr. G. S. Bozman : I am unable to prophesy.

SYSTEM OF COMPULSORY PRIMARY EDUCATION IN THE CENTRALLY ADMINISTERED AREAS.

46. *Mr. N. M. Joshi : Will the Secretary for Education, Health and Lands be pleased to state :

(a) in which of the Centrally administered areas there is a system of compulsory primary education and for how many years ; and

(b) whether Government propose to extend early the system to all the areas under their control ; and if not, why not ?

Mr. G. S. Bozman : (a) A statement containing the information is laid on the table of the House.

(b) Government will consider the extension of compulsory primary education to areas considered suitable for the purpose, as and when circumstances permit.

Mr. N. M. Joshi : May I ask the Honourable Member to read the statement again ?

Mr. President (The Honourable Sir Abdur Rahim) : If the statement is not long, it should be read.

Mr. G. S. Bozman : Sir, the statement is as follows :

Ajmer-Merwara.

Compulsory primary education has not been introduced in any part of Ajmer-Merwara. A scheme for bringing selected urban and rural areas under compulsion was recently under consideration, but had to be postponed for want of funds and on account of the scarcity prevailing in the province at present.

Baluchistan.

Compulsion has not been introduced in any part of Baluchistan. The earthquake of 1935 destroyed many of the schools in rural and urban areas and all available funds are being applied towards the reconstruction of the educational system. The introduction of compulsory primary education is not feasible at present.

Coorg.

Compulsion has not been introduced in Coorg for want of funds.

Delhi.

Compulsory primary education was introduced in four out of nine administrative areas of the Delhi Municipality in 1926-27. Two more areas were added in 1927-28. The remaining three areas will be brought under compulsion when finances permit.

Ten out of fifty-six school areas of the Delhi District Board were brought under compulsion during the years 1928-32. Later on it was withdrawn from two areas on account of village factions, and applied to one new area. Thus nine areas are now under compulsion. The finances of the District Board are in a bad state owing to poor harvests and further expansion of compulsory primary education is not possible at present.

Mr. N. M. Joshi : May I ask if the Honourable Member is aware that the Government of India spend more money on the higher education of a few thousand people and that they spend less money on the primary education of a large mass of people ?

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of argument.

Maulana Zafar Ali Khan : With regard to the statement about Baluchistan, is it not a fact that the Wardha scheme has been introduced there compulsorily by the educational authorities although the people of Baluchistan did not want that scheme ?

Mr. G. S. Bozman : I have no such information.

Maulana Zafar Ali Khan : Will the Honourable Member find it out ?

Mr. G. S. Bozman : I shall be glad to make enquiries.

Mr. N. M. Joshi : May I ask whether it is the policy of the Government of India to spend more money on higher education than on primary education ?

Mr. G. S. Bozman : The question refers only to compulsory primary education, and I feel that I am not called upon to discuss the difference between higher education and primary education.

Mr. N. M. Joshi : May I ask whether it is the policy of the Government of India not to spend sufficient money on the primary education ?

Mr. G. S. Bozman : No, Sir.

†47*

†This question was withdrawn by the questioner.

PANEL OF CHAIRMEN.

Mr. President (The Honourable Sir Abdur Rahim) : I have to inform the House that under sub-rule (1) of rule 3 of the Indian Legislative Rules, I nominate Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sir Cowasji Jehangir and Mr. A. Aikman on the Panel of Chairmen for the current Session.

THE HINDU WOMEN'S RIGHT TO DIVORCE BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the motion moved by Dr. G. V. Deshmukh on the 18th February, 1939. In putting the motion, the Chair will omit the names of the Honourable Sir Reginald Maxwell, Mr. C. J. W. Lillie and Mr. A. K. Chanda as they have ceased to be Members of the House. The motion runs thus :

“That the Bill to give a right to divorce to Hindu Women under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Mr. Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Mr. F. E. James, Mr. Suryya Kumar Som, Mr. Bhulabhai J. Desai, Shrimati K. Radha Bai Subbarayan, Sardar Jogendar Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Chair would remind the House that Dr. Deshmukh himself finished his speech, and there was another speaker, Sir Nripendra Sircar, who also made a speech.

Sardar Sant Singh (West Punjab : Sikh) : With your permission, Sir, I wish to bring to the notice of the House that I have received certain communications from Dr. Deshmukh that on account of his unavoidable absence from the House, he desires the leave of the House to have this debate postponed to the next Session.....

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member wishes to move any motion for the adjournment of the debate, that is a different matter, but the Chair cannot take any notice of such remarks as he is making.

Sardar Sant Singh : Then, with your permission, Sir I move :

“That the debate should now stand adjourned.”

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

“That the debate should now stand adjourned.”

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, I am afraid we cannot accept this motion for the reasons stated yesterday. We are not supposed to know—at any rate, we are not supposed to say—why the Honourable Member in whose name the motion stands is absent. We know that his absence is not due to unavoidable reasons, and I am quite certain that now that the Honourable Member, Mr. Bajoria, is here, it will really be a saving of time to go on with the motion. I do not think the motion will be concluded today and in any case no reason has been advanced why the debate should be adjourned.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Sir, I want to bring to the notice of the House that the Honourable Member in charge of the Bill made a personal appeal to me in Bombay and he

[Mr. M. A. Jinnah.]

regretted very much that he was unable to come. He has since written to me a letter asking me to appeal to the Government, having regard to the importance of the Bill and he being the Member in charge, to allow the matter to stand over. He has also sent me a telegram, and, so far as the Muslim League Party is concerned, we have no objection if the Government see their way to allow the postponement of the debate on this motion.

Mr. N. M. Joshi (Nominated Non-Official) : Sir, I would like to support this motion. Sir, the very fact that I am present in the House shows that I do not approve of the policy of the Congress Party in not being present in this House.

An Honourable Member : It is the fault of Dr. Deshmukh to belong to the Congress Party.

Mr. N. M. Joshi : It may be a fault. I do not know whether it is the fault of a man to belong to a party and to follow its policy, with which at any rate so far as I am concerned, I do not agree.

Sir, my reason is this : the Bill deals with a very important subject, and if the House is to take a decision on a Bill of this nature, it should be the decision of the whole House. It is not easy for non-official Members to secure discussion on important Bills in this House and when a Bill of this nature in which a very large community is deeply interested comes before the House, whether the Honourable the Mover of the Bill was right or wrong in absenting himself from the House, it is the duty of the House to see that that subject gets a proper discussion. The Honourable the Mover of the Bill may have introduced the same because he is interested in the subject, but he is not the only man who is interested. I feel the whole House is interested, a very large number of Members who are present here are interested and, therefore, if the subject is to get a proper discussion on it, may I also add a proper decision on it. Then, Sir, it is necessary that the House should be fully representative when a vote is taken. I, therefore, feel that the motion made by my Honourable friend, Sardar Sant Singh, should be accepted by the House.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Are you sure that the Congress Party will attend next Session ?

Mr. N. M. Joshi : I do not know. I am not a representative of the Congress Party in this House. I shall try myself to be present in the House.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, although it is well-known that personally I am not in favour of the principle which is embodied in this Bill, I am in support of the motion which has been moved by my Honourable friend, Sardar Sant Singh, and the reason is this. This is primarily a Bill which affects the Hindus as such and the absence of the Congress Party means the absence of a considerable, nay a majority of Hindu Members of this House (Interruption) : I am not prepared to accept what my Honourable friend, Mr. Jinnah, says. He is entitled to have his own interpretation. I submit that a discussion of a Bill that primarily affects the social customs and religious usages of the Hindus is really of no use if a majority of the Hindu Members are

absent from this House. It will be a decision arrived at not on the votes of those who are likely to be affected by this Bill. I do not question the constitutional right of the House, but simply pointing out what is the proper thing for us to do. Therefore, in order to avoid that sort of undesirable situation in which we shall find ourselves landed I believe the suggestion that has been made that the debate should be adjourned to the next Session should be accepted by the House. My second reason is this. In accepting this motion for adjournment we shall be showing our regard for the importance of the measure itself. This is my next point. If we do not adjourn the debate, the Honourable the Leader of the House remarked that it is quite possible since my Honourable friend, Babu Baijnath Bajoria, has now arrived, that the debate might go on and it might easily be carried on to the next Session. But no one of us is willing to make an irrelevant speech simply for the purpose of protracting the debate or taking it on to the next Session. That is not our habit at any rate. I am sure that my Honourable friend, Babu Baijnath Bajoria, is not likely to make a speech simply for the purpose of prolonging the debate. That is not his habit also. I take strong exception to the remarks made by the Honourable the Leader of the House against Babu Baijnath Bajoria.

The Honourable Sir Muhammad Zafrullah Khan : I believe I am right in saying that Babu Baijnath Bajoria said at one time that his speech would take a whole day. I was referring to that observation.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : I did not say any such thing.

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member did not make any such observation, then I withdraw my remark.

Mr. M. S. Aney : My point is this. Those who are likely to be affected by this Bill are not here, at any rate a majority of the Members are not here, on the consideration of whose views it shall be proper for the House to come to a definite decision on the point. Under these circumstances I think the Honourable the Leader of the House will be well advised in accepting the suggestion that has been made by my Honourable friend, Sardar Sant Singh.

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

“ That the debate should now stand adjourned ”.

The Assembly divided :

AYES—18.

Abdullah, Mr. H. M.
Aney Mr. M. S.
Azhar Ali, Mr. Muhammad.
Bhutto Mr. Nabi Baksh Illahi Baksh.
Datto, Mr. Akhil Chandra.
Essak Sait, Mr. H. A. Sathar H.
Habibur Rahman, Dr.
Jinnah, Mr. M. A.
Joshi, Mr. N. M.

Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Nauman, Mr. Muhammad.
Rafiuddin Ahmad Siddiquee, Shaikh.
Sant Singh, Sardar.
Siddique Ali Khan, Khan Bahadur Nawab.
Som, Mr. Suryya Kumar.
Yamin Khan, Sir Muhammad.
Zafar Ali Khan, Maulana.

NOES—37.

Abdul Hamid, Khan Bahadur Sir.	Mackeown, Mr. J. A.
Ahmad Nawaz Khan, Major Nawab Sir.	Menon, Mr. P. A.
Aiyar, Mr. T. S. Sankara.	Menon, Mr. P. M.
Bewoor, Sir Gurunath.	Miller, Mr. C. C.
Bhandarkar, Mr. K. Y.	Mudaliar, The Honourable Diwan
Bozman, Mr. G. S.	Bahadur Sir A. Ramaswami.
Campbell, Mr. D. C.	Mukerji, Mr. Basanta Kumar.
Caroe, Mr. O. K.	Nehru, Mr. B. K.
Clow, The Honourable Sir Andrew.	Rahman, Lieut. Colonel M. A.
Crofton, Mr. D. H.	Raisman, The Honourable Sir Jeremy.
Dalal, Dr. R. D.	Roughton, Mr. N. J.
Dalpat Singh, Sardar Bahadur Captain.	Sheehy, Mr. J. F.
Gorwala, Mr. A. D.	Sher Muhammad Khan, Captain Sardar Sir.
Greer, Mr. B. R. T.	Sivaram, Rao Sahib N.
Hodson, Mr. D. C.	Spence, Sir George.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Sukthankar, Mr. Y. N.
Kamuluddin Ahmed, Shams-ul-Ulema.	Talukdar, Mr. J. N.
Khan, Mr. N. M.	Thorne, The Honourable Mr. J. A.
Kushalpal Singh, Raja Bahadur.	Zafarullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : The debate on the original motion will now proceed.

Bhai Parma Nand (West Punjab : Non-Muhammadian) : Sir, the book of opinions on this Bill makes very interesting reading. The Bill has been considered to be very controversial and no definite opinion could be formed about it. The opinions, I find, are mostly given by lawyers and judges and there is a wide difference of views among them. The common people who are affected by the Bill have offered no opinions; probably they treat it with indifference or have not been consulted at all. Taking the opinions, you find that more than eighty are opposed to the Bill; others are in favour of it but even they have expressed doubts as regards its utility or acceptance by the common people.

The first great objection to the Bill is, from the legal point of view, namely, that it is inadequate, insufficient and defective as it does not provide the procedure for getting divorce and for the maintenance of children if there be any. I do not attach any importance to these defects as I am opposed to the very principle underlying the Bill. Referring to the opinions again, there are more than 20 which say that it is a one-sided Bill,—while the privilege of divorce is not granted to husbands it does not stand to reason to give the right to wives. If the law is to be made for removing the difficulties of wives, why should not this apply in the case of husbands; if some women suffer trouble at the hands of their husbands, there are husbands also who suffer on account of the bad behaviours of their wives. So if the right of divorce had been allowed to both parties, there would have been a reasonable case for the wives and in that case they could have judged their position correctly. However, as it is, I do not see why this right should be given to wives alone. It may be said that the husband can marry a second wife during the life time of the first and thus save himself from troubles

arising from the marriage, but that does not solve the difficulty because it does not give the husband the right to divorce his wife and it will only mean a premium on polygamy.

My real objection, however, is that in Hindu society there is no room for divorce. It may be that in certain Smritis of old, some *slokas* may be found permitting women to get separation but they were exceptions and for hundreds and thousands of years, this custom has had no place in Hindu society. If we want to create a radical change in society there must be very sound reasons for doing it.

On going a little further we find that marriages of Hindu youngmen and girls are invariably arranged by their parents, and neither of them has got a free hand in choosing their companion for life. Everything in this connection is looked into by the parents of these youngsters, and thus, they are not considered so free to break off that connection. If it is contended that according to modern ideas a new generation has sprung up of youngmen and women who wish to have more freedom including divorce, then I would advise such of them to have recourse to the Civil Marriage Act. For them law is already there. They can themselves arrange for their marriage and take advantage of the divorce law at any moment they like. But as regards the rest of the population in whose case the marriages are arranged by the parents, they will be better let alone, because if a young girl is divorced, she will find it hard to go about in search of a husband for herself. In her first case, she was not a free agent, nor could she take any part in the choice of her husband.—the marriage was arranged by her parents or guardians. Under such circumstances, if the girl or the woman gets divorce, I do not think society will look on with favour her going about and seeking for a husband.

Sir, Hindu society is very conservative. Whether greater freedom should be allowed to Hindu women or not, I cannot say. My point is simply this, that our Hindu society is still conservative. In fact, their conservatism has gone so far that even today, inspite of our advance, Hindu widows of respectable families are not allowed to get married again. Of course, some marriages do take place, but respectable Hindu families look down upon such cases. Thus, if widows are not permitted to remarry, how is it possible for society to tolerate the sight of young girls who have been divorced seeking a husband? The whole question is, whether the Hindu society as a whole wants this reform or not, and whether this reform is urgently needed or not. I do not think Hindu society, as such, wants this reform. Reform may be good or bad, but the question is whether the majority of the Hindus would favour the principle embodied in this Bill. If divorce is permitted by law, there will be no limit to second and third marriages. Therefore, I say, Sir, that the principle underlying the Bill is open to most serious objection, it does not suit the Hindu society, and the Society is not prepared to accept it. Of course, the opinions of lawyers or judges might be different, they may be in favour of the principle of this measure, but they look at the whole question from a strictly legal point of view without visualising what harm will result if unrestricted freedom is given to women. Men as well as women are bound by the rules of Society. Women too have to live according to certain social standard, we cannot allow our women to go about and do what they like; but as I said, if there are certain women who

[Bhai Parma Nand.]

wish to enjoy complete freedom, they can easily have recourse to the Civil Marriage Act.

In conclusion, I say, so far as divorce is concerned, it cannot be permitted as long as the same freedom is not permitted to husbands, because for centuries men have been made to stick to one wife only, except in very exceptional circumstances when they were allowed to have a second or a third wife, and that too with the consent of the first wife if she were alive. There is no justification for introducing this change for women at this stage. Here, I may be excused for saying one thing. Divorce law has been passed by our Muslim friends, but the case is entirely different so far as Muslims are concerned. In their case the husband was allowed to divorce his wife any time he chose. The same freedom or permission is not given to wives and, therefore, it was just and proper that a similar freedom be given to the wife also.....

The Honourable Sir Muhammad Zafrullah Khan : That is a misstatement.

Bhai Parma Nand : Legally, the law did not allow it. I am not talking of the Islamic law. I am talking of the law as it was in use, I mean the British law. There are High Court rulings which allowed the husband alone to divorce his wife at any time he liked. Now, you have given this right to the wife also, and I think you have done the right thing. But in the case of Hindus, as the husband has no right to divorce his wife, it is quite premature to give that right to women on flimsy and frivolous excuses. Excuses of course can be found for divorce,—I shall not enter into the details of those flimsy excuses such as impotency, etc. A wife can claim for this right only when and if the husband has got it and not otherwise. For these reasons, Sir, I oppose the very principle underlying this measure, and I hope that our friends on this side, who are not concerned with this matter, will help us in throwing it out.

Mr. Lalchand Navalrai (Sind : Non-Muhammadian Rural) : Sir, I am sorry that Dr. Deshmukh is not present in the House today to cross swords with my friend, Mr. Bajoria. I would have liked to give way to Mr. Bajoria to speak before me, but I do consider that he is a diehard orthodox and he will have to convince the House, if it is not already convinced, that this measure which has been brought forward by Dr. Deshmukh is an ill-advised one. I am not a diehard orthodox, I move moderately, and when I see that there are social customs which it is reasonable to remove, I would be the first man to go in for it. The House knows that on the question of early marriages I had also moved in the matter for changing the custom. Therefore, I hope that I shall not be blamed if I give my own opinion on this Bill. Dr. Deshmukh is not present here, for which I am sorry, but I shall have to say that he is riding a high horse. He wants things to be done which are not suitable for the whole of India at present. He belongs to Bombay and he has lived in western countries and Bombay is well-known for having many persons, young and grown up, who get fascinated by the fancies and fantasies which they see in Bombay. But they do not think of the whole of India where the old customs and manners are keeping Hindus in their family, not disintegrating them. Bombay, I should say, is already, three-fourths of it, disintegrated in that sense.

An Honourable Member : What about Sind ? *Om Mandli* !

Mr. Lalchand Navalrai : Sind is quite different, I will come to Sind very soon. The effect of the *Om Mandli* has also come from Bombay, I should say that. What I submit now is this. Dr. Deshmukh is now in that environment where he gets blind to the considerations and circumstances of the Hindus outside Bombay. Those who have gone to Bombay and seen it know how this too much of freedom is working there. Dr. Deshmukh is not in the prime of his life and I do not think he has any personal attraction for such things or any of his relatives has any personal axe to grind, so I do not say that he has brought this Bill from any personal motives.

An Honourable Member : Are you certain about it ?

Mr. Lalchand Navalrai : I know him. I know his nature. But he is misguided. Dr. Deshmukh forgets that those who have been allowed so much freedom in other countries are now repenting. Look at America. You have read in papers, I have heard from many men. I had been to America myself and I know. I learnt from them that they are now deploring for having gone too far and too fast.

An Honourable Member : Who is deploring ? Men or women ?

Mr. Lalchand Navalrai : Both of them I assure you, because you see women also are suffering on account of no marriage at all. There is the right of divorce in those countries, but there is virtually no marriage system at all and, therefore, their grievance begins from there. Now, even here many of the girls, who get the so-called higher education, say they are not going to marry and we know what it leads to. I will not dilate on this point at any great length. Dr. Deshmukh said the other day that this is only an enabling Bill, and that it is left to the option of a woman whether she claims the right, and he also asked, what are we going to lose if this Bill is passed ? But he does not see that one or two cases of that kind will give an encouragement for divorce being the fashion of the day.

An Honourable Member : What is the harm ?

Mr. Lalchand Navalrai : The harm is this. Dr. Deshmukh asked me, "What do you lose if this Bill is passed ?" My reply to him then was, "*Om Mandlis* will be perfected."

The Honourable Sir Muhammad Zafrullah Khan : What is *Om Mandli* ?

Mr. Lalchand Navalrai : I will give you a tit bit of it. When I told Dr. Deshmukh that *Om Mandlis* would be perfected, what I meant was that he wanted to give excessive freedom to women to disown their husbands, to disown their houses, to leave off their children and go and remain at a place where they will be given that so-called loose liberty. That contamination or disease came from Bombay. The *Om Mandli* man was a Sind-work merchant who had his office in Bombay and he made some of his *chelas* in Bombay. Then, he went to Calcutta and spoiled the atmosphere there, and then he thought of his own home and came back to Sind to destroy all the decency and decorum of these girls and women. I tell you what happened. Dr. Deshmukh should realise that if things happened like that and so much freedom is given to the women, then there is a great danger ahead. To put it only in a few words, when the *Om Mandli* was started, the women left their husbands and told them

[Mr. Lalchand Navalrai.]

that they were no more their wives, and went and became members. Girls were misguided, they went and said that they were not going to marry and that they were going to belong to this *Mandli*. Is this good for the country, I ask. In one word, it has been condemned by all the people in Sind, by the Government itself, and the Government has now put a ban on this *Mandli* and the wives and the girls have been restored to their guardians. What would have been the effect if this Bill had been in force? No Government could have interfered and there would have been chaos in the society. Would you allow that?

The second point urged by Dr. Deshmukh was that this Bill is necessary, because there is a frequency in husbands' cruelly kicking their wives, and, therefore, a Bill like this would give a chance to the wives to get free by a divorce.

Now, is that the real remedy? There are *panchayats*, intervenors and other respectable gentlemen who could intercede to see that the parties are reconciled. I do not at all agree with this bold assertion that he has made that husbands are doing this frequently. It may be so in Bombay, but I know that even in Bombay it is not so. It was perhaps on some cursed thirteenth day of a month that Dr. Deshmukh conceived this Bill. Of course he has made a name among the women. I may tell him that last time when Sir N. N. Sircar spoke on this Bill, he pointed out that women also had passed resolutions that they will not touch this Bill unless the right of divorce was mutual. Now, Sir, it is only proper that when a wife gets a right to divorce her husband, the husband should also have a corresponding right to divorce the wife, but this Bill does not provide for that. I do not see why we should waste time over a Bill like this. The women supporters of Dr. Deshmukh would have been well advised to tell him to drop this defective Bill. It has become a corpse. Still Dr. Deshmukh would like to follow it to the grave, though not attending its burial. Last time, Sir N. N. Sircar expressed his own opinion as well as the opinion of the Government and said that the majority of the opinions received was against this Bill and that Government could not force the pace in a social matter like this. In those circumstances, Dr. Deshmukh would have been well advised to drop the Bill, but he has not done it. I do not want to stand in the way of my friend, Mr. Bajoria, but I want to say a few words on the religious side. Dr. Deshmukh says that he is a *pukka* Hindu. Some one asked him "Are you a Hindu", and Dr. Deshmukh said "Yes, surely I am a Hindu." Yet he now wants to give up the customs and practices of his forefathers. He says that the ancient law in regard to commensality and other matters should be changed, probably because the western people have changed them. The western countries have got their own customs and manners, and I do not see why we should not preserve our own customs and manners, and blindly follow them. I say that Dr. Deshmukh has not given us any good reasons why we should change our customs. Further on, he says that the Bill is a restricted one, and we have nothing to lose and we are not going the whole hog. He has mentioned four circumstances in which divorce can be given to the wife, but I say that once you allow such a change you will see how many other Bills come in. You have got a Bill for giving property rights to women. You say that right of divorce

should be given and then you will say that they must be free to marry in any way they like. I say this will spoil and destroy the well conceived and authoritaded Hindu law which has been ruling the Hindu society for centuries. Dr. Deshmukh says that cases are occurring in India in which a married Hindu woman's life is made unbearable under circumstances brought about by her husband. Now, he stultifies himself. He says that the wife will have the right of divorce if the husband acquires impotency which is incurable any time after the marriage. Is that the fault of the husband? Has he brought it on himself? The husband will like to keep his potency very well. He would not like to be impotent. He has not given any instances to illustrate his point. He makes a general remark, and he wants this Bill to be passed. Anyway, Dr. Deshmukh has acquired reputation or notoriety for this measure. In Sind too everybody asks "What about Dr. Deshmukh's Bill?" There have been debates in Sind among women on this question and you will find many of them also against this Bill. Those who apply powder and paints to their faces are in favour, but the rest are all against it. Then, to be serious, I come to the second condition he has mentioned. That is, "if a husband changes his religion". Now, it has happened in Hyderabad that some very well-known families have turned Muhammadans and their wives also went with them. I do not see why he should make this a condition for divorce. Then, the third reason he has given is this, "if her husband married another woman while the first marriage is in force". Now, the point is this, and on this also I can assure the House, at least so far as my part of the country is concerned, that if a Hindu male goes into a second marriage, then the *Panchayats* become very strong. Even in my place where I reside, whenever there is any such question, the *Panchayat* pulls up those people, and they only give the permission when they can prove that they do it either with the consent of the former wife or when the wife is not able to procreate, and, in those exceptional cases, this is allowed. But if this Bill is passed, what will happen? The husband who has been living happily with his wife overnight, in the morning, as soon as he marries a second time, the first wife will have a right to go away. I know many Muhammadans also have two or three wives, but they treat them all right, they keep them in separate portions of the house, they give them maintenance. Why should it be that this practice should be interfered with? There are many men in Sind, Muhammadans, who have married two, three or four wives. Why should it be that on that account the wife should at once have the right to leave the husband? That would destroy the system of the Hindu family. We see that now-a-days everybody is for himself, and God is for all. Sir, I was once travelling from London to America and a lady from America was travelling with me. I asked her where she had gone and what opinion she had about London and American life. She told me what the conditions of family life were in Western countries and America, and how in London she found more family life. In some houses she found that not only the husband and wife or the children of that house, but even distant kindred of theirs, their cousins and others, were meeting together and joining at the table. And she said, that would never happen in America now-a-days. In America, there are many instances in which the husband and wife do not own each other. The husband goes out, the wife is also out, where they go they do not know.....

Sir Muhammad Yamin Khan : Was she a married lady ?

Mr. Lalchand Navalrai : I did not ask that question. Anyway, she looked to me to be a good woman. So, Sir, what I am submitting is that these grounds that Dr. Deshmukh has given will lead to many more difficulties, many more troubles and many more disadvantages which Dr. Deshmukh could not see through. What about poor people ? Now, it is proverbial that if you keep two utensils together, they will be clashing each other some time. So, in a family, where these little things do take place, why care for them, especially if we have not cared for them so long,—and now on account of a little bickering the wife may say, “I am going away. I have a right to do so, by this Bill.”

Sir Muhammad Yamin Khan : They are not utensils, but they are swords in the same sheath.

Mr. Lalchand Navalrai : That, again, is a question of experience. I need not elaborate the point over this matter.

Mr. N. M. Joshi : Do it—we are interested.

Mr. Lalchand Navalrai : Are you interested over the *Om Mandli* affair ? Dr. Deshmukh is your guide. What I submit is this. On this Bill we have already had the opinion of a good Hindu, I mean one whose opinion should weigh much, and that is Sir N. N. Sircar....

Mr. N. M. Joshi : Why do you label us differently—we also are good Hindus ?

Mr. Lalchand Navalrai : Now, my Honourable friend, Bhai Parmanand, says that much of the opinion of lawyers and others was in favour of the Bill. I was wondering what statement he was making. Here is the statement made by Sir N. N. Sircar.

Babu Baijnath Bajoria : When did Bhai Parmanand say that ?

Mr. Lalchand Navalrai : I cannot say exactly, but he said that the opinions are taken from lawyers and others and much of that was in favour, but anyway the opinion here is very plain.

Sir N. N. Sircar says :

“I venture to submit, Sir, making all allowance and as I said giving Dr. Deshmukh the benefit of doubt wherever it can be reasonably argued both ways as to whether the matter is within or without the scope of the Bill, there cannot be the slightest doubt that the majority of the opinions received is against them.”

Now, there can be nothing more clear than that, and I do not think that in a matter like this the majority opinion should be thrown out or lightly treated.

Mr. N. M. Joshi : The wrong people were consulted.

Mr. Lalchand Navalrai : Dr. Deshmukh went all over the place to get opinions and he said he had got a lot of opinions and he read those opinions, but they were self-sought. I hope the House is going to throw out this Bill.

Babu Baijnath Bajoria : Sir, I rise to oppose this Bill. My Congress friends are always saying that they have come here to the Assembly and also they have joined the Provincial Legislatures and accepted office all for the purpose of wrecking the constitution, but let us see how Dr. Deshmukh has pursued this policy of wrecking. On this very Bill, instead of wrecking the Assembly, we find him wooing the Government. The House will remember that in September last, here in Simla, he wooed

the Leader of the House and got this Bill introduced on an official day. Again his wooing went on successfully till a certain time, the Bill was circulated for public opinion, also through official favour and on an official day. But, unfortunately, for Dr. Deshmukh there was divorce even before wedding. Government could not go any further and left Dr. Deshmukh to himself.

Mr. N. M. Joshi : You also did some wooing of the Government.

Babu Baijnath Bajoria : Sir, the very idea of divorce is absolutely repugnant and abhorrent to Hindu ideas. I say that in the hoary history of Hindus throughout the ages there have not been any cases of divorce amongst the Hindus of the higher castes. But before I come to that part of my speech, I would like to give some history of the attempts that have been made in this House about getting such Bills passed in the House, but they have all been unsuccessful. This is the third attempt. The first two attempts were made by Sir Hari Singh Gour. He brought such a measure, and in the first attempt it had to be withdrawn. Even a strong reformer like Lala Lajpat Rai also opposed that Bill and it had to be withdrawn. In the second attempt, a Bill was introduced, circulated and re-circulated, and it was on the anvil of this House for two years and never saw the light of the day again. This is the past history of such Bills in this House. Dr. Deshmukh says that he has brought this Bill for the emancipation of women and for the benefit of women. I also say that I oppose this Bill for the benefit of women.

An Honourable Member : Then, you are not for the emancipation of women.

Babu Baijnath Bajoria : This Bill, far from emancipating women, will take them to the abyss according to the Hindu religion and the path which I am suggesting will take them to Heaven. After all, why should there be a marriage at all ? This is a question which I will try to answer. Before I come to the practical points which have been raised, I would like to ask for the indulgence of the House for a few minutes to deal with the theoretical side of the question. Is marriage a solemn and sacred right meant to unit a man and a woman both on this side of the grave and beyond or is it merely a business contract entered into by two individuals of opposite sexes for mutual satisfaction and, therefore, terminable at will ? Why is marriage performed ? Is it only for procreation ? I say, no. Procreation is not the sole aim of marriage, because animals have also managed to procreate and perpetuate their species without the intervention of priests and churches and even without entering into a contract, temporal or spiritual. But a human child, unlike the offspring of the lower animals is born almost entirely helpless and is dependent on the mother for a much longer period than its sub-human cousin. The mother during this period, at any rate, has to depend on the father for her daily bread ; and it is just possible that it was out of this necessity of maintaining contact with the father of the child that the institution of marriage was gradually evolved. The human male, throughout the whole course of his history, has never been very remarkable for the constancy of his affections ; and the female must have realised that it was necessary by some device or other to tie him down to herself and the child as long as possible. The intervention of the holy man was sought as it was he with his eyes turned heavenward that was held in the greatest awe and reverence. The holy man became a priest,

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lectured the human male on his duties towards the female, advised the lady to be obedient and blessed the union and possibly threatened it with a curse in case his instructions were disobeyed.

Mr. N. M. Joshi : Who was this holy man ?

Babu Baijnath Bajoria : This is that holy man before whom even a Christian, a Muhammadan and even a Hindu goes and who performs the marriage.

The modern spirit, however, has played havoc with ancient religious beliefs and customs, and both men and women in all countries have begun to doubt whether marriage is not after all only a secular institution for regulating the relation of the sexes and whether the priests, the churches and the holy men should at all be allowed to have any say in the matter. The success or failure of marriage, it has been claimed, should be judged by the happiness of the married couple and of the offspring of their union. The husband and the wife should be free to live together or to separate provided the interests of the children have been secured and neither the church nor the State should have any moral or legal right to tie together a man and a woman if they have begun to feel that the tie does not conduce to their happiness.

In most countries of the West, the formalities of religious marriages have become matters of option and the Registrar has stepped in where formerly priests used to preside. In Soviet Russia where religion is regarded as a relic of ancient superstition, the intervention of the priest in matters of marriage has been practically done away with ; and in America where the church is tolerated for its artistic value.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go all over the world. The Bill refers to Hindu marriage and the Hindus are mostly to be found in India.

Babu Baijnath Bajoria : Very well, Sir. In these days of so-called female emancipation, divorce has become a craze amongst a section of the educated Hindu ladies, but I must say that it is only a negligible section of the Hindu ladies and the number of those who are in favour of this Bill can be counted on fingers' ends. The vast majority—I should say 99 per cent. of the women—are against such a measure. As a matter of fact, the Hindu women who have got really the Hindu culture in them are more opposed to such a pernicious Bill than men themselves because by marriage they have got a certain amount of safeguard and protection. They get their residence, maintenance and status in the society. After all, it is not to the advantage of women to get divorced except when some arrangement has already been made beforehand about their re-marriage. It is generally said that in divorce cases even in other communities, there is always a history behind a divorce suit. If it is not so and if it is only a question of mal-treatment of the Hindu woman, then I should say that the position of the Hindu women will be much worse after divorce. Who is going to marry her ? We know that in Bengal and in our own community also it is very difficult to get married even spinsters and girls without giving big sums as dowry. Who is going to marry a divorced woman ? Divorced women even in other countries are looked upon as not very desirable women.

Sir, no case has been made out at all for a divorce. Even when Dr. Deshmukh was challenged by Sir Cowasji Jehangir as to what chance this Bill had, he said : " I do not bother about this Bill at all. I am only educating the public opinion ". I say again that he has purposely not come here today. If he had wanted to come, he would have got the permission. The same thing happened, if I remember aright, about two years ago, when Dr. Deshmukh, Dr. Bhagavan Das and Mr. B. Das got special permission from the Congress Party to attend the Delhi Session of the Assembly to sponsor their social reform Bills.

Mr. M. S. Aney : I can inform my Honourable friend that on this occasion for good reasons or bad, the Congress Party was adamant and definitely laid down that for no reason, whatsoever, should the Congress Members attend the Simla Session. So my Honourable friend need not dilate upon that point.

Babu Baijnath Bajoria : Sir, the Hindu marriage as I said before is a sacrament. It is not a contract at all just like a Christian marriage or Muslim marriage is considered to be. It is the belief of the Hindus that the union of a man and a woman is not only for this life but even after the death of both of them. These ultra-reformers want to set aside this holy sacrament. I may say that even in my own community there are many ardent reformers and I had a talk with them about this matter. Though they are whole hoggers in other respects, yet they could not subscribe to this doctrine of divorce propounded by Dr. Deshmukh. Dr. Deshmukh says that this is cent. per cent. Hindu measure. I say that there is not an iota of Hinduism in this measure. It is cent. per cent. an anti-Hindu measure. Dr. Deshmukh says that orthodox people like Mr. C. Rajagopalachari have blessed this measure. We all know what sort of orthodoxy does Mr. C. Rajagopalachari profess.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not discuss people who are not present here.

Babu Baijnath Bajoria : I am only repeating what Dr. Deshmukh said, because the people at large will be under the impression that this measure has the support of the orthodoxy in the country.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not discuss the beliefs of any man who is not present here.

Babu Baijnath Bajoria : I only wanted to refute the statement that Mr. Rajagopalachari is an orthodox man. He is not an orthodox man.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member ought not to make such allegations. He must proceed with his speech.

Babu Baijnath Bajoria : If these ultra-reformers and their wives really do want to have the benefit of the divorce laws, there is already a course quite open to them and they are free to adopt that course, and that is the Special Marriage Act. But they will not do that, because the marriage under the Special Marriage Act is not considered a Hindu marriage at all. What these people want to do is this. They would like to call themselves cent. per cent. Hindus, they would like the marriage to be performed according to Hindu rites and still they would violate 100 per cent. in every matter the tenets of the Hindu shastras. This cannot be tolerated in the least.

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I will now briefly refer to the class of persons to whom Bills are generally circulated for eliciting public opinion. As has been rightly pointed out by my Honourable friend, Bhai Parma Nand, the Bill is circulated to Judges and lawyers and other English educated persons for their opinion. The marriage laws as they affect the Hindu society are based on Hindu shastras and so I think it is the imperative duty of the Government to elicit the opinion of the learned Pandits in the country about such matters. If we get their opinion, it is only then we will be able to follow this measure more intelligently. As regards the shastras, it is really a pity that some quotations or rather misquotations were made by Dr. Deshmukh and it is also a pity that a humble Member like myself who is not well versed in shastras should be called upon to refute those allegations. What will the learned Pandits in the country at large think if the shastras are discussed in the House by men like myself or Dr. Deshmukh?

Supposing divorce is allowed, how will the next marriage of the wife take place according to the Hindu shastras? According to the Hindu shastras, a girl is to be given away in marriage by her father or in his absence by her nearest male relative. In this case she is already given away with water and *mantra*. How can she be again given away by anybody else, because after her marriage she does not belong to the same gotra as her father. She changes her gotra to that of the husband. If the husband quarrels with his wife and if the wife is divorced, is she going to be given away again to anybody else by the husband himself? She cannot be given away. In this connection, I will read a sloka about this matter which will explain the position clearly:

"Abhivachacha dattayam mriyetasya varo yadi, Na cha mantropavita syat kumari pitureva sa".

It means that a wife given to the husband with water and *mantra* by her parents cannot again be given away. It is also mentioned that marriages can take place only once. I will again quote another sloka:

"Sakridansho nipatati sakrit kanya pradiyate sakridahu dadaniti trinayetani sakrit sakrit".

This means, one can get one's share partitioned only once, only once can a girl be given away in marriage and only once can a gift be made. According to us, Hindus, a girl is given away as a gift to the husband. So after her marriage, neither her father nor any other relatives in her father's branch has got any right over her.....

An Honourable Member: What about widow remarriage?

Babu Baijnath Bajoria: Widow remarriage is not at all recognised by Hindu shastras. I do not want to go into that matter now. As has already been pointed out, though Hindu widow remarriage is allowed by legislation, how has that law fared at the hands of Hindu widows themselves? It was admitted by Dr. Deshmukh and Sir Nripendra Sircar in their speeches on this Bill that it has remained a dead letter and though the Bill was passed in 1856 as yet no respectable Hindu widow has taken advantage of it. This Bill, Sir, if passed, will break up the family. In the family after all there should be some tolerance among the different parties and if this law permitting separation exists they will be tempted to divide; but if there be no other alternative for them

but to remain together, they will after some time get reconciled. The Honourable Mr. Ramdas Pantulu who is a Congressman and reformer said the other day in the other House that it is frequently seen that these educated young women often manage to decoy young husbands from their old-fashioned wives. He also said that you often find half a dozen Julietts playing to one Romeo. If we want to copy western ideas we should take only those which are good and not those that are bad. Divorce is a great evil in Europe and America, so much so that the Lord Chief Justice of England was painfully compelled to compare the divorce system with a dog's license, suggesting at the same time that before long divorce should be obtainable in the post offices on payment of a nominal fee of five shillings only. That is how a judicial luminary with large experience has denounced this system. Again, the Houses of Convocation contemplate not to get intending couples united in wedlock unless and until they give a pledge not to recognise the divorce laws. I would have liked to show the evils of divorce in other countries like America and Russia but in obedience to your ruling I will desist from doing so. A non-Hindu cannot understand what a Hindu husband is to a Hindu wife, nor can it be understood by those pseudo-Hindus who are dazzled by the paints and powders and the so-called freedom of women in the other countries. Dr. Rabindra Nath Tagore,—I am quoting Congressmen and reformers only,—said to an English audience in England:

"With the Indian woman the husband is not a person but a principle and a tradition like your patriotism and loyalty".

What a wife is to a Hindu husband is also well illustrated by a verse in the Ramayana where God Ram Chandra referring to Sita says:

"Karyyeshu mantri karanoshu dāsi, dharmeshu patni kshamayā dhāritri, secheshu mātā shayaneshu rāmā range sakhi Lakshmana sa priyāmē".

"In counsel she is my counsellor, in action she is my servant, in religious performances she is my partner, in tolerance she is like the earth, in affection she is like unto my mother, in bed she is my wife and in play she is my companion."

That is the Hindu ideal of a Hindu wife.

Now, who are the people who want these changes? They are those who have no faith whatsoever in their religion. They think that social reform means breaking away from the social codes of Hinduism and the overthrow of the Hindu theology on which the social code is based. The reformers are mostly persons with a westernised outlook on life and no faith in the principles of Hindu religion as stated in the Shastras. These men are, fortunately, few in number though they are very vocal; and as they are mostly learned in English education and hold high positions they can make themselves felt, while persons like ourselves who are men of business and conservative and orthodox and do not indulge in politics go unrepresented and the opinions of millions of men like us are of no avail.

Sir, the other day Dr. Deshmukh said in his speech that Mr. Savarkar, the President of the Hindu Sabha, approved of this Bill. He did not approve of the principle of this Bill. My friend, Dr. Deshmukh, was entirely wrong in making the statement he did. I have read Mr. Savarkar's speech very carefully, and as far as I could make out, he has strongly opposed the principle of this measure.

[Babu Baijnath Bajoria.]

Now, with regard to the lot of women, it is said that this law is required to better the lot of our women. Even taking hard cases,—in every society there are bound to be hard cases,—I do not think it can be claimed either by our Christian or Muslim friends, that there are no quarrels in their homes,—but comparatively speaking, I may say, that in Hindu homes and Hindu families there is more peace and more quiet and less trouble, because the husband knows that, however much he may dislike his wife, he will have to put up with her during his life time, and the wife also in her turn tries to reconcile herself, and so they tolerate each other much better than if they have a chance of separation by means of the divorce law.

Then, Sir, another thing which Dr. Deshmukh said was there were the horrors of Brahmacharya. Sir, Brahmacharya is considered among the Hindus as a very great thing. Those who do not marry, those who conform strictly to the rules of Brahmacharya are regarded with great respect, while my friend, Dr. Deshmukh, characterises them as horrors of Brahmacharya. If one lives a well regulated life, my friend regards it as horrors of Brahmacharya. God save us from such friends. This is all what I can say.

Further, he said that the bogey that a Hindu marriage is a sacrament is absolutely wrong. Sir, I was really surprised and shocked to hear that statement from one who calls himself a Hindu when he says that a Hindu marriage is not a sacrament. That it is a sacrament is universally accepted by every one, and I, therefore, treat the statement of my friend, Dr. Deshmukh, that a Hindu marriage is not a sacrament with the contempt it deserves.

Then, he quoted a few slokas and pointed out that in such and such Shashtra divorce has been allowed. But I say emphatically that he was entirely wrong. The meanings and interpretations which my friend, Dr. Deshmukh, gave us the other day are entirely wrong. He mentioned specially one sloka “*nashṭe mṛitē prabṛijātē klibē cha patite pāṭan*”, etc., etc., and observed that according to this sloka a woman can go and marry another husband. Now, what exactly is the meaning of this sloka? It is not that she can go and marry another husband, but the proper meaning of this verse is that—“*Nashṭe*” that if a woman finds her husband departing from the righteous path, *mṛitē* that if the woman is bereft of the husband by death caused to him, “*prabṛijātē*” that if the husband goes over to his Guru's house for receiving Brahmacharya instructions, *Klibē*—if the husband proves to be imbecile, i.e., unable to rise in spiritual sphere, *patitē* if a husband had a spiritual rise and now he has been subject to a fall in such cases the woman shall have recourse to a separate “*pati*” for the purpose of spiritual rise.

Mr. Umar Aly Shah (North Madras : Muhammadan) : You are entirely wrong.

Babu Baijnath Bajoria : It means a Dharmapathi.

Mr. Umar Aly Shah : You are absolutely wrong.

Babu Baijnath Bajoria : You can have your say later when your turn comes, but this is my version.

Mr. Umar Aly Shah : Yes, but you have no right to give out a wrong meaning.

Babu Baijnath Bajoria : I do not claim to be a Sanskrit scholar, but it is the interpretation which has been given by high learned authorities.

Mr. Umar Aly Shah : It is a wrong interpretation.

Babu Baijnath Bajoria : This is a version not from me, but from authoritative persons who, I have every reason to believe, know the Shastras, and I have a better right to interpret these slokas than my friend, Mr. Umar Aly Shah.

Then, Sir, I do not propose to go into the clauses of this Bill, because Sir Nripendra Sircar spoke in his speech on each of them and pointed out the legal difficulties and impropriety of most of them. I am personally against the very principle of this Bill. According to me, and according to the Shastras, a woman cannot leave her husband however bad he may be. I will quote again another sloka, and I will ask Mr. Umar Aly Shah to correct me if I am wrong.

An Honourable Member : Do not invite trouble.

Babu Baijnath Bajoria : I am not afraid. This sloka says :

“*Duhshilo durbhago vridhho jado rogya dhanopiwa, Patihī sribhīrunahatavyo lokepsubhir pataki.*”

This is from Bhagwat, Skand 10, Chapter 29, sloka 21. This is also again repeated in Ramayana :

“*Vridhha rogavasha jada dhanahina, andha badhir krodhi atideena, Aisehu patikar kiya apmana, nari pava yamapur dukha nana.*”

The meaning of this is—Even if the husband is wicked, ugly, old, foolish, diseased, poor, still a wife who wants salvation must never desert him. Now, Sir, when everything goes on well, no law is required, no injunction from the Shastras is required. All these laws are made only to prevent trouble, so that the family may not be disrupted. According to us, orthodox Hindus who believe in our Shastras, if a wife ignores or treats contemptuously her husband she goes to *Narak* or hell and in her next life she becomes a girl widow. I have got further slokas but, as has been pointed out by my Honourable friend, Mr. Umar Aly Shah, there are not many gentlemen here who will understand slokas, otherwise I have got any number of them here.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go through all that, as according to himself most of the Members here do not understand Sanskrit.

Babu Baijnath Bajoria : I have given only a few slokas to refute the version and the interpretation which was given by Dr. Deshmukh, and I shall not go into this matter in great detail.

Sir, in the land of origin of divorce, the same is considered as a disease, and is no longer a fashionable disease like shortsightedness for which spectacles are taken, but is held to be an epidemic like small pox, a pest like rinder-pest. In the West it has threatened to become not only a contract but one that could not be kept. The Bill proposes to keep the door ajar that way foreboding doorlessness at a future date. I differ from the principle fundamentally.

[Babu Baijnath Bajoria.]

It must be made patent that the loftiest aspect and argument sees, at least in our case, marriage as a divine institution. And for this logical reason, those who believe in this, the millions of Hindu India would not believe in divorce. Most relations in various aspects of life would suggest revolt. The labourer, the capitalist, the rulers, the ruled, the soldiers, the politicians, all may inevitably point to revolts, because those relations are originally only founded upon force or self-interest. Force can abolish what force can establish; self-interest can abolish a contract when self-interest has dictated the contract. But the love of a man and woman is not an institution that can be abolished, or a contract that can be terminated. It is something older than all institutions or contracts, and something that is certain to outlast them all. The Hindu woman believes, since the dawn of her intellect and faith, or more properly it is in the blood of her to believe that her husband is pre-destined, her husband in this life is the same as that of previous lives and of lives to come.

Marriage has but a glamour to the couple. Marriage gives a status by itself. The dignity arose wholly and entirely out of her fidelity. They were regarded as having a certain dignity because they were dedicated in a certain way, as bound to do certain duties. This eternal fidelity of a woman to her husband made her sublime—an ideal of the womanhood—which still runs high in the heart of hearts of every Hindu woman of India. It was this high ideal of life which made every woman of India as superior to any of other countries in national integrity or honour.

There is a spirit penetrating all our society and particularly so-called reformers today by which the exception is allowed to alter the rule. The consequences would be that promiscuity, intemperance, immoral liaisons, indiscipline and disruption of social bonds would follow.

The unfortunate woman who cannot tolerate the man she has taken as her husband is not encouraged to return to him or tolerate him, but encouraged to choose other man.

Mr. President (The Honourable Sir Abdur Rahim) : What is the Honourable Member reading from ?

Babu Baijnath Bajoria : These are my notes. I am reading from my own notes.

But the point cannot be missed that she is permitted to loosen the universal bond which has kept millions of others normal. Because one has fallen into a pit, one is allowed to burrow in it like a rabbit and undermine a whole countryside.

I have a right to go further into this matter, but as Dr. Deshmukh and others from whom he could have got sympathy for this Bill are not here, I do not think it will be much use for me to dilate on the other numerous points which this Bill raises. This Bill is absolutely un-Hindu and I am glad that Government is also going to oppose this Bill, because if this Bill is passed, it will mean, according to the Hindu ideas, farewell marriage, farewell purity, farewell chastity, farewell legitimate offspring, farewell family happiness, farewell Hindu joint family....

An Honourable Member :and farewell Dr. Deshmukh !

Babu Baijnath Bajoria : With these few words, I oppose this Bill.

Sir Muhammad Yamin Khan : An appeal has been made by some Members who have spoken already from the Congress Nationalist Benches that we Mussalmans should refrain from voting one way or the other. (Honourable Members from Congress Nationalist Benches : "No, no".) I thought that Bhai Parma Nand said that, but if I am wrong, of course I would withdraw my statement.

Mr. M. S. Aney : He did not say that.

Sir Muhammad Yamin Khan : Then I am sorry. In any case it has been our practice never to interfere in the social reforms of the Hindu community by throwing in our weight against the decided majority of the particular community concerned. It is for them to bring about reforms in their community and we have got to be guided mostly by the views which are expressed by a majority of them in this House. We do not want to know how many Members are absent or present but, as the House is represented by them today we shall go by the views of those Hindu Members who are present today. What I feel is that most of them are opposed to this measure.

Mr. N. M. Joshi : No, no. Who told you that ?

Sir Muhammad Yamin Khan : What I think is that most of them are opposed to this. Whatever our decision may be later on, I want to express one thing, namely, that there have been views expressed for and against the Bill.

As Muslims, we must make it clear that our belief is that a man and a woman should have absolute freedom to get separated from each other and they should not be forced to live as husband and wife when they cannot live properly. That is the Islamic law. The Muslim law gives full power to the husband to divorce and it gives great power to a Muslim woman to obtain a *khula* under certain circumstances. As education spread in different parts of the world, many other countries have adopted the same law by passing different Statutes. Among the Christians, there was no divorce for a very long time and among the Roman Catholics there is no divorce even today, but in England we find that the law has made great progress during the last 50 years. The woman has got the right to get herself separated from the husband who does not treat her properly and for this reason we think that if we oppose this law and do not express our opinion in favour of this law, then we shall be wanting in really supporting a law which we take as a torch for the world to follow. I do not think that the provisions contained in this Bill are either sufficient or justifiable. The Bill, as drafted, is hopelessly bad. The foremost difficulty is the first condition which the Honourable Member has laid down—that a woman is entitled to get a divorce if her husband gets impotency during the marriage but what about impotency from the very start ? This Bill is lacking in that respect and there are many other defects but, anyhow, there is only one principle and one principle alone—whether a Hindu woman should be allowed to have a divorce or not. Leaving aside the provisions of this Bill, I think the Select Committee can redraft the Bill and make the Bill good, if only the principle is accepted, namely, whether a Hindu woman should be allowed to divorce or not. I fully recognise the inconsistency in this Bill—that the Bill gives the right of divorce to a Hindu woman and not to the Hindu man. A man can always desert his wife and there have been many desertions. If the woman is bad and

[Sir Muhammad Yamin Khan.]

intolerable, then the man can desert her but he cannot divorce her and it is very hard that any man should call a woman his wife when he cannot live with her for many reasons. Her conduct may be bad and undesirable and still he has to call her his wife and in many cases he has to maintain her. That has been a great hardship on the man and it would have been in the fitness of things if provision had been made to meet this point. Mrs. Subbarayan has given notice of a Bill that equality should be given to both men and women and I do not know whether that Bill is coming before this House or not. If this Bill is supported and passed, then the natural consequence will arise that some Honourable Member of this House will bring forward complementary legislation giving the same powers to men as this Bill gives to women.

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.

Sir Muhammad Yamin Khan : Sir, before the House rose for lunch I was making clear what we feel about the law of divorce and we are glad really that the whole world is coming now to adopt the same view on this point as we have got in our Islamic law. By and by all laws will turn to the same laws as we have got even today, and, as we have got our own law, it will be quite inconsistent if we give our vote against the Bill and against the principles which we think are really good. And when we recognize that women should have an absolute freedom to get herself separated from her husband who does not treat her properly, then, by our vote to thrust or disable any other woman whatever religion or community she may belong to will not be consistent on our part. But we had adopted a kind of policy in the past that we do not want to enforce our ideas upon other people. We have been always trying to show that our principles are good and it is for them to believe in them or to adopt them or not to adopt them, but we can never enforce our views upon them by our vote. That being our case, we think that the arguments which have been advanced here in this House are not such as can guide us in adopting our attitude. I may say one argument which has been advanced by my friend, Mr. Bajoria, viz., that the woman under the Hindu law believes that she has been his wife in the past life, that she is destined to be his wife in the present life and that she is destined to be his wife in the future life—that sort of argument does not appeal to us and I do not think that all Hindus will be believing in such a principle, because the principle of *Karma* is such as will negative this theory of Mr. Bajoria. I may take it that if one Vaishya couple is living where the husband may be a bad fellow and whose deeds in this life may not be such that he may be re-born even as a Vaishya but may be born as a Sudra or may be destined to go down even to a lower degree, and the wife who does acts of great piety and she may take her re-birth in a Brahmin family, then how could they be destined to be husband and wife in the next life? That could not be the theory of *Karma* that on account of the bad deeds of the husband the wife may be punished so much that she might also be re-born, instead of in a Brahmin family, in a Sudra family. That theory I do not think is in any way sound or is really believed in by all the Hindus.....

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Does the Honourable Member know that there is another kind of theory that on account of the good deeds of the wife the husband can be elevated?

Sir Muhammad Yamin Khan : If that is the theory that in spite of his bad deeds the wife's good deeds may take him into a higher caste, that will of course nullify the very principle of giving an incentive to a man to be a good man. And what will happen if the husband is good and wife is bad? Anyhow I am not concerned with that, and I cannot discuss the beliefs of the people because whatever is the belief of a man is to be left to the man who believes in that. Anyhow this is merely a theory and I may say that at least I can talk from some personal experience of many cases which came to me during my practice at the bar, viz., that I have found that many husbands have treated their wives so badly and hopelessly badly that they ought to feel themselves ashamed to call themselves as husbands of these women and to insist upon this that the woman should continue to be his wife. If that is the kind of treatment, then what is the remedy? The husband can, if he is dissatisfied with his wife, my friend says, take another wife, he can have a third or a fourth wife, but only he is going to give her a maintenance, and he says that maintenance is the only criterion. Well, simply producing children is certainly not the only function of the woman but there is something more. Then may I ask him—is this the only criterion that the husband may give her only some maintenance? Does that alone make her happy? Sir, a wife can never be happy simply because she gets a maintenance from her husband. Her life becomes miserable if she finds that there is no love, that there is no response to love, even if she has the right to maintenance. She of course has the right to commit *suttee* when the husband dies, but what is the treatment from the husband's side? Desertion, cruelty, no response to love, but only giving some maintenance which may not be fit even to keep her body and soul together. That is not a proper criterion for happiness. If a husband can desert his wife and re-marry and have another wife, while you estop women from getting another husband also, this surely becomes a rank piece of gross injustice. In those cases where there is no fault in the woman and all the fault lies with the husband and in these circumstances the Bill aims at this that permission may be given to the wife to seek redress in a court of law to get her marriage dissolved. That is only a permissive law. The law does not say that surely this will dissolve the marriage *ipso facto*. No body can say that on account of the happening of such and such an event the marriage is automatically dissolved. A mere permission is given and I do not think that the Bill is really so bad as has been made out; and I think there will be thousands or lakhs and lakhs of women who would, if their consent were to be taken or their views were to be sought amongst the Hindus, gladly say that they do want that this latitude should be given to them. My friend says that that is the Hindu law, but Hindu law is applicable to many other people who are not strictly abiding by their Shastric law. There are many amongst the Hindus who follow the Hindu law and they are guided by the Hindu law but still they are not clinging to certain texts only; for instance, amongst my friends the Sikhs, while they follow the Hindu law and are bound, in their marriages and marital relations, and guided by the Hindu law, there are instances where there a second marriage has been allowed to the woman

[Sir Muhammad Yamin Khan.]

from the very beginning. The widow marriage has been practised at least and they are doing it even now. The Arya Samajists allow a second marriage.

My Honourable friend gave us the translation of some Shastras that a girl is given in marriage only once and she cannot be given again. I am not a scholar of Shastras and Vedas but what I could gather from his translation was that these were the narration of facts rather than commandments. The commandment is different from what is a mere narration of facts which is given by a Sanskrit scholar. He may say that a gift is given only once and a girl is also given only once in marriage. All these passages he has quoted in the same categories. He has given it in his own poetic manner and he has given it out that this ought to be the principle of law. If you have given a girl in marriage once, you cannot take her back. It is a gift given to a person once and you cannot take it back. But it does not mean that if the girl becomes a widow, she cannot be given in marriage again. If there are laws which are partial to men and do not safeguard the rights of women, they cannot appeal to those persons who believe that the woman has also got as a human being certain rights which should be safeguarded to her. If in the old order of the world, there were certain practices which disallowed these things, then those practices and customs should not be stuck to now. I do not know if the decisions of the courts are given according to what is written in the Vedas. After all, there are many other categories like the Jains who have got their own law and yet their belief may be different from the orthodox Brahmins. Then, we have the Jat community which has got its own laws and its own customs. That being the case, you cannot make a law which will suit only the requirements of one set of people and may not be suitable to the other community. So, we have to be careful and we must take into our consideration that we do not give our vote to a matter which may not be suitable either according to the circumstances of the country as they are prevailing or against the majority of the bulk of the Hindu society itself. We have to be guided only by the fact whether the Hindu community is prepared to this change or not. If the Hindu community is prepared to have this change, then we are certainly ready to give them our support.....

Sardar Sant Singh : On a point of order, Sir. There is no quorum in the House.

Mr. Deputy President (Mr. Akhil Chandra Datta) : There is a quorum in the House. The Honourable Member can proceed.

Sir Muhammad Yamin Khan : If I may digress because the point of order has been raised, I think I will not be out of place if I make the remark that the debate today is going on on the express vote of the Government against the votes of the non-official Members and it is the duty of the Government Members to keep up the quorum. If they absent themselves during the debate and enter the House only when vote is taken, I do not think they are justified in doing so. They will then be imitating only those Members who are absent from these Benches.

I was saying that our attitude is that we will not enforce our votes to make the decision one way or the other. But we have been asked by people who hold different views on the subject that we should support them. We

find that our natural views are in accordance with the principles of the Bill. But we think that the Bill is very defective and it requires a great deal of modification. It has to be overhauled from the beginning to the end. But we agree with the principle of the Bill. If, however, the Hindu community as represented in this House is opposed to this Bill, we will not thrust our votes against their wishes.

Mr. Umar Aly Shah : Sir, I rise to say a few words on this divorce Bill. I had no intention to take part in this debate, but certain Pandits came to see me in Delhi about it, and that is the reason why I am saying a few words now. There is no doubt that there are many Hindu women who are suffering at present :

*" Gruhe svasura peedācha,
sayane pati peedanam,
Asane bandhu peedācha,
yadhā sadhvi nipeedya the "*

It means, that there is no family in which a married woman is not subject to restrictions as to the right of sleeping, moving freely and sitting in the presence of her husband, mother-in-law or the widowed sister of her husband, respectively. I am prepared to support this Bill if there is an assurance forthcoming that all the indignities and restrictions which Hindu women are subject to will be removed and that there would be equal rights for husbands and wives in Hinduism. But this divorce Bill which is a very liberal measure can be given support, and I have no objection to support it. There is a Sanskrit quotation which Dr. Deshmukh gave and which also Babu Baijnath Bajoria quoted. It is from Manu Smriti.

Mr. M. S. Aney : It is Parasara Smriti.

Mr. Umar Aly Shah : Yes, Parasara also adopted that sloka. This is the sloka :

*" Nashtë mrîtē pravrajitē klibēchu patitau patanu pancha swapatsu narinam pati rangō
vidhiyatē."*

Vidyaranya has given a clear interpretation of this sloka. It means that a married woman can divorce a husband who has vanished, who is dead, who becomes a sanyasi, who is eunuch, who either becomes a scoundrel or changes his religion. The real meaning of the last line of this sloka is that in the circumstances mentioned above the wife can treat the husband as one other than a husband, reassume her virginity and thus earn the rights to divorce and remarriage. In all these circumstances, a wife can reject her husband and take another husband. The wife has got the privilege to take another husband. We read of Nala, when he vanished, Damyanti was about to take another husband in the swayamvara. Mahabharata clearly says so. When Uruchi's husband, Chitrangada, died, she discarded all ideas of widowhood which continue the sacrament of marital ties and took Arjuna as her second husband. My Honourable friend said there can be no question of divorce after the death of the husband. But Mahabharata says that Uruchi divorced her husband and took another husband. I may remind my Honourable friends that Mahabharata is not an ordinary book. "*Bharatam Panchama Vedha*". It is called the fifth Veda. I may also mention that Machehagandhi after her husband Parasara took Sanyasa married Santanu. This is also mentioned in Mahabharata. When Brihaspati became an eunuch, his wife Tara divorced him and married Chandra. This is also in Mahabharata. I may also cite

[Mr. Umar Aly Shah.]

the instance of Vali when he became a scoundrel, his wife Tara divorced him and married Sugriva. This is narrated in the Ramayana.

"*Anāchare masambaddha, Bhārya yām varjatē vibhu, Anāchare masambaddha, Bhartayām varjatē sūti.*"

Husbands and wives who break the bounds of *dharma* or who become scoundrels can be divorced by their spouses.

These facts every ordinary Hindu knows, not to speak of scholars like my Honourable friend, Mr. Aney. From the Hindu Epics and Dharma Shastras, I can quote several instances where divorce was permitted for women. If there was a religious meeting, I could quote all these instances. But this is not the time, nor the occasion to elaborate them. I have no connection with Hinduism, but I have got many friends and disciples among Hindus, and when I recently went to my place, I had discussed this measure with them. I do not know what the decision of my Party will be in respect of this measure, but I wish simply to point out to the House that in the Epics, in the Dharma Shastras and in the Puranas of the Hindus, there are passages upholding divorce among Hindu women. If only the leaders of the Hindus read and digest the eighteen *Smritis* which confer equal rights on Hindu women, all these controversies about reform of Hindu law would not be there.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh : Muhammadan Rural) : Mr. Deputy President, this is an important Bill so far as Dr. Deshmukh is concerned. We do not find Dr. Deshmukh in the House, nor the Members of the Congress Party although this Bill is being debated today. What is the reason for their absence ? What is the reason for the empty Benches in front of me ? We have been told that because troops were despatched to Singapore and Egypt without the concurrence of the Hitlers and Mussolinis of the Congress, they have absented themselves from the Assembly. But the facts are otherwise. They were consulted, and in this connection I will read a few sentences from the *Tribune* which were written by its Special Correspondent, who, by the way, I may say, has the reputation of not authenticating any news which is not borne out by facts. What he says is this :

"From information gleaned from non-Congress Members of the Assembly I am able to say that Mr. Bhulabhai J. Desai had twice been invited...."

Mr. M. S. Aney : I rise to a point of order, Sir. Is all this reference relevant to the Bill under discussion ? The Honourable Member tried to introduce this matter yesterday also, but the Honourable the President rightly ruled that all his observations were irrelevant. I now ask you, Sir, whether the Honourable Member is in order in trying to introduce the same matter again.

Mr. Deputy President (Mr. Akhil Chandra Datta) : All these observations of the Honourable Member are entirely irrelevant to the Bill now under discussion before the House. He will now go into the merits of the measure before the House.

Sir Abdul Halim Ghuznavi : May I point out, Sir, how this is relevant ? I will explain to you, Sir, why you should withdraw your ruling ?

An Honourable Member : Reconsider.

Sir Abdul Halim Ghuznavi : I beg your pardon, Sir, why you should reconsider your ruling.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair has given its ruling and it wants the Honourable Member to confine himself to the Bill before the House.

Sir Abdul Halim Ghuznavi : I will content myself by saying that I can successfully show to the world that what they say they do not do, that they say one thing and do another. They sent a letter to the Viceroy and Governor General thanking him for consulting Mr. Bhulabhai Desai.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order.

It is not proper for the Honourable Member to go into
3 P.M. all this after the Chair has ruled twice that all this is absolutely irrelevant to the matter under debate.

Sir Abdul Halim Ghuznavi : With regard to this Bill, I wish the Congress Party were here. But the ruling of the Chair and the intervention of Mr. Aney who knows fully well that he was consulted.....

Mr. M. S. Aney : There was no consultation ; I was not consulted at all.

Sir Abdul Halim Ghuznavi : He was informed.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair would repeat that it is not at all proper for the Honourable Member to pursue that point.

Sir Abdul Halim Ghuznavi : Very well, Sir. Clause 2 of the Bill says that a wife will have divorce :

"if her husband married another woman while the first marriage is in force."

I wonder whether my Honourable friend, Sir Yamin Khan, who supported this Bill has read this clause.

Sir Muhammad Yamin Khan : I have read the whole thing carefully. I did not support any of the clauses. I supported the principle only.

Sir Abdul Halim Ghuznavi : My Honourable friend dealt with historical facts and quoted the Hindu Shastras although he confessed that he was not versed in them. But he said that during his practice at the Bar he has come to learn these things. I say this is a most pernicious, monstrous and atrocious Bill encroaching upon the Hindu religion and usage. Any man who knows anything about the Hindu religion and religious practices knows also that Hindu marriage is not contractual but sacramental. It would be shocking to the Hindu community that a wife should have the power to divorce her husband or the husband should have power to divorce his wife.

Mr. N. M. Joshi : Millions of Hindus possess this right.

Sir Abdul Halim Ghuznavi : Mr. Joshi and his friends may have been doing it.

Mr. N. M. Joshi : My poor friends of the working classes can divorce. It is the friends of my Honourable friend, the rich Hindus, who cannot do it.

Sir Abdul Halim Ghuznavi : They are non-Hindus. They have no religion.

Mr. N. M. Joshi : I protest on behalf of those poor people against that observation.

Sir Abdul Halim Ghuznavi : Sir, let us take this Bill. As drafted, I think Mr. Bhulabhai Desai must have seen it.

Sir Muhammad Yamin Khan : No, he did not.

Sir Abdul Halim Ghuznavi : How does my friend, Sir Yamin Khan, know whether Dr. Deshmukh consulted Mr. Desai or not?

Sir Muhammad Yamin Khan : I say that an able lawyer like Mr. Desai could not have drafted it.

Sir Abdul Halim Ghuznavi : I can say that not only did Mr. Desai read this Bill, but he passed it as O. K.

Clause 2 of the Bill says :

"Notwithstanding any custom or law to the contrary, a married Hindu woman shall be entitled to claim a divorce," etc.

Why not bring Bolshevism straightaway? Why all this farce of Assembly and legislation? I have no law. Make this law, "Your wife, my wife; my wife, my wife." The reformers are giving all sorts of liberties and the consequences will be disastrous.

An Honourable Member : You gave the same right to Muslim women by the Bill passed last Session.

Sir Abdul Halim Ghuznavi : I was not referring to this Bill or that Bill. I was referring to the way in which the Hindu reformers are proceeding.

Sir, this Bill which is now before the House, if the Congress Party had been present here today, would have gone through despite the opposition of my Honourable friend, Mr. Bajoria.....

Babu Baijnath Bajoria : No, no, it would have been killed.

Sir Abdul Halim Ghuznavi : My friend says No, No, as if he knows everything. Thank God, they are not here today.....

Mr. Lalchand Navalrai : It is unfair to them.

Sir Abdul Halim Ghuznavi : Who is to blame? The Honourable the Deputy President does not want me to state the facts which by themselves would be a censure on the Congress Members for their absence today. Anyway, I want to say one thing here. When we were elected to this House, we got a mandate from our constituencies, and that mandate was that we should protect their interests.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair would again ask the Honourable Member not to go on like this *ad infinitum*. He must strictly confine his observations to the Bill itself.

Sir Abdul Halim Ghuznavi : Sir, I was only speaking on the Bill. What else was I speaking on?

Mr. Deputy President (Mr. Akhil Chandra Datta) : As the Honourable Member said that he was only speaking on the Bill, I must make it clear that he was not speaking on the Bill. It is obvious that he got up to say something else.

Sir Abdul Halim Ghuznavi : In view of the Honourable the Deputy President's ruling that whatever I say must be relevant, and since he holds that whatever I say is not relevant, I cannot proceed further, because he says that everything I say should be restricted to this Bill. How can I express my feelings about this Bill unless.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order, the Honourable Member must not criticise the ruling the Chair has just given.

Sir Abdul Halim Ghuznavi : Very well, Sir, I bow to your ruling. All I now say is, I oppose this Bill.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : Sir, the Bill under discussion was sponsored by Dr. Deshmukh, a Member of the Congress Party. The Congress Party is not here today. We have already enunciated the principle for which we stand in this House. That principle is that we Muslim Leaguers are always on the side of right. If the Congress is on the right, we will be on their side, if the Britishers are on the right, we are with them, and wherever we do not agree with them or the Congress, we sit on the fence. We are the balancing power. Now, Sir, we find that Dr. Deshmukh's Bill contains a principle which is the principle of Truth, and Dr. Deshmukh's Hinduism has borrowed that sacred principle from Islam, and, therefore, it is our duty to support him even during his absence. It is really a great pity that congressmen are not here, and finding that lions are not here, there are so many jackals howling against this Bill. So far as we are concerned, we have already stated that if our congress friends say two and two make four, we will not say that two and two make five, and in their absence we will support the principle underlying this Bill that a Hindu woman should have the right to divorce her husband under certain conditions. Sir, this right was accorded to women over 1,300 years ago by Islam. Christianity did not enjoy that right in the case of women. Christianity said that marriages were made in heaven, those whose hands God has joined no man can keep them asunder. But what was the actual practice? Marriages were not made in heaven,—they were made in Gretna Green. So this practice went on in Europe. Similarly, the same practice was followed during the course of ages in India. And what was the result? The result was the Om Mandli, which my friend over there has been deploring so much. Sir, the arguments advanced by my friends, Bhai Parma Nand and Mr. Bajoria, and also by others have not appealed to me at all..

Mr. Lalchand Navalrai : I suppose mine have.

Maulana Zafar Ali Khan : They were the worst reactionaries, and you are a moderate reactionary. You deny to woman the right that was given to her by her Creator. The plight of women in Hinduism has been deplorable from time immemorial.....

Babu Baijnath Bajoria : Question?

Maulana Zafar Ali Khan : When she was a girl, she was the slave of her parents, her uncle and of her brothers.....

Babu Baijnath Bajoria : She is not a slave. What about Muslim girls? Are they not obedient to their parents?

Maulana Zafar Ali Khan : I will come to it presently. When she went to her father-in-law's house, she was the slave of her father-in-law, mother-in-law, of her brothers-in-law and of her husband also. She had no right to inherit property. Whatever was given to her in dowry was charity. Her husband could treat her in whatever way he liked. Her father-in-law, similarly, could treat her according to his whim, and,

[Maulana Zafar Ali Khan.]

therefore, no right of any kind was given to her. Times changed, and now the world has learnt something from the simple faith which is called Islam. Islam gave that right to woman. It raised her from the lowest depths to the highest heights.

Bhai Parma Nand : What about purdah—keeping her inside the house ?

Maulana Zafar Ali Khan : My Honourable friend talks of purdah. If I talk of purdah, then other things will come, then Mahatma Gandhi's philosophy of nudity will come. My Honourable friend says, what about purdah ?

Some Honourable Members : You had better go on.

An Honourable Member : Go on also moderately.

Maulana Zafar Ali Khan : I am moderate. Of course, I respect Hinduism. I respect the millions and millions of Hindus whose civilisation was a beacon of light in days when the whole world was plunged in darkness. I admit all that. But, as Dr. Deshmukh told us the other day when he introduced this Bill, Hinduism is changing from epoch to epoch, it is changing from period to period. When I put in a word and said that supposing a change comes over Hinduism and Hinduism embraces certain principles of Islam, will you be converted to Islam ? He said ; " Whatever else I may become, I won't become a Muslim ". That is by the way. There was another gentleman, my Honourable friend, Mr. Santhanam, who went so far as to declare that the time had come to overhaul the Vedas, to re-write them in the light of the present day needs. This evolution has been going on and a change has come over the mentality of the people. Mr. Bajoria says that we must put a check on this freedom which is degenerating into license. Why ? Because western civilisation is coming from England and from Europe. If western civilisation is coming and carrying everything before it, then it will carry away your customs also, it will carry away your laws also. So, why not check it in the proper way ? You do not check it in the proper way. You try to crush the spirit of woman and tell her that you are not going to give her the right that was given to her by God. Bhai Parma Nand says that widow remarriage was repugnant to Hinduism. Let me tell him there were other things also repugnant to Hinduism. A husband cannot divorce his wife. Similarly, a woman cannot divorce her husband. I am glad that my Honourable friend, Mr. Umar Aly Shah, has quoted chapter and verse from the Mahabharata and produced many instances in which women did divorce their husbands. So, after so many thousands of years, if Hinduism wakes up in the form of Dr. Deshmukh and claims the same right for Hindu women today which was exercised by Hindu women during the days of Mahabharata, where lies the harm ? I admit, as my Honourable friend, Sir Muhammad Yamin Khan, has pointed out, that certain parts of this Bill are defective, bad in law, bad in reason, bad in argument. But the principle underlying it is a sacred principle and we are bound, as Mussalmans, to support that principle. I wish that Dr. Deshmukh had in the first clause of this Bill claimed for men the right to divorce their wives under certain conditions. That was the primary defect which he overlooked.

He does not give the husband the right to divorce his wife, but he gives the woman the right to divorce her husband ; it is all topsyturvy. (Interruption by Babu Baijnath Bajoria.) We have got to face stern facts of life. The change is coming, willy nilly, you must accept that with good grace. You can have your say today, you can make your speech for hours and hours altogether and nobody will say ' No, ' because Dr. Deshmukh is not there, the many stalwarts of the Congress are not there, Mr. Satyamurti is not there, Mr. Bhulabhai Desai is not there.

Babu Baijnath Bajoria : That is why I cut short my speech.

Maulana Zafar Ali Khan : You have cut short your speech, but we are not going to cut our speeches, we are going to do what they could not do, because of their absence—as we think that in certain respects they are right, and in any progressive measure adopted by any one, whether he happens to be a Christian, or a Parsi, or an Englishman or a Hindu, we will certainly support him. But we will oppose with all our power any measure which we think is against our conscience, against the interests of the country as a whole and against the interests of mankind as a whole. There are certain other arguments which, if I were to dilate on during my criticism, would take a lot of time. I see that the Government Benches are opposed to this measure. I see that my Honourable friends sitting here are also opposed to it, and the Muslim League is not in full strength here. If all of us in the Muslim League were present here, we could have given a very good account of ourselves, but even if we lose we will have the satisfaction of feeling that we sided with those who adopted the right course. With these words I support the Bill, by which I mean that I support the principle of the Bill which grants to the Hindu woman the right to divorce her husband in certain circumstances.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa . Muhammadan) : Sir, I had no desire to take part in the debate which only concerns the Hindu community directly, but as reference was made by Bhai Parma Nand to the Marriage Dissolution Bill of the Mussalmans which was recently passed, I think I would be justified if I make some observations on the principle of the " Hindu Women's Divorce Bill " and especially on the psychological aspect of the legislation proposed herein. The question is how far the legislation would be equitable. I hope my Honourable friend, Mr. Bajoria, will agree with me that Hindus are probably one-twentieth of the vast population of the entire world, and he will find that most of the people of the world have appreciated the principle of this law, the principle of giving the right to women for a divorce. The majority of the people of this world, whether in the East, West, North or South, have definitely stated that these rights and privileges are birthrights of women as human beings and could not be refused to them. If they were refused to them in times past by certain sections of the people, it was for certain circumstances and certain reasons. The men wanted their distinct superiority in rights and wanted their wives not as partners but as slaves always tied to them. The time has now come when we must relax these conditions. We may be reluctant to do so but we have to follow the tide of time. My Honourable friend, Mr. Bajoria, may not like it, but he cannot help the stern

[Mr. Muhammad Nauman.]

facts as they are today. I do not propose to make any comment on the Hindu religion of which probably I do not know much at all. From the instances and quotations just given to the House by Mr. Umar Aly Shah who is a scholar in Hindu Vedas and Sanskrit it has been proved to a very great extent,—I should not say to the hilt, but to a very great extent—that the martyrs of Hindu religion and the best heroes of Hindu religion have in their own times appreciated this principle, and in some cases it did so happen that certain women did divorce their husbands.

An Honourable Member : No.

Mr. Muhammad Nauman : I am not going to enter into any controversy on that subject.

In the light of the quotations, given by my Honourable friend, Mr. Umar Aly Shah, I feel that the Hindu religion which gave civilisation to the world about three or four thousand years ago must have had that equitable principle in it. Hinduism claims to be a humane religion. I do not know whether it is a fact that the Vedas have been interpreted properly by those people who are custodians of the religion today but I believe that the Vedas could not have made a distinction between a man and a woman. The practice of Sati was at one time considered to be a pious thing to do. Later on it was proved that it was not at all a humane practice and legislation had to be made to prevent same. I for one am inclined to believe that the great religion of Hinduism could not have made any distinction between man and woman in the matter of their rights. My friend, Mr. Bajoria, has just now stated that widow remarriage, in spite of legal sanction, is a dead letter among Hindus today. If that is the case, what practical objection could there be if this law is also placed on the Statute-book ? If the husbands do not treat their wives badly and if the women have no desire for divorce, then why are our Sanatidharmi friends afraid of this Bill. Give your women the right to divorce if they want so. By this Bill you are not compelling women to have recourse to divorce when they do not require it. It may be that no occasion may ever arise for any Hindu woman to have recourse to divorce but why make yourself ridiculous before the civilised world by not granting this right to the woman. It is for the woman to choose and see what is best for her. Besides, a legislation like this will have a moral effect on the class of Hindu husbands who do not treat their wives properly. As Sir Muhammad Yamin Khan has pointed out today we certainly feel that this legislation is not complete and requires lot of overhauling and lot of additions and subtractions. I am not going to enter into the question whether the marriage is a sacrament or a contract but whatever may be the position, we do not want to deprive woman of her inherent right to divorce her husband if her husband is not treating her properly or if a husband is unfit to perform the marital functions of a husband. There can be no reason why liberty of divorce in extreme circumstances should not be given to woman to go away and seek comforts elsewhere. There should be compulsion on the part of the man to maintain his wife properly and this legislation will certainly have the desired effect, because she has been given into his hands by her parents or guardian with full confidence of best relations. Another point is about change of religion in this Bill. Every

one is entitled to have his own ideas about a religion and his views about life after death. A man may have one idea and the woman may have another. If a man has changed his religion to Islam or Christianity or any other it does not follow that the wife and children should also be compelled to change their religion. Why should you compel them to change their religion ?

An Honourable Member : She could not convert herself.

Mr. Muhammad Nauman : In that case, what is she to do ? She will have no companion in the world and will be compelled to a miserable life of separate existence !

Bhai Parma Nand : In the case of Islam, if the wife changes her religion, she can still remain the wife of her Muslim husband.

Mr. Muhammad Nauman : Only if she likes. She may remain as the wife or she may not. This Bill is only in the first stage. After it has gone to the Select Committee lot of things will be changed and new paragraphs will also be placed on the Statute-book.

An Honourable Member : You have no conception of Hindu marriage.

Mr. Muhammad Nauman : I confess I have no practical experience of it but my submission to the House is that this piece of legislation is certainly good and I think it has got the support of all the educated Hindus, as I was told by Dr. Deshmukh and other Hindu friends in the Congress. I appreciate the difficulty of some of my Hindu friends who feel rightly or wrongly that it is an encroachment on their religion. I do not know whether it can at all be taken as an encroachment and from the speeches delivered today I feel that it is not at all an encroachment. I am relying on the statement of Mr. Umar Aly Shah mostly, who quoted Vedas in Sanskrit only a few hours ago. However, we give our full support to the principle of the Bill and I hope that in the Select Committee all the defects of this Bill will be removed. Reciprocal rights should also be given to husbands for divorcing their wives and other defects may also be rectified. We, therefore, support the principle of the Bill. With these words, I resume my seat.

Mr. M. Ghiasuddin (Punjab : Landholders) : I think the attitude of the Party to which I belong has been made clear by the speeches of my Honourable friends, Sir Muhammad Yamin Khan and Mr. Nauman. Very briefly stated, our attitude is this. For one thing, we recognise the fact that the best interpreters of Hindu religion are the Hindus themselves ; and for that purpose, the people best qualified are the elected Hindu Members of this House, because, after all, the Hindu Members sitting on the Government Benches, if they will excuse my saying so, have no conscience of their own. They have to vote according to the instructions of the Leader of the House.

The Honourable Sir Muhammad Zafrullah Khan : How often have you found yourself in disagreement with your Leader ?

Mr. M. Ghiasuddin : I have a voice in forming the policy of my Leader, I may be over-ruled, but the people who sit behind the Honourable the Leader of the House have no voice of their own, they have just to obey. We do not want to interfere in matters which only concern

[Mr. M. Ghasuddin.]

our brothers of the Hindu community. If it was agreed amongst all the Parties including the Government that on a social measure which merely affected a certain community only the voice of that community should count, then we would have gladly abided by that principle and would have refrained from voting altogether.

Sardar Sant Singh : And then I would have carried all my Bills.

Mr. M. Ghasuddin : Let the European Group and Muslim League then stand aside and let this matter be decided by the Hindus themselves. But this has not been the convention. (Interruption.) If this is not the case, then the second thing, as far as my Party are concerned, is, that we are prepared to support the majority of the elected Hindu Members ; whichever way they vote we are prepared to side with them.

The Honourable Sir Muhammad Zafrullah Khan : The majority of elected Hindu Members present here are opposed to the Bill.

Mr. M. Ghasuddin : I do not say " present here " ; I say " the conscientious opinion of the majority of the elected Hindu Members "

The Honourable Sir Muhammad Zafrullah Khan : How will you measure whether it is conscientious or not ?

Mr. M. Ghasuddin : This is the only criterion by which we propose to judge and so if we come to the conclusion that the majority of the Hindu Members, whichever Party they might belong to, are in favour of this Bill, as we hope and trust they are ; in that case we are bound to support them. Unfortunately this thing cannot be decided today, because the majority of the elected Hindu Members are absent, but we suppose that as the Bill has been sponsored by a Member of the Congress Party, it must have cordial support amongst them and the full support of the Congress. (Interruption.)

An Honourable Member : No.

Mr. M. Ghasuddin : If Congress were not in favour of this Bill, they would have throttled the Mover of the Bill. As far as the opinion in the country goes, we have had volumes of opinions from both sides,—most people supporting it, some opposing it, and it is very difficult to judge whether this measure is popular in the country or not. I think Government should have been guided by the opinion of the elected Members of the House : and as we think that the majority of the elected Hindu Members at any rate are in favour of the Bill, we are going to support it.

Mr. M. S. Aney : Sir, I regret that the debate over this Bill is taking place under circumstances which are to be deplored. I am not apportioning any blame to anybody and so I have nothing to say as to who is to blame in this matter. It is a Bill which affects the whole of the Hindu community as such. I was glad to hear from the Deputy Leader of the Muslim League Party in the House that they have decided to adjust their attitude.....

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

.....to the one that will be taken up by the majority of the Hindu Members of this House. There seems to be a little difference of opinion between some of the friends on the Muslim League Benches and Sir Yamin Khan himself because, if I understood the statement of Sir Yamin Khan, it was that he wanted to ascertain the opinion of the majority of the elected Hindu Members present in this House but my other friend has in his mind the entire body of Hindu Members of this House. Now, it will be difficult for him to understand what will be the view of the majority of those persons who are absent from this House. Of that there will be no criterion at all ; so he will have to fall back either on the vote of the majority of the Hindus present in this House, or he will have no criterion to come to any decision. I am not here appealing to them to vote this way or that. It is a measure which involves principles and they have to decide what should be the correct and proper attitude to adopt on matters of principle of this kind. If conscientiously they think that it is a matter on which they should vote in a particular way, I would be the last person to come in their way.

Sir, so far as the present Bill is concerned, the speech that was made in this House by Sir Nripendra Sircar disclosed not only the attitude of the Government but I venture to say the general Hindu point of view also and in that speech he has clearly pointed out what are the main defects of this legislation, and he has emphasised the fact that those defects are not merely defects of detail but they are defects which might be considered as defects of principle. Now a Bill like this can be viewed from two points of view. It affects the institution of marriage. As regards the institution of marriage, we know there are two sets of views propounded. There is one set of views which says that marriage is a sacrament and there is another set of views which says that marriage is a contract. Evidently there are those who want to propound the principle of divorce as a necessity to complete the conception of the institution of marriage from the point of view of equity and they are taking what might be called the contractual view of marriage and the contractual view of marriage means this, that it is a matter of contract between the man and the woman and it will subsist so long as the persons who are parties to the marriage think it should subsist, and on certain conditions it is always open to one of the parties to the contract to repudiate the contract. But, in the case of ordinary contracts, we find that if there is a right of repudiation, it is not confined only to one party to the contract. If anybody wants to follow the contractual view of marriage, then he has to see that whatever concession he wants to introduce or whatever facilities he wants to give in favour of one party to the contract, he must make room for extending the same concession to the other party, otherwise the contractual view will not apply.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : This is what the Members of the Muslim League have said on the floor of this House. You referred to something but I may explain that the Muslim League.....

Mr. M. S. Aney : I have not had the least idea in my mind of referring to the opinion of anybody else, I do not think they have said anything opposed.....

Mr. Muhammad Azhar Ali : You just said that there should be an equitable right to both sides.

Mr. M. S. Aney : If anybody takes the contractual view of marriage and wants to modify the existing usage of the marriage institution, on that basis he cannot ignore the fact that a contract is a bilateral affair and not an unilateral affair. This contract consists of more than one person. There must be two persons to make a contract complete and whatever concessional facility is to be given in the case of one party to the contract must, as a matter of course, be extended to the other party. That alone will be a complete picture from the point of view of a contractual view of marriage. It is perfectly clear that this defect has been pointed out already by Sir Nripendra Sircar and by many other speakers who have just preceded me and those defects were also conceded by the Honourable the Mover of this Bill himself. Therefore, even from the point of view of those who want to look at the institution of marriage as a pure contract and want to make it nothing else but a contract, I think they will find that this Bill is defective in principle itself. You cannot create facilities in the case of one party to the contract and deny those very facilities to the other party and then ask this House to legislate on the basis that the Hindu institution should be taken as a contract and the Bill must be passed.

Mr. N. M. Joshi : The men have the other facility of marrying two wives, what about that ?

Mr. M. S. Aney : I was not up to this time aware that my Honourable friend was a champion of polygamy. It is for the first time that I have heard that he wants to preserve this concession to man in order that this Bill may be passed.

Mr. N. M. Joshi : I did not say that.

Mr. M. S. Aney : Then, do not use that argument at all. Either you must stick to that view and defend this Bill on that ground or you must give up that view. That is the only logical course that you can take so far as this Bill is concerned. However, my Honourable friend is not a lawyer himself and I see that he has not been able to see the flaw in the argument that he wanted to advance in reply to what I was urging here.

Leaving aside that point, if it comes to sacrament, that is a different thing altogether. Here I must first refer to the fact that my friend, Dr. Deshmukh, for whose industry and painstaking habits I have great admiration, has taken the trouble of trying to find out and ransack the translations of all the sacred books that he could lay his hands upon to find out some authorities in support of this Bill. Let me tell this House once for all, notwithstanding the very interesting and informed speech of my Honourable friend, Mr. Umar Ali Shah, to which I do not want to reply in detail because I will have to go into too many unnecessary details, that so far as the idea of divorce is concerned if we want to confine our attention to Hindu Sastras, there is absolutely no sanction for divorce as such. Quotations in favour of re-marriage and quotations that may be construed for some other things may be found and about their interpretations there may be differences of opinion, but so far as the right of separation of husband and wife or dissolution of their marital tie on any particular grounds is concerned, it is to be found nowhere specifically mentioned directly or indirectly referred to in any of the standard text books of Dharma-shastra that I have been

able to read hitherto. I want to tell you something further. In the Sanskrit dictionary there is no word for divorce at all. The words "*Ghatasphote*" and "*Vivahanirakaran*" are words which our modern writers have coined recently to express the idea of divorce but in the Sanskrit literature you will never find any word for 'divorce'. As the institution of divorce was unknown to them there was no occasion for them to coin any expression indicative of the idea of divorce. I challenge anybody to point out to me from the *Amarkosha* and 28 other lexicons in that language which exist at this time, any one word or expression which means 'divorce'. The thing that I am putting before the House is this. So far as the Hindu shastric conception is concerned, they never contemplated the idea of a divorce and, therefore, no word to that effect is given in any dictionary. It does not mean that divorce, as a matter of fact, is not at all existing in the Hindu society today. My Honourable friend, Mr. Joshi, was perfectly right in saying that there are castes in which the usage of divorce exists. It is recognised by the usages and customs of the caste. What happens in such cases is that on a complaint being made by a member of the caste a Panchayat of the caste meets and there certain matters are considered and then it is arranged that a certain woman should cease to be the wife of a particular man or the man should cease to be the husband of a particular woman after getting certain compensation and executing some kind of documents written to testify the fact of willing renunciation of marital rights by one over the other ; and thus the marriage is then annulled and they cease to be husband and wife thereafter. That is a kind of usage which is prevalent in certain castes.

The real difficulty of the Sastras comes in for this reason that out of several kinds of marriages, the most common form of marriage that now exists is what is known as the Brahma form of marriage. That is the system of marriage which is now in vogue generally amongst all the Hindus. Now, according to this form of marriage, there are certain conditions which are to be satisfied before a man and a woman can stand to each other in the relation of husband and wife. There are several conditions and I do not want to go into the details. What I want to impress upon the House is that so far as those, who observe the Brahma form of marriage, are concerned, the difficulty is that the girl after her marriage ceases to belong to the family of the father. Brahma form of marriage requires that the girl has to be given in marriage which is called *Kanyadan* and he who is a donor has to consider certain conditions of Gotra, Pravara, Sapinda and certain other things. Now, this woman ceases to belong to her father's family because she takes a different Gotra, viz., the Gotra of the husband and she becomes a member of her husband's family. Had there been the institution of re-marriage in existence at any time, there would have been some reference in the Sastras that in the case of a woman whose Gotra had been changed like this, the original Gotra of her father could be revived under those certain conditions under which she is considered by some persons as authorised by the Shastras to remarry ; or in the alternative her husband's Gotra must be taken as her Gotra in selecting her second husband. But no reference in the whole of the law that is laid down on the point of marriage gives any indication or suggestion whatsoever on this important point as well as the allied points of Sapinda, because this kind of difficulty never occurred to them.

[Mr. M. S. Aney.]

as they never contemplated the conception of a re-marriage of a married girl even after the death of the husband. However, I omit this portion altogether.

There is another thing which I want the House to consider in connection with this matter. The particular passage to which reference has been made by Dr. Deshmukh and by my Honourable friends, Babu Baijnath Bajoria and Mr. Umar Aly Shah, is a quotation from Parashar and it has been quoted by other Smritis and Nibandhas also. In that passage the words *patih anyah vidhiyate* are very important and on those words my Honourable friend has also laid great stress. Still, the idea is that once you are married, you are married for ever. As long as the woman has got one husband alive, she can never have another husband. Once a man is married to a particular woman, he continues to be her husband during the whole of her life time and, as Mr. Bajoria put it, even after his or her death. But we are not concerned with the state of life after death. But during her life time, he will undoubtedly continue to be her husband.

I now refer to the quotation :

"Nashle mrte pravrajite Klibe cha patite patau, Panchatswapasu narinam pati ranyo vidhiyate."

What was this reference to *anyah patih*, another husband? My friend, Mr. Umar Aly Shah, should have known that there was an institution called Niyog recognised in the old Aryan polity and it was called Niyogvidhi, because that is its full name. The Niyogvidhi means this. Even when the husband is alive and if it is found that the woman cannot have any children from her husband, then a kind of latitude was given to that woman to get a child born to her from another man. Latitude was extended to childless widows also. That was the position of the Niyog and this *vidhi* was called Niyogvidhi. As a matter of fact, Dhritrashtra and Pandu, the father of Kauravas and Pandavas were not sons by their own father at all. But, although they were procreated on their mothers by another person, Vedavyasa, they were still taken as children belonging to their deceased husband! The husband remained the same although for the sake of another purpose, viz., the begetting of a child a certain kind of latitude was allowed, and another person was permitted to officiate temporarily as their husband for that limited purpose.

Mr. Umar Aly Shah : But Ambika and Ambalika were widows.

Mr. M. S. Aney : In that case, I shall be able to tell you something of the various kinds of marriages in vogue in those days. There were the Gandharva, the Rakshasa, the Pisacha, the Asura and other kinds of marriages in those days which are collectively described as unapproved forms of marriage. These ladies were dragged in that way from the house of their father and then they were married to the kings. Surely we are not legislating for these kinds of marriages. Those marriages were something in the nature of rights of property over spoils in war. Your adversary defeats you in battle and then takes your daughter in marriage. There were many examples of that nature in olden days. The story of Ulipi, the story of Vali's wife Tara is all of the same type. They are not marriages in the sense in which we are discussing them here. In those cases, the husbands were deceived,

the fathers of the girls were defeated and the girls were kidnapped and in that way they became the wives of their conquerors. After their marriage when sons were born they were proud to call themselves as sons of those heroes. When Bhima begot Ghadotkacha on a Rakshasa woman, it was not through lawful wedlock. It does not mean there was any regular marriage. Laws are being made under the shastras not for abnormal marriages such as Pisacha or Rakshasa kinds of marriages with which we are not concerned. We have to see whether there is latitude or concession given for divorce or for remarriage in cases of the kind of marriage in vogue, namely, Brahma, Arsha, Daiva, or Prajapatya forms of marriages. I do not think there is any authority which says that in such Brahma form of marriages there is divorce allowed. The text to which reference was made was obviously dealing with *Niyogvidhi*. It may be observed in this connection that many of these observances which were in vogue in previous Yugas are proscribed now in the *Kali yuga* as being unworthy observances. It is technically called *Kalivarjya* observances. *Niyogvidhi* is one of such observances. The text quoted has got in my view a clear reference only to *Niyogvidhi*. Permission was given to a woman to take another man as her husband for the purpose of procreating children. But that has absolutely no application so far as shastric injunction for divorce or remarriage is concerned. The position now is this. The text of Parasara, I take it, has reference not to marriage as such but to *Niyogvidhi*. The word, *anyapathi* and the word, *vidhiyate* mean appointment of other husband is permissible. I submit that on the basis of this quotation, it is difficult to say, nay, wrong that Shastras allowed that. As a matter of fact, there is no provision made anywhere that divorce should be permitted to a woman. But I do not mean to say that even if there is no provision, there should be no change in that direction or that a change is not desirable at all. That is not my point of view from which I want to attack this measure. I want to attack the position that the present reforms which they want to introduce has its basis or grounding in the Shastras itself. It has not. You can take it from me that it has not. So far as I know the Shastras, I do not find any reference in any of the texts for divorce to a woman.

Having propounded the view that there is no basis for this reform in the Shastras, I do not say that if the thing is desirable, it ought not to be done. Therein you have to look at the reform from a practical and utilitarian point of view. You have before you the example of a very important piece of legislation which was passed more than 60 years ago. It was a very salutary reform that was introduced in those days. What do we find? Even now there is a very insignificant fraction of the Hindu widows who are inclined to take advantage of that legislation and get themselves remarried. I am referring only to those castes among whom remarriage is prohibited and I am not referring to those castes in which there is usage or there is remarriage going on and for which there is no need for legislation. Among those castes where the practice is not in vogue, we find there is reluctance, there is an unwillingness on the part of guardians of widows or even among the widows themselves for performing remarriage.

An Honourable Member : It is because the woman does not inherit any property.

Mr. M. S. Aney : Now you are asking me to make another law for establishing the right of women to inherit property. I am not now dis-

[Mr. M. S. Aney.]

Sir, the Bill as it stands is really so defective that it is useless to send a Bill like this to the Select Committee. You cannot expect the Select Committee to prepare an entirely different Bill which will not only include the right of women to divorce but the right of both men and women. Then, women are not always childless and the children will have to be provided for as regards their custody and maintenance, etc. With all these points a new Bill will have to be prepared and the Select Committee will not be able to deal with these points which are not within the contemplation of the framers of the Bill. You can improve a Bill at the Committee but you cannot altogether draft an entirely new Bill. This Bill should, therefore, be withdrawn and somebody equally if not more enthusiastic about the cause of social reform should come forward with another and more well-considered Bill. All that those who say anything in favour of the present Bill is that they favour divorce but that is not the simple principle of the Bill. The Bill says that under certain conditions divorce will be allowed to women only; if you cannot agree on any one of those conditions you disagree on the principle itself. Therefore, with all my sympathy for Dr. Deshmukh and all the advice that I have been able to give him when he was drafting this Bill, I feel constrained to oppose this Bill and the motion before the House.

Mr. N. M. Joshi : Sir, I rise to support the principle of the Bill, the principle being that marriages shall not be treated as indissoluble but that provision should be made by law for the dissolution of marriages. Being in favour of that principle I support the motion for sending the Bill to a Select Committee. If we consider the state of Hindu society at present much discussion is not necessary to show that there must be some provision for dissolution of marriages in certain circumstances. It has been said that divorce is against Hindu culture and Hindu religion and everything Hindu. In one of the interruptions that I made during the speech of my Honourable friend, Sir Abdul Halim Ghuznavi, I stated that it is the educated classes and classes which regard themselves as higher Hindus which need this reform very urgently. I am not suggesting that there should be no law even for the other communities, but the urgent need for this reform is felt by the educated well-to-do middle classes. My friend, Mr. Aney, admitted that the poorer sections of the Hindu community have greater respect for freedom, greater appreciation of freedom, and whatever may be written in the Hindu Shastras and books, their practice is sensible.

Babu Baijnath Bajoria : He said that practice is confined only to low castes.

Mr. N. M. Joshi : I do not know whom my friend, Mr. Bajoria, calls as low castes. I do not remember what my friend said, but I do not think that any caste is low, and my friend, Mr. Aney, will not be so unreasonable as to suggest that any caste is low. I have known him for many years. I am quite sure he is not likely to say that any caste is low or high. I am sure of that. Therefore, I won't say that this practice exists in the lower castes. It exists among people who have to work for their bread. It is they who generally appreciate freedom. It is the accumulation of property that brings in slavery. The working classes have not got property. They have greater appreciation for freedom, and the slavish practices that prevail exist only among the middle classes,

and there is reason for it. It is, therefore, wrong to say that divorce is against Hindu culture. What is culture? Nobody has told me yet. Have not the working classes any culture? I should say they have got better culture and more sensible culture than the classes whom my friend, Mr. Bajoria, represents.....

Babu Baijnath Bajoria : They have got the Vedic culture.

Mr. N. M. Joshi : That is also religion. Does my friend, Mr. Bajoria, say that the working classes have no religion? They are as good Hindus as he, perhaps they are better Hindus. In any case, my friend, Mr. Bajoria, has not yet protested to the Government of India for having included these working classes among the Hindus because they have a practice of divorce among them. Sir, the Hindu Mahasabha and all the other Hindu organizations include all these people in the category of Hindus, and when they want any special rights or privileges to increase the number of Hindu population, they include everybody among Hindus,—I don't say wrongly. These working classes who have these practices are also Hindus.—I would say they are perhaps better Hindus, because their religion is a better religion than the religion of my friend, Mr. Bajoria. I, therefore, feel, Sir, that it is wrong to say that the practice of divorce among the working classes is against the culture of Hindus,—may be against the culture of some sections of Hindus. I admit that. That culture is not a right culture, it is a misculture,—I do not know whether there is such a word. Similarly, divorce is not against the Hindu religion either. If Hindu religion is interpreted as being the religion as stated in some of the ancient books, it may be so, but all the religion of the Hindus is not written down in those books. Those ancient books were written thousands of years ago. Does my friend, Mr. Bajoria, maintain that the Hindu religion has not grown after that? Sir, the Hindu religion has grown, the Hindu religion has sanctioned many things which are not contained in those books. Why? Mr. Bajoria himself is doing many things which are not contained in those books.

An Honourable Member : What are they?

Mr. N. M. Joshi : Those books do not say you should travel in a train or a motor car. Is travelling by train allowed by the Shastras? But my friend is travelling.....

Mr. Lalchand Navalrai : Where is it prohibited?

Mr. N. M. Joshi : There are many things in the Shastras which are prohibited and still we are doing them. The Shastras say many things should not be done, yet my friend, Mr. Bajoria, is doing them. According to my friend, Mr. Bajoria, he will only take such things from the Shastras which will suit him best. Shastras are his authority only for such things which he is not doing. It is wrong. You cannot depend upon books which were written thousands of years ago for our guide in modern times. Those books perhaps,—I am not quite sure,—were good enough for those times. I am not prepared to accept those books as my guide today, and I am quite sure my friend, Mr. Bajoria, and those who agree with him do not accept those books as their guide either. They will accept those books as their guide only when it suits them. Sir, it is, therefore, wrong to suggest that divorce is against the spirit of Hindu religion.

[Mr. N. M. Joshi.]

Now, Sir, it was suggested that marriage should be regarded as a sacrament. I do not know why a good religion intended for the spiritual salvation of man should be introduced in a practical matter like marriage. Religion should deal with the spiritual development of man, and, therefore, I do not know how any good religion can interfere in a practical matter like marriage. If a religion lays down that you should think of God say five times a day or once in the morning, once in the afternoon, or that while praying you should say particular words, I can understand it. Religion should deal with spiritual matters, it should deal with the salvation of the soul, and your relationship with God, if you believe in God, but that it should have nothing to do with marriage. I really cannot understand the relationship between religion and a practical matter like marriage.....

Bhai Parma Nand : Civil marriage is quite open to those irreligious people.

Mr. N. M. Joshi : My friend, Bhai Parma Nand, says that civil marriage is quite open for irreligious people. That is quite true, and there are people who do take advantage of the Civil Marriage Act. And let me tell my friend, Bhai Parma Nand, that the younger and educated sections of the Hindu community are taking more and more advantage of the Civil Marriage Act, which they had not done before, because we refused to give them a proper kind of marriage law.

Well, Sir, that is not the point. The point is, I am a Member of this Legislature and I have to do my duty in examining the pieces of legislation which come before it. I do not agree with the view which my Honourable friends of the Muslim League take, that if there is a Hindu Bill, if the majority of the Hindu Members approve of it, the Muslim Members will not interfere. That is the policy which was enunciated on their behalf. I am not prepared to accept that policy. And let me tell my Muslim friends that if there is a Muslim piece of legislation which I do not approve of, I am going to speak against it. Whatever other Hindus may have done, as a Member of this Legislature it is my duty to examine every Bill, whether it is a Bill which affects the Hindus or whether it is a Bill which affects the Muslims. It is my duty to examine it on its merits and vote for or against it. Sometimes the legislation may not be on a religious matter; there may be a matter affecting the Muslim masses. The Hindus may not be interested, the Muslims who are here may not represent them or they may take a wrong view. Well, it will be my duty to tell my Muslim friends that they may be Muslims but they are not protecting the interests of some sections of the Muslim community.

An Honourable Member : We have got at least one wise man.

Mr. N. M. Joshi : I do not suggest that there is only one wise man, there are many, but I feel that we are here to do our duty according to our conscience and not to represent certain religious communities. We do not consider that marriage is a question which can be decided according to religious tenets. I do not hold that marriage is a sacrament because I feel that the State has a right to give directions under what conditions marriages can take place and under what conditions marriages should be

dissolved. My Honourable friend, Mr. Aney, said that, if marriage is not a sacrament, it must be a contract. Then he said that the contract must be fair to both sides. I agree that any contract to be good should be fair to both sides, and if I were framing a Bill for divorce among the Hindus I should have acted differently from what Dr. Deshmukh has done. I would have given freedom to both men and women, but I do not agree with Mr. Aney when he stated that there is no justification for treating the man differently in this matter. The man has certain privileges in the matter of marriage. Among the Hindus a woman can marry only one husband at a time.....

Mr. M. S. Aney : One husband for all time.

Mr. N. M. Joshi : ...while a man can marry two wives, or even two or more. If a man has got this privilege, so long as he enjoys that privilege, there is nothing wrong if we give a certain privilege to woman without giving that privilege to man. As a matter of fact, the need of men for divorce, as compared with the need of women for divorce, is much less. If a man does not like the woman whom he has married, well, he can marry another woman. And I am sure Mr. Aney who is generally a fair minded man will agree with me that in the case of man the need for divorce is much less than in the case of a woman. If a woman does not like her husband, if the husband is giving her trouble, is disagreeable in some manner, that woman cannot get rid of that husband. But a man can get rid of his wife. In any case the man does not suffer all the disadvantages of having chosen a companion who is not agreeable to him. He can have another companion. I, therefore, feel that my Honourable friend, Mr. Aney, was not quite right in saying that there is absolutely no justification for treating the woman differently. Let me assure him that in a properly framed divorce law I would give the same freedom to man. If I am supporting this measure, I am supporting the principle of divorce.

Mr. M. S. Aney : Not this Bill !

Mr. N. M. Joshi : I am prepared to support that this Bill be sent to a Select Committee. That much support I give to this Bill, and I have confidence that if it goes before a fair minded Select Committee the Select Committee will change it. I have seen Bills changed out of recognition by Select Committees in this House. When the Bills came back they were absolutely different Bills. So the power of the Select Committee to change Bills in order to make them suitable and proper is unlimited, it all depends upon the House. The House can by their speeches give a sort of direction to the Select Committee that the only principle which the House recognises as underlying this piece of legislation is that marriages are not indissoluble, that marriages can be dissolved. If that wide direction is given by the House, as the House has several times done that, then the Select Committee will be free to change Dr. Deshmukh's Bill beyond recognition and make it a good Bill. I feel that Dr. Deshmukh's Bill is not satisfactory. At the same time I feel that it is a Bill which is proper to be sent to the Select Committee. Therefore, I support the motion that it should be sent to a Select Committee. Dr. Deshmukh's Bill has several defects. One of them was pointed out by Mr. Aney, namely, that it is not fair to the man. In my judgment it is not wide enough, it is

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restrictive, the grounds provided by Dr. Deshmukh are not all the grounds on which marriages could be dissolved. I do not wish to go into the details of those questions.

An Honourable Member : Is your name on the Select Committee ?

Mr. N. M. Joshi : I do not know. When I stand to speak on a Bill it is not my practice to find out whether my name is on the Select Committee or not.

The Honourable Sir Muhammad Zafrullah Khan : It cannot be done without your consent. You must know.

Mr. N. M. Joshi : If it is not there and if some people are anxious that I should be there, it is open to them to propose my name and I assure them that I shall not refuse to serve on that Select Committee. Then my Honourable friend, Mr. Aney, pointed out some practical difficulties from which a woman will suffer.

An Honourable Member : Go on till five.

Mr. N. M. Joshi : I was not looking at the clock, that also is not my practice. I am not speaking in order that the discussion should not be finished today. I know there is another non-official day on which the Bill may be finished, but I must say a word about what my Honourable friend, Mr. Aney, said, namely, that we shall increase the number of women who will need husbands. When people choose their wives they have several considerations in their mind. Perhaps one of the considerations is that the companion to be selected should not be a widow or a divorced person. That may be in the minds of some people. But there are people who may have other considerations in their minds. I do not wish to go into that question but I am quite sure my Honourable friend, Mr. Aney, knows that when some people marry they marry on account of love. You may fall in love with a widow or a divorced person.

Babu Baijnath Bajoria : There are romantic marriages also.

Mr. N. M. Joshi : Quite so. Marriages ought to be romantic. But some people marry for the sake of money. I do not know whether Mr. Bajoria will favour that kind of marriage. I only heard those of his views which he had stated in this House. I do not know whether he wants that a man and woman should marry in order that one may benefit by the money of the other party. But there are several considerations on account of which marriages take place. So my Honourable friend, Mr. Aney, need not be very anxious about the fate of the widows or the divorced women. I have no doubt that the community as a whole has treated the widows, especially of the Hindu community, very unfairly by placing on them restrictions which are not placed on the men, restrictions which in my judgment are wrong. Every effort should be made to remove those restrictions. I do not agree with the fears of Mr. Aney that the number of women who may not get husbands will be increased. It all depends upon the number of men and women in the society. If the number of women is too large, it is quite possible that the number of women who need husbands will be larger. I, therefore, feel that fear like the one which my Honourable friend, Mr. Aney, expressed is unfounded and I do not think he need worry about it very much. My

Honourable friend, Mr. Bajoria, thought that the whole Hindu community would be wrecked if we pass this measure. Even if divorce is regarded as harmful, which it is not, it all depends upon whether the whole society is going to take advantage of this measure. If my Honourable friend, Mr. Bajoria, is right in interpreting the mind of the Hindu community, then there is not much danger of the Hindu community being wrecked. Very few people will take advantage of this law and the danger will be very small but the fact is that my friend, Mr. Bajoria, is quite conscious in his mind that the Hindu community is not in favour of the restrictions which he is imposing. The Hindu community will welcome the removal of these restrictions. He knows that very well. Therefore, he is afraid that if the law for divorce is passed, those people who need the help of this law will take advantage but my Honourable friend, Mr. Bajoria, is afraid, though wrongly, that the Hindu community will be wrecked. His fears are quite unjustified. Even if we give freedom to both men and women among the Hindus for divorce, the number of people who will take advantage of this law, ordinarily, will not be very large. Ordinarily, Sir, we stick to our friends. We do not give up our friends. We tolerate their faults and defects. We are not all without faults or defects. If we belong to some party, we generally stick to each other. Simply because a member of a party makes a speech which I don't like, I do not give up that party. I tolerate a good deal and even suffer.

Mr. M. S. Aney : When did you do that ?

Mr. N. M. Joshi : Ordinarily we stick to our friends. We tolerate many inconveniences in our married life. If a man lives in a house for ten or twenty years, he does not like to change that House and is even willing to undergo some inconveniences. I know men have got that conservative habit. Men do not make changes very light-heartedly. Therefore, it is wrong for my Honourable friend, Mr. Bajoria, to be afraid that simply because we pass this divorce law every man and woman will have recourse to it immediately. That will not happen. When we undertake certain obligations, we do not treat those obligations very lightly. We treat them seriously. As a matter of fact, my friend, Mr. Aney, who was supporting my friend, Mr. Bajoria, gave another instance of the conservative character of human nature. He said : We have passed a law giving freedom to widows to marry and what is the result ? Widows are not coming up in their hundreds to marry. That is his complaint. That is exactly my argument. Why should you be afraid of Hindu society being wrecked.

Mr. M. S. Aney : I put the argument the other way. Even if they are willing to marry, there are not men willing to marry them.

Mr. N. M. Joshi : Widow marriages are not taking place not because the men are not coming forward. I take it that there are difficulties in both ways. Widows find it difficult to come forward on account of pressure from the society and of public opinion. The men do not come forward for the same reason but the fact remains that these laws are only permissive measures. If a man wants to divorce a woman or a woman wants to divorce a man, he or she should have the necessary permission. No two men and women should be tied down together to lead an unhappy life. If a man is not happy in the company of a woman, or a woman is

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not happy in the company of man, what is the justification to tie them together for life and make them unhappy? Sir, Hindu society has done a great harm to itself by the restrictions which it has placed upon its members in the matter of marriage. People marry in order to be happy: and when a marriage has not made them happy, the best thing to do is to allow those people to dissolve the marriage and not only that but to permit them to marry again. Sir, that is the only method of making Hindu society healthy and enabling the members of the Hindu community to be happy. Sir, the restrictions which the Hindu community has placed upon its members has not done any good to the Hindu community in competition with the other communities. Sir, Hindus have got restrictions of various nature,—marriage, food, everything, I do not know where restrictions do not exist in the case of Hindus. Fortunately there are people even like my Honourable friend, Mr. Bajoria, who, in certain matters, do not observe these restrictions, and if we begin to observe all these restrictions I am quite sure my Honourable friend, Mr. Bajoria, will not be able to carry on his ordinary trade, because our Hindu Shastras control almost every action of ours, and what is needed to make the Hindu community stronger and healthier is a greater freedom to the members of the Hindu community. I, therefore, feel that Dr. Deshmukh's Bill should be sent to the Select Committee and I hope that when the Select Committee will consider this Bill it will remove all the defects of Dr. Deshmukh's Bill and make it agreeable to those people who believe in freedom.

An Honourable Member : The question may now be put.

Mr. Muhammad Azhar Ali : Sir, I am sorry to rise at this far end of the day to speak on this Bill. Sir, so far as I have been able to read the mind of Dr. Deshmukh when he presented this Bill, before the House, I found that the most prominent thing present to his mind was the victimization of the womanhood amongst the Hindu community in India. He knew very well, and everyone in India knows very well, that amongst the Hindu men there is no restriction of marriages and no limit to marriages. A man can marry any number of women he likes. There are instances and illustrations to be found everywhere in every province and especially amongst the rich people. Therefore, the case of a rich man and a moneyed man like my friend, Mr. Bajoria, is absolutely different from the case of other people, that is, the poorer Hindus. So we have to consider, when we argue on this Bill, that the case of rich Hindu men is very much different from and absolutely in contravention of the case of the poorer Hindu people. Sir, there are many inconsistencies, as my friend, Mr. Joshi, pointed out in the present Hindu society, such as we find that Mahatma Gandhi is trying to raise the status of the Harijans. Now, Sir, you cannot find in the Shastras anything about the raising of the status of one community or the other, but still it is a fact that in India that Harijan class exists and, therefore, the Hindu community has had to reform itself. In the same manner, when this Bill was brought up by Dr. Deshmukh in this House his idea was to raise the status of the Hindu women. Sir, the fact remains that when a man can marry any number of women, there is no need for divorce for Hindus. Dr. Deshmukh knew that if a man does not divorce his wife, it does not matter to him at all;

he can marry any number of women regardless of those who are the victims of that marriage. That was the point very much prominent, I am sure, in the mind of those of his party people as well, when they agreed that this Bill should be brought before the House. Thus, all the arguments that have been advanced by my friends in opposing this Bill will fall on this very ground that the justification for this Bill is that the Hindu male has no need for divorce but the woman has every need for divorce amongst the members of the Hindu community.

Sir, the other day we heard that a Rajah has as many as one hundred, and twenty wives and another three hundred wives. We have been reading of these things in the papers. Now, Sir, where is the need for divorce on their part? Even the big Pandits with all their shastras do not come and condemn that Rajah or that rich man on the score that they have got so many wives. Therefore, there was no necessity for Dr. Deshmukh to bring a Bill before this House to give the right of divorce to Hindu men. Sir, my Honourable friend, Mr. Joshi, says that amongst the Hindus he thinks that the mere sacrament for a marriage is not the proper thing, and that marriage being a bilateral act, it ought to recognize that a man has the same right as a woman has. Thus, the human element remains when we have to consider the question of a woman because we know that the question of a man is not to be considered by this House when we are legislating and when we know that he is not in any way victimised. Sir, I think all the arguments, which have been advanced in this House that there is a defect in this Bill because why a man should not have the same right of divorce as the woman is being given by this Bill, fall to the ground. Sir, my friend, Mr. Aney, says that the Hindu society is not yet prepared for such drastic laws. Sir, I really do not consider how this argument could be advanced by a man of the position of my friend, Mr. Aney. Every day in this House we have been listening to our Hindu friends saying that their civilization has gone higher up and that they are in no way inferior to any nation in this world so far as their civilization is concerned, but what do we find from my friend, Mr. Aney, when he says that even today Hindu society is not in a position to adopt this very salutary measure. My friend, Mr. Bajoria, may think it derogatory to adopt such a measure but I think for my friend, Mr. Aney, to say that Hindu society is not prepared for such a salutary legislation....

Sardar Sant Singh : The question is whether it is salutary or not.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can continue his speech on the next non-official day for Bills.

The Assembly then adjourned till Eleven of the Clock on Friday, the 1st September, 1939.

L177LAD

LEGISLATIVE ASSEMBLY.

Friday, 1st September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

APPOINTMENT OF A MUSLIM AS ESTABLISHMENT SUPERINTENDENT IN THE OFFICE OF THE CHIEF ENGINEER, NORTHERN COMMAND.

†48. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : (a) Will the Defence Secretary please state if it is a fact that the post of Establishment Superintendent in the office of the Chief Engineer, Northern Command, has been held by non-Muslims ever since the formation of that office, except for a few months in a make-shift arrangement ?

(b) What steps, if any, do Government propose to take to redress the grievance of Muslims in that regard ?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) It is not possible to allow communal considerations to prevail in the staffing of particular appointments. The principle of communal representation is applied to the Military Engineer Services as a whole, irrespective of ranks and grades.

PAUCITY OF MUSLIMS IN THE MILITARY ENGINEER SERVICES IN INDIA.

†49. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : (a) Will the Defence Secretary please lay a statement on the table, showing the comparative strength of Muslims and other communities in various grades and ranks of Military Engineering Services in India ?

(b) Will Government please state if it is a fact that the Muslim population in the Northern Command area is 76·9, and Muslim representation in the Military Engineering Services Department here is only 28·8 ?

(c) Have Government considered the desirability of reserving posts for Muslims by increased representation in the Northern Command, in the various ranks and grades of the Military Engineering Services on population basis, as in the Indian State Railway Services ?

(d) Will the Defence Secretary please state if it is a fact that the fixed percentage of 25 on all India basis has not materialised in various grades and ranks of Military Engineering Services ?

(e) Do Government contemplate taking any steps to make up the scheduled percentage of Muslims, and if so, how ?

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

Mr. C. M. G. Ogilvie : (a) I lay a statement on the table.

(b) and (c). I refer the Honourable Member to the reply I gave to parts (b) and (c) of Maulana Zafar Ali Khan's starred question No. 940 on the 30th September, 1937. Government have no information as to what proportion of the total population in the Northern Command area is Muslim. According to the latest returns, the percentage of Muslims in the Military Engineer Services in that Command is 31 per cent.

(d) The communal ratio is fixed for the Military Engineer Services as a whole, irrespective of ranks and grades.

(e) The local authorities in the Military Engineer Services, who control recruitment of subordinate personnel, have been instructed to keep in view communal proportions as far as it is possible to do so with due regard to administrative efficiency.

Statement showing by communities various categories employed by the Military Engineer Services on the 1st January, 1939.

	Hindus.	Muslims.	Other communities.	Total.
1. Assistant Engineers (Permanent) ..	8	3	1	12
2. Sub-divisional officers B/R. (Permanent and temporary).	64	20	13	97
3. Sub-divisional officers E/M ..	5	..	10	15
4. Overseers B/R (Permanent and temporary)	279	77	77	433
5. Supervisors F/S (Permanent and temporary)	29	3	6	38
6. Storekeepers (Permanent and temporary) ..	51	9	13	73
7. Clerks (Permanent and temporary) ..	841	194	149	1,184
8. Draftsmen (Permanent and temporary) ..	125	90	53	268
9. Surveyor Assistants (Permanent and temporary).	59	5	9	73
10. Superintendents E/M (Permanent and temporary).	70	15	30	115
Total ..	1,531	416	361	2,308

PAUCITY OF MUSLIMS IN THE MILITARY ENGINEER SERVICES IN INDIA.

†50. ***Khan Bahadur Shaikh Fazl-i-Haq Piracha :** (a) Will the Defence Secretary please state if it is a fact that superior appointments in the Military Engineering Services Department are not made on the basis of communal proportion? If so, why?

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

(b) Will he be pleased to state if it is a fact that out of 24 posts of charge of clerks in Garrison Engineers' offices (in the Northern Command) only 3 are held by Muslims? If not, what is the actual strength of Muslims?

(c) Are Government thinking of taking any action to bring the strength of Muslims in the said grade in Northern Command by increased proportion in consideration of their population?

Mr. C. M. G. Ogilvie : (a) Yes, since these appointments require special qualifications and experience.

(b) There are 23 appointments of charge clerks, out of which five are held by Muslims.

(c) No, for the reasons given in my reply to parts (b) and (c) of the previous question.

PAUCITY OF MUSLIMS IN THE SURVEYOR OF WORKS CADRE IN THE MILITARY ENGINEER SERVICES.

†51. ***Khan Bahadur Shaikh Fazl-i-Haq Piracha :** (a) Will the Defence Secretary please state if it is a fact that there is a great paucity of Muslims in the Surveyor of Works cadre in the Military Engineering Services?

(b) Do Government propose to give appropriate representation to Muslims in the said cadre?

(c) Is it a fact that facilities for Muslims for qualifying for an appointment to the above cadre have been provided, and if the answer be in the affirmative, what steps have been taken?

(d) Will Government please state if it is a fact that recently when Sub-Divisional Officers on the Electric and Mechanical side were taken, no post was given to Muslims?

(e) Are Government taking any steps to raise the strength of Muslims in the above-mentioned rank?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) Yes, provided Muslims with the necessary qualifications are available.

(c) Yes. Candidates of all classes are interviewed and those with the necessary aptitude are selected for training. If recommended on completion of this training, they are afforded opportunity of admission to the cadre by passing a qualifying examination.

(d) No. Out of the seven appointments, two were given to Muslims.

(e) I refer the Honourable Member to my reply to part (b) of the question.

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

DEPUTATION TO THE ENGINEER-IN-CHIEF TO REPRESENT THE GRIEVANCES OF MUSLIMS.

†52. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : (a) Will the Defence Secretary kindly state if it is a fact that the Muslims' Rights Protection Board, Lahore, led a deputation to Major-General Gaskell, the Engineer-in-Chief, in Delhi, last February, to represent the grievances of Muslims ?

(b) Have Government taken any action to redress the grievances, if so, what ?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) I refer the Honourable Member to the reply I have given today to part (e) of his starred question No. 49.

MILITARY FORCES REQUISITIONED BY THE COLLECTOR OF BADAUN.

53. *Mr. Muhammad Azhar Ali (on behalf of Dr. Sir Ziauddin Ahmad) : (a) Will the Defence Secretary please state if it is a fact that the Collector of Badaun, United Provinces, requisitioned military force in 1939 ?

(b) How many British soldiers and belonging to what regiments were sent to Badaun ?

(c) Will the Defence Secretary lay on the table a copy of the letter from the civil authorities demanding help ?

(d) Did the Military Officer in charge of detachments sent to Badaun submit any report ?

(e) Will Government be pleased to lay a copy of the report on the table ?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) Four British officers and 125 other ranks, belonging to the 2nd Battalion, Oxford and Bucks Light Infantry.

(c) and (e). No.

(d) Yes.

Mr. N. M. Joshi : May I ask for what purpose their services were requisitioned ?

Mr. C. M. G. Ogilvie : On account of a communal disturbance in the city of Badaun and the village of Naglia.

Mr. Lalchand Navalrai : Did the Provincial Government ask for it ?

Mr. C. M. G. Ogilvie : Yes, the Provincial Government asked for it.

Mr. N. M. Joshi : May I ask whether they took part in quelling the riots and whether there was any firing ?

Mr. C. M. G. Ogilvie : There was no firing.

REPORT OF THE COMMITTEE ON THE SIMLA EXODUS.

54. *Mr. Lalchand Navalrai : (a) Will the Honourable the Home Member be pleased to state what was the report of the committee appointed on the Simla exodus ?

(b) What economy in all has the committee suggested and what numbers of officials drawing their respective salaries have been stopped from going to Simla during the Simla season ?

(c) Have Government accepted the report ?

(d) Will Government place the report on the table of the House ?

(e) Are there no further possibilities of economy in this connection ; if not, why not ?

The Honourable Mr. J. A. Thorne : (a), (b) and (c). I would refer the Honourable Member to the Press communiqué, dated the 25th May, 1939 (copies of which are in the Library of the House). As a result of this decision 48 officers and 1,285 members of the ministerial staff who previously moved with Government will not move to Simla in 1940.

(d) No.

(e) The decision goes as far as present circumstances require, but the position is likely to be reviewed as occasion arises.

Mr. Lalchand Navalrai : May I know if the reasons given for accepting the report were also mentioned in the communiqué ?

The Honourable Mr. J. A. Thorne : Yes, Sir. The communiqué states the case at some length, and it has already been published in the newspapers.

Mr. Lalchand Navalrai : Are the reasons given by the Committee itself also given in the communiqué ?

The Honourable Mr. J. A. Thorne : I must refer the Honourable Member to the communiqué. I should have thought that the Honourable Member would have taken sufficient interest in the subject to read what appeared in the press.

Mr. Lalchand Navalrai : But why does the Honourable Member not lay it on the table as I have asked in my question ?

The Honourable Mr. J. A. Thorne : It is in the Library of the House.

Mr. N. M. Joshi : May I ask what is exactly the meaning of the phrase "as occasion arises" ?

The Honourable Mr. J. A. Thorne : I am afraid I cannot define that more explicitly at the moment.

Mr. N. M. Joshi : May I ask whether it means that Government feel the need for retrenchment or anything else ?

The Honourable Mr. J. A. Thorne : I have no doubt that that might be one element in the occasion.

Mr. N. M. Joshi : May I ask whether the Government of India have got a surplus of money at this time and, therefore, they have not considered the scheme as a whole ?

The Honourable Mr. J. A. Thorne : I must refer my Honourable friend to the Finance Member.

Mr. N. M. Joshi : May I ask whether the Honourable Member could not tell me because if the Government of India and his Department have considered the question, I am sure they must have consulted the Finance Member ?

The Honourable Mr. J. A. Thorne : It is a question that cannot be answered without notice either by me or by anyone else.

Babu Baijnath Bajoria : Has there been any reduction in the number of officers who came up to Simla this year ?

The Honourable Mr. J. A. Thorne : Yes, Sir, but I cannot give any detailed answer to that without notice.

TRANSFER OF BRITISH INDIAN TROOPS TO THE IMPERIAL ESTABLISHMENT.

55. *Mr. Lalchand Navalrai : (a) Will the Defence Secretary be pleased to state if it is a fact that there has been a transfer of British Indian troops from India to the Imperial establishment ? If so, for what purposes has the transfer taken place and to what extent ?

(b) Is the transfer made for the defence of India or are they kept as United Kingdom's reserve in the east at the expense of India to meet Imperial exigencies ?

(c) Is it a fact that Indian troops as distinguished from British troops have recently been transferred to Aden ? If so, is it for the defence of Aden, Egypt and Sudan or for several British and French territories in East and North Africa ? If so, under what authority has this been done ? If not, for what purposes have the troops been transferred ?

Mr. C. M. G. Ogilvie : (a) The answer to the first part of the question is in the affirmative. As regards the second, it has been found possible to reduce the number of British troops on the Indian establishment owing to the greater mobility and power conferred by modernisation. The following units have already been transferred to the Home establishment :

- 2 British Cavalry regiments.
- 4 R. H. A. batteries.
- 1 Field regiment, R. A.
- 1 Medium regiment, R. A.
- 6 British Infantry battalions.
- 6 Light tank companies.

(b) The answer to the first part does not arise. That to the second is in the negative.

(c) Yes, for the strengthening of the Aden defences. The loan of these troops was authorised by the Government of India.

Maulana Zafar Ali Khan : Apart from the consideration whether these troops were sent out of India for the defence of Imperialism or for the defence of India, may I know whether the House was consulted in the first instance and whether the Leader of the Muslim League Party or the Leader of the Congress Party were also consulted ?

Mr. C. M. G. Ogilvie : These troops are British troops and have been transferred from the Home establishment to the British establishment. No question of consultation arose.

Mr. N. M. Joshi : May I ask whether the salaries and some of the allowances of these troops are to be continued to be borne by the Indian treasury or by the British treasury ?

Mr. C. M. G. Ogilvie : These troops have now passed to the Imperial establishment and all expenses connected with them will be borne by the United Kingdom.

Mr. Lalchand Navalrai : With reference to clause (c) of the question, may I know whether Indian troops have also been sent for purposes of defence to Aden, Egypt and Sudan ?

Mr. C. M. G. Ogilvie : Indian troops have been transferred to Aden, but it is not for the purpose of the defence of Egypt or the Sudan, but for the purpose of the defence of Aden.

Mr. Lalchand Navalrai : Who will bear their expenses ?

Mr. C. M. G. Ogilvie : The expense of this battalion is being borne by His Majesty's Government.

Mr. N. M. Joshi : May I ask whether any Indian troops were sent to Malaya ?

Mr. C. M. G. Ogilvie : That, Sir, I submit, does not arise from this question ?

Mr. N. M. Joshi : May I ask whether the Government of India propose to give an opportunity to this Legislature to discuss this question, especially the question of India bearing the expenses ?

Mr. C. M. G. Ogilvie : I submit that does not in any way arise from this question.

Sardar Sant Singh : May I know if the Indian troops that have been sent to Aden, Egypt and Sudan will receive any overseas allowances or any allowances other than those which are normally paid to them in India ?

Mr. C. M. G. Ogilvie : I shall require notice of this question.

Mr. N. M. Joshi : May I ask whether this question arises out of this question or not as a matter of proper politics whether the Government of India will give an opportunity to this House ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can put a short notice question on the subject.

REVISION OF THE SCALE OF PAY OF MECHANICIANS CALLED FOR INTERVIEW AT BOMBAY.

56. *Mr. Lalchand Navalrai : Will the Defence Secretary be pleased to state :

- (a) whether the Commanding Officer, Naval Depot, H. M. I. Dockyard, Bombay, advertised for the posts of Mechanics (Engine Room Branch) and Electrical Artificers in December, 1938, and called some of the applicants to Bombay for interview ;

- (b) whether it is a fact that the candidates assembled for interview at Bombay were informed just before the meeting of the Selection Committee that the Government of India had issued instructions revising the scale of pay and reducing the starting salary of Mechanics from Rs. 70 per mensem, as advertised, to Rs. 50 per mensem ;
- (c) whether the candidates so assembled were also informed that only those of them who were prepared to accept the revised starting salary and scale of pay could appear for interview ;
- (d) whether it is a fact that such a material modification in the terms of the advertisement was not communicated to the applicants called for interview, either individually or through the medium of the Press ; if not, why not ;
- (e) whether the Government of India are aware that a large number of the candidates called for interview did not accept the revised terms and preferred to stay away and did not appear for interview ;
- (f) whether Government appreciate the fact that a number of candidates who were not prepared to accept the revised terms, had come from distant places at considerable personal inconvenience and expense ;
- (g) whether Government do not propose to grant such candidates their travelling expenses, etc., from and to their places of residence ; if not, the reasons for not doing so ;
- (h) whether it is a fact that such procedure has never been followed in the past in filling up public appointments ;
- (i) if the answer to the last question be in the affirmative, whether Government are prepared to give their reasons for such a departure in this case ;
- (j) if the answer to (h) be in the negative, whether Government are prepared to give specific instances of such procedure having been followed ; and
- (k) what steps Government propose to take against such injustice being done in the future ?

Mr. C. M. G. Ogilvie : (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes, as regards the first interview on the 30th December, 1938. Further candidates called at Bombay for interview on the 23rd January, 1939, were informed individually of the revised conditions.

(e) Yes.

(f) Yes, as far as the interview on the 30th December, 1938, was concerned.

(g) Government propose to allow these candidates their travelling expenses.

(h)—(k). The situation arose from a misunderstanding ; and no repetition need be anticipated.

Mr. Lalchand Navalrai : Has it been settled what expenses are going to be given to them ? Will they be given their fares only or also the expenses at Bombay ?

Mr. C. M. G. Ogilvie : They will submit no doubt their travelling expenses and if they are considered reasonable they will be met.

JOINT INSPECTING ASSISTANT COMMISSIONER OF INCOME-TAX FOR SIND AND NORTHERN DIVISION OF BOMBAY PRESIDENCY.

57. Mr. Lalchand Navalrai : (a) Will the Honourable the Finance Member be pleased to state if it is a fact that under the new arrangement, a Joint Inspecting Assistant Commissioner of Income Tax for Sind and Northern Division of Bombay Presidency is located at Ahmedabad ?

(b) What is the distance between one end of his jurisdiction to the other extremity of his jurisdiction extending upto Baluchistan ?

(c) How long has he to be on tour within his beat ?

(d) Has the Inspecting Assistant Commissioner visited Sind or Baluchistan ever since he took charge ? If so, when and for how long ?

(e) Is it a fact that the long distances cause delay and loss of efficiency of work so far as Sind and Baluchistan are concerned ?

(f) What steps do Government propose to take to remove the inconvenience caused by joint working with a view to promoting despatch of work and gaining knowledge of the local conditions ?

(g) What are the reasons for having a Joint Inspecting Assistant Commissioner for the aforesaid divisions ?

(h) Is it a fact that Sind Income-tax administrative work is being done at Ahmedabad, through non-Sindhi establishment and that the old Sindhi establishment is unwilling to go to work at Ahmedabad, owing to their service conditions not providing for working outside Sind ?

The Honourable Sir Jeremy Raisman : (a) Yes.

(b) About 1,400 miles.

(c) It is expected that he will normally be on tour for about nine months each year.

(d) In April, 1939, soon after taking over charge, the Inspecting Assistant Commissioner visited Sind. He has again been in Sind since the 8th June, 1939, and will remain there up to the middle of October. Baluchistan was visited by him for a week in July, 1939.

(e) No.

(f) Government do not consider that any inconvenience is caused by the joint charge and hence they do not propose to take any action in the matter.

(g) Government at present consider that one Assistant Commissioner can adequately deal with the work of this charge.

(h) The formal work of consolidating statements, etc., is done at Ahmedabad but other work is done in the Assistant Commissioner's camp office. During his stay in Sind most of the work is done through the Sindhi staff.

The Inspecting Assistant Commissioner has already received requests from several members of the Sindhi staff for appointment at Ahmedabad, so that there appears to be no general unwillingness on the part of the Sindhi establishment to work at Ahmedabad. The personnel of the Assistant Commissioner's permanent staff is at present under consideration.

Mr. Lalchand Navalrai : May I know whether the Sindhis who are offering themselves to go to Ahmedabad will be given their allowances and other expenses there ?

The Honourable Sir Jeremy Raisman : I require notice.

Mr. Lalchand Navalrai : May I know the reason why these two Divisions were joined ?

The Honourable Sir Jeremy Raisman : The reason was that we thought that the charge could be held by one man and, therefore, in the interest of economy, we did not employ more.

Mr. Lalchand Navalrai : Did not Government know that the distance will even add to the charges of the Inspector who tours in Sind.

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of argument.

PROTEST AGAINST THE LEVY OF A STAMP DUTY ON AUTHORISATIONS BY INCOME-TAX ASSESSEES.

58. ***Mr. Lalchand Navalrai :** (a) Will the Honourable the Finance Member please state if the attention of Government has been drawn to a letter of protest in connection with the Income-tax Act published by the *Sind Observer*, dated 13th June 1939 ?

(b) Is it a fact that the Central Board of Revenue have asked the assesseees to authorise their representatives to appear with a general stamp paper of rupees two as an authority to act on their behalf in the income-tax affairs, before the income-tax officers ? If so, under what law or rule such an order has been made ?

(c) Has the attention of Government been drawn to section 61 (1) of the amended Income-tax Act which does not require the writing to be on a stamp paper and also to the fact that the ordinary *Vakalat nama* of lawyers appearing in Civil and Criminal courts requires only an eight annas' stamp ?

(d) Are Government aware that by this time there is a great discontent and dissatisfaction, especially among merchants, against such an order ?

(e) Do Government propose to remove such an order, if any has been passed ? If not, why not ?

The Honourable Sir Jeremy Raisman : (a) Yes.

(b) and (c). Government have been advised that the authorisation envisaged in section 61 of the Indian Income-tax Act, 1922, as recently amended, when in favour of a person other than a lawyer is a power-of-attorney within the meaning of section 2 (21) of the Indian Stamp Act, 1899, and is, therefore, chargeable with stamp duty in accordance with

Article 48 of Schedule I to that Act. If it is in favour of a lawyer it would be a *Vakalatnama* and chargeable as such with court fees under Article 10 of Schedule II of the Court Fees Act, 1870. The rates of stamp duty and court fees are governed by the various Stamp and Court Fees Amendment Acts enacted in the Provinces.

(d) and (e). Government have received a few representations on the subject but most of them proceed on the erroneous assumption that the payment of stamp duty on powers-of-attorney executed for the purposes of section 61 of the Income-tax Act is being demanded by the Income-tax authorities in pursuance of the Income-tax Act. That is not the case as the Income-tax authorities are only insisting on compliance with the requirements of the Stamp Act. The stamp duty on power-of-attorney is a provincial subject and the revenue therefrom belongs to the provinces. The Central Government have no power to allow any relaxation of a legal requirement.

Mr. Lalchand Navalrai : Is the Honourable Member aware that there is no definition of the term "power-of-attorney" in the Income-tax Act ? Is the Honourable Member also aware that the Income-tax Act does not provide that a "power-of-attorney" will be stamped according to a particular other Act ?

The Honourable Sir Jeremy Raisman : I have already said that it is not the Income-tax Act which provides this but other Provincial enactments.

Mr. Lalchand Navalrai : It is because that the Income-tax Act does not say that the stamp duty will be according to the Stamp Act that I am asking why it should not be charged according to the Income-tax Act ?

The Honourable Sir Jeremy Raisman : The Honourable Member being a lawyer is surely aware of the fact that the fact that this charge is not provided in the Income-tax Act is no reason why it should not be charged for under other competent enactments which require it to be charged.

Mr. Lalchand Navalrai : But there is no obligation under the Income-tax Act.

(No answer.)

Babu Baijnath Bajoria : Was this a new rule laying down that a stamp duty of Rs. 2 should be affixed on a power-of-attorney or was it in vogue previously also ?

The Honourable Sir Jeremy Raisman : This is not a new rule. It is merely an effect which has just been realised of an existing law.

Babu Baijnath Bajoria : So may I take it that it was not necessary before to affix a stamp duty of Rs. 2 ?

The Honourable Sir Jeremy Raisman : It was necessary before.

Mr. Lalchand Navalrai : May I know whether the so-called experts who are allowed to appear in the Income-tax offices will also be called upon to give a stamp duty of eight annas just like pleaders ?

The Honourable Sir Jeremy Raisman : Their power-of-attorney requires the higher stamp duty which is to be on a power-of-attorney, not the stamp which is to be affixed to a *vakalatnama*.

†59*—71*.

INDIANS SELECTED FOR THE INDIAN MEDICAL SERVICE.

72. *Mr. Muhammad Azhar Ali (on behalf of Dr. Sir Ziauddin Ahmad) : (a) Will the Defence Secretary please state how many Indians in Indian Medical Service were selected by the last Selection Committee held this year ? How many of them were Muslims, Christians, Sikhs and Hindus ?

(b) Is it not a fact that Government ignored the Resolution of 1934 of the Government of India and followed the old practice of dividing minority share equally between Muslims, Sikhs and Christians ?

(c) How do Government propose to redress the injustice done to the Muslims ?

Mr. C. M. G. Ogilvie : (a) 13, namely, three Muslims, one Christian and nine Hindus.

(b) and (c). Appointment to the Indian Medical Service is not made on a communal basis, but after consideration of a candidate's qualifications and fitness for the Service. The candidates best qualified are appointed irrespective of the community to which they belong.

Mr. Muhammad Azhar Ali: May I know why this communal rule should not be applied to this service ?

Mr. C. M. G. Ogilvie : If the Honourable Member will look into the Home Department notification on the subject, he will see that the communal rule is limited to the Indian Civil Service and Central Services, Classes I and II, and it has no bearing on any military services. The I. M. S. is a military service.

RESOLUTIONS PASSED BY THE HOME MINISTERS OF PROVINCIAL GOVERNMENTS.

73. *Mr. Muhammad Azhar Ali (on behalf of Dr. Sir Ziauddin Ahmad) : (a) Will the Honourable the Home Member be pleased to lay before the House the resolutions passed by the Home Ministers of the Provincial Governments at a meeting convened by him ?

(b) Was there any resolution about suppressing communal propaganda ?

(c) Did the Government of India satisfy themselves that the Provincial Governments will not misuse their powers and persecute their political opponents on the ground of suppressing communal tension ?

The Honourable Mr. J. A. Thorne : (a) and (b). The Honourable Member is referred to the Press communiqué, dated the 29th May, 1939, on the subject, a copy of which is available in the Library of the House.

(c) The Honourable Member's question shows a misconception of the part which the Government of India played in the conference. Though the conference was convened by the Government of India after consulting the Provincial Governments, the Home Member's part in it was on the same footing as that of the Provincial Home Ministers ; and it is not the function of the Government of India either to interpret or to criticise the resolutions that were passed.

†These questions were withdrawn by the questioners.

GRIEVANCES OF A HINDU CANDIDATE SEEKING ADMISSION FOR TRAINING AS AN ARTIFICER ON H. M. I. S. "DALHOUSIE".

†74. *Mr. M. S. Aney : (a) Will the Defence Secretary be pleased to state whether his attention has been drawn to the note by a correspondent published in Marathi in the *Kesari* of Poona of the 16th June, 1939 under the heading "A clever way to refuse admission to Hindus" ?

(b) Is it a fact that a Hindu candidate who applied for admission for training as an Artificer on H. M. I. S. "Dalhousie", was asked at the interview whether he would take beef and on his refusal to do so, his application was rejected and he was supplied with a ticket for return journey to his place of residence ?

(c) Is it a fact that some other Hindu candidates also were similarly interrogated and their applications similarly rejected on getting a negative reply ? If so, what was the number and names of such candidates ?

(d) Will Government state whether beef eating is prescribed in the rules as a condition precedent to the admission of candidates for training on these ships ?

(e) Are Government aware that Hindus have the strongest religious objection for taking beef and that such a condition if it exists is repugnant to the religious feelings of the entire Hindu community ?

(f) Will Government be pleased to say whether they propose to issue instructions with a view to stop the practice of putting any questions regarding beef eating to Hindu candidates offering for training at the time of interview and to abrogate the rules, if any, requiring candidates to be willing to take beef ?

Mr. C. M. G. Ogilvie : (a) Yes.

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

(e) The Government are fully aware of the religious objection of Hindus to eating beef. No such rule exists in the Royal Indian Navy.

(f) Does not arise.

REVISION OF PENSION RULES OF INFERIOR SERVANTS.

75. *Mr. N. M. Joshi : Will the Honourable the Finance Member be pleased to state :

(a) whether Government propose to take up early the question of revising the Pension Rules for members of the inferior service ;

(b) whether the attention of Government has been drawn to the statement made by his predecessor on the 22nd March, 1939, in reply to my supplementary question on question No. 1228, asked by Mr. B. Das that the time for the consideration of the question of reducing qualifying period for pension from 40 to 30 years, will be sometime after his departure ; and

(c) whether Government propose to take up the question for consideration now.

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

The Honourable Sir Jeremy Raisman : (a), (b) and (c). Government will consider the possibility of reducing the period of qualifying service for retiring pension in the case of inferior servants.

Mr. N. M. Joshi : Am I to understand that the Government will consider this question very early ?

The Honourable Sir Jeremy Raisman : Yes, Sir. It is being taken up now.

OBSERVANCE OF CERTAIN SIKH HOLIDAYS IN THE GOVERNMENT OF INDIA.

76. *Sardar Sant Singh : Is the Honourable the Home Member prepared to add to the holidays of the Government of India, the holidays on account of Guru Govind Singh's Birthday and Guru Tegh Bahadur's martyrdom day ? If not, what are the difficulties or reasons ?

The Honourable Mr. J. A. Thorne : I will repeat the answer that has already been given to this identical question. Sectional holidays are given on account of Guru Govind Singh's birthday and Guru Tegh Bahadur's martyrdom day. If the Honourable Member's intention is that these days shall be declared to be general holidays the reply is that the Government see no necessity for it.

PRACTICES AMOUNTING TO SERFDOM OR SERVITUDE IN AGRICULTURE.

77. *Mr. N. M. Joshi : Will the Honourable the Home Member be pleased to state :

- (a) whether Government are aware that in various parts of the country there are practices amounting to serfdom or servitude in agriculture ;
- (b) whether the Government of India have made enquiries on the subject ; if so, whether any of them have published any reports on the subject and whether Government will give the list of such reports if they exist ; and
- (c) whether Government propose to order any fresh enquiries on the subject in order to find out whether the practices have undergone any modifications or have disappeared ?

The Honourable Mr. J. A. Thorne : (a) Government are aware that various systems of debt bondage which may be described as somewhat akin to slavery are in vogue in certain rural areas of some provinces.

(b) The Government of India have made enquiries at the instance of the Slavery Committee of the League of Nations, and the information obtained was supplied to that Committee. I am not aware whether it has been published by the League of Nations.

(c) Yes : if the League of Nations requires further information.

Mr. N. M. Joshi : May I ask whether the Government of India themselves will publish this information ?

The Honourable Mr. J. A. Thorne : That suggestion will be considered. I think it will have to be a matter of reference to Provincial Governments before any decision is taken on it.

Mr. N. M. Joshi : In view of the fact that the matter is of great importance from the point of view of the freedom of the masses of people in this country, will the Government of India take early steps to consult the Provincial Governments and publish this information ?

The Honourable Mr. J. A. Thorne : I can promise that it will be considered at the earliest possible moment.

RESOLUTION RE NON-INDIAN COMPANIES AND PROTECTIVE TARIFFS—*contd.*

Mr. H. A. Bhatkar H. Essak Sait (West Coast and Nilgiris : Muhammadan) : Sir, on the 12th April last, my Honourable friend, Mr. Gadgil, moved the Resolution* which is here on the Order Paper, and I then moved my amendment†. Briefly stated, what Mr. Gadgil desired was that the benefits accruing out of protective tariffs should be enjoyed only by such companies and concerns of which the capital, membership, control and management was predominantly Indian. What I wanted to add to that was that over and above these conditions it must be insisted that such companies should also employ all Indian communities in due proportion in their services and labour. Within the few minutes that I had on that day I tried to answer some of the arguments that I expected to be raised from the Congress Benches against my amendment. I said that an objection might be raised that these concerns are private companies, started and managed by private individuals out of private capital, and that, therefore, the conditions that I wanted to impose could not very well be insisted upon. I think I was on that day able to dispose of this objection. I then said that these concerns which were making great profits out of the tariffs imposed by this Government were really being maintained by the consumer through the sacrifices that he was making by paying higher prices and otherwise ; and that, therefore, we, in this House as representing the consumer, could, on behalf of that consumer, impose restrictions and conditions which we think essential in the consumer's interest. I said that so far as the consumer is concerned all communities inhabiting this country were equally sacrificing and, therefore, it stood to reason that the benefits accruing out of these tariffs should go to all communities in due proportion. Then, Sir, a friend of mine here raised the objection that these were really concerns which were maintained by private capital and, therefore, those private companies should be allowed to deal with those concerns as they liked. I refuted that by saying that private capital alone was not in a position to maintain these concerns in their present condition and that is why these tariffs were imposed and in this way we certainly had the power to interfere. I will take up the argument from there and give an example of how we have interfered, and interfered successfully, in the management of private concerns.

* " That this Assembly recommends to the Governor General in Council that measures, legislative and otherwise, be taken immediately to prevent companies and concerns, the capital, membership, control or management of which is not predominantly Indian from taking advantage of protective tariffs imposed to foster the industrial development of this country."

† " That the following words be inserted between the words ' Indian ' and ' from ' in the Resolution :

' or which do not employ all Indian communities in due proportion in their services and labour '."

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

I quote here the case of the company-owned railways. It has been made clear in this House that latterly the Government have succeeded in imposing certain such restrictions, as I want to do by my amendment, in the management of the company-owned railways. For example, the South Indian Railway and the Madras and Southern Mahratta Railway and other company-owned railways have agreed to employ a good proportion of Muslims, Indian Christians, etc., among their employees. This condition was imposed upon them by the Government of India and it is working successfully. Therefore, the objection that my amendment is impracticable does not find any justification, so far as I am concerned. Then, I will call the attention of this House to the fact that the textile industry and the great steel industry of this country and many other industries which are protected by these tariffs are benefiting to the tune of crores of rupees through the protective duties imposed for the industrial development of this country. No one in this House or outside can dispute the fact that an infinitesimally small portion of these profits is shared by the community to which I have the honour to belong; and the same is the case with the other minority communities such as the Indian Christians, depressed classes, etc. From the very nature of things it has been impossible for me, and I think it will be impossible for many of the Honourable Members of this House, to gather figures as to how many of one community are benefiting and how many are not. But I am sure no one in this House will accuse me of understating the fact if I say that not more than five per cent. of the benefit accruing out of these protective tariffs go to all these communities combined. Of course, I need not now emphasise that this is manifestly unjust and we must see that this injustice is not continued. I shall, therefore, urge upon this House that the time has come when this Assembly and this Government as the supreme executive of India should take a hand in this matter and see that the fruits of the sacrifices made by all communities alike are shared by all communities in the same proportion.

The only question that remains for me to deal with is how to give effect to this amendment. I have only this much to say in this regard. My friend, Mr. Gadgil, contemplates measures, legislative and otherwise. He contemplates certain legislative measures and probably certain administrative orders also by the help of which he hopes to achieve his object, that is, to prevent companies and concerns, the capital, membership, control or management of which is not predominantly Indian, from taking advantage of the protective tariffs. I suggest that if the conditions which he wants could be imposed, then the conditions I propose could also be added on to the same measures of legislation and administrative orders. This is all I have to say in support of my amendment, and I commend it to the House for its unanimous acceptance.

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

“ That the following words be inserted between the words ‘ Indian ’ and ‘ from ’ in the Resolution :

‘ or which do not employ all Indian communities in due proportion in their services and labour ’.”

The Resolution with the amendment will then read :

“ That this Assembly recommends to the Governor General in Council that measures, legislative and otherwise, be taken immediately to prevent companies and concerns, the capital, membership, control or management of which is not predominantly Indian, or which do not employ all Indian communities in due proportion in their services and labour, from taking advantage of protective tariffs imposed to foster the industrial development of this country.”

The discussion will now go on both on the Resolution as well as the amendment.

Mr. N. M. Joshi (Nominated Non-Official) : May I suggest, Sir, that the Government of India should indicate their attitude first before the discussion proceeds further ?

Mr. F. E. James (Madras : European) : Sir, I find myself in disagreement both with the Resolution as also the amendment moved by my friend, Mr. Essak Sait. With regard to his amendment, I should like merely to say this, that it is so wholly impracticable that no Indian or European businessman could possibly run his business on those lines. He has referred to the Railways, but he surely must remember that there is a difference between the great railway organisation of this country and competitive business. Whereas it may be possible through the influence of the State to lay down for the Railways, which they control, some communal proportion for employment, that is not possible as far as business enterprises are concerned, and my friend knows it perfectly well.

Now, the Resolution refers to measures, legislative and otherwise; it wants immediate steps to be taken; it seeks to prevent companies and concerns whose capital, membership, control or management is not predominantly Indian. The first question, therefore, is, as to whether the term ‘ Indian ’ is intended to exclude all but Indian nationals. If so, it is highly objectionable from our point of view as it would drive all British concerns and many Indo-British concerns which are operating under protective tariffs completely out of business. Perhaps that is the object of the Mover of the Resolution, and in his speech, I think, he made it perfectly clear that it was his object,—to drive out all foreign capital and enterprise from this country, whether British or not. Now, Sir, this proposal goes beyond anything that has hitherto been suggested in all the discussions that took place on the Constitution of India during the past ten years. I want to ask the House to bear with me for a moment if I refer to recent history relating to commercial discrimination. First of all, let me begin with the Nehru Committee of 1928, which contained the following paragraph :

“ As regards European commerce, we cannot see why men who have put great sums of money into India should at all be nervous. It is inconceivable that there can be any discriminatory legislation against any community doing business lawfully in India.”

The successors to the Nehru Committee in politics appear to have forgotten that. Then, in dealing with fundamental rights, they go on to say that : “ all citizens were to be equal before the law and possess equal civic rights ”, and a citizen is defined as being “ a subject of the Crown who carries on business or resides in the territories of the Commonwealth ”. This Resolution, therefore, is wholly at variance with the Report of the Nehru Committee.

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[Mr. F. E. James.]

Now, Sir, let me remind the Government of India of their attitude on the matter as contained in their Despatch to the Secretary of State, dated September 1930. This is what they said in their Despatch :

" Subject always to India's right to receive reciprocal treatment, citizens of any part of the Empire should be allowed to enter India freely, to engage freely in any trade, business, profession or calling, and when established in India to receive just treatment."

That is of course subject to reciprocal treatment. They go on to say :

" There are enterprises which Indians regard as national and which are at present mainly or wholly in British hands. It would be idle to expect that they would be content for an indefinite period to remain without their appropriate share in the conduct of these enterprises, and if the methods at first proposed in order to satisfy Indian hopes must be ruled out because they involve injustice, or are inconvenient with the position which Great Britain holds in India, Indians may fairly ask that the British community should co-operate in finding other methods to bring about the desired result."

They have co-operated in an increasing degree during the past nine or ten years, and anyone who knows anything about the inter-relationship between the Indian and European business communities knows that the extent of co-operation between Indians and Europeans in business, the extent of Indian co-operation with British enterprises has steadily increased. I could quote many cases of European firms who have at a comparatively small premium made large blocks of shares available to Indian shareholders. I am reminded of one case in which European enterprise having spent over 60 lakhs, without any return, in building up an industrial enterprise in this country, gave shares at a small premium to Indians only so that they should co-operate in the enterprise which had been started as a result of European faith in the future of this country.

Now, Sir, let me refer to the proceedings of the Second Round Table Conference, when the following paragraph was adopted as part of the Report of the Minorities Sub-Committee :

" At the instance of the British commercial community the principle was generally agreed that there should be no discrimination between the rights of the British mercantile community, firms and companies trading in India, and the rights of Indian born subjects, and that an appropriate convention based on reciprocity should be entered into for the purpose of regulating these rights."

I shall refer to that proposed Convention briefly in a few minutes. The paragraph goes on to say :

" Some members of the Committee, however, contend that the future Government should not be burdened with any restriction save that no discrimination should be made merely on the ground of race, colour or creed."

Now, Sir, what has been the attitude of the British commercial community to this question of discrimination ? I will here quote from the memorandum which was presented to the Joint Committee on Indian Constitutional Reform by the Associated Chambers of Commerce. This memorandum states :

" Statutory freedom to participate in all commercial and industrial activities in India on an equal basis with Indian commerce and industry has been the consistent contention of the British Delegates, on the grounds that British subjects domiciled in the United Kingdom and Northern Ireland are in a special position in India in so far that the relationship between Great Britain and India cannot be reflected in the commercial sphere in other than full national rights to His Majesty's subjects of each country. Indian trading interests are accorded unbiassed treatment in Great Britain and it was generally agreed at the Round Table Conference that there should be no discrimination against the British commercial community in India."

The Associated Chambers of Commerce went on to discuss the suggestion of a Convention regulating trading rights between India and Great Britain on a reciprocal basis, but it had been impracticable at the present stage in the development of the constitutional relationships between the United Kingdom and India. In the Report of the Indian Fiscal Commission of 1921-22, to which reference was made by the Honourable the Mover of this Resolution, the following passages occur :

" If it were true that employment of foreign capital would merely benefit the foreign capitalist, and would not benefit India, no one would hesitate to condemn the use of foreign capital, but, when the matter is really examined, there can be no doubt that, though the foreign capitalist may get his profit, the main advantage from the employment of foreign capital remains with the country in which it is employed. In the case of India this is particularly clear."

" If, however, legislation is enacted putting obstacles in the way of the employment of foreign capital, India's credit abroad will be injured and the British investor will also become shy (incidentally the Indian investor also). The result will be that India will not be able to obtain the money which she requires both for public and private purposes, or will only be able to obtain it at materially higher rates."

Honourable Members are aware that as a result of the findings of the Fiscal Commission a Committee known as External Capital Committee was appointed in 1924 dealing with the replacement of restrictions on and differentiation of external capital. The following important paragraphs in their Report occur :

1. " Where the concession is general, as in the case of a protective tariff (and this would include practically every industry in India, as a revenue tariff without a corresponding excise has a protective effect) it is impracticable"—note the word 'impracticable'—"to effect any discrimination. No feasible suggestions for such discrimination have been suggested to us, nor have any occurred to us during our discussions."

2. " Where definite pecuniary assistance, such as a bounty, is granted to any particular undertaking, we consider that discrimination is feasible, and we agree with the Fiscal Commission and the Legislature that no such assistance should be granted to any company, firm or person not already engaged in that industry unless :

I. Reasonable facilities are granted for the training of India, and

II. In the case of a public company unless—

(i) It has been formed and registered under the Indian Companies Act, 1913.

(ii) It has a share capital the amount of which is expressed in the Memorandum of Association in rupees.

(iii) Such proportion of the Directors as the Government may prescribe consists of Indians."

Their third main recommendation referred to concessions such as mineral concessions, and in regard to the granting of those, their view was that no definite rule could be prescribed. It must be a question in each case whether it is better from the point of view of national interest that a concession should be developed by external capital or left until indigenous capital may be prepared to develop it. Such concessions are only to be granted to external capitalists when it is clearly in the national interest that they should be developed. Now, Sir, with the one exception of the provision in the case of a public company that such proportion of the directors as Government may prescribe must consist of Indians, the European commercial community has always been prepared to align itself with the findings of this Committee, but that particular provision we have always objected to as being in fact racially discriminating. From one point of view that provision is perhaps the least important of all the recommendations.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already spoken for fifteen minutes.

Mr. F. E. James : I wonder if I may ask for your indulgence and the indulgence of the House for five minutes more.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should try to conclude his speech as soon as possible. The Chair will give him some more time.

Mr. F. E. James : In these matters, in making its recommendations to the Joint Parliamentary Committee, the Associated Chambers of Commerce made it clear that they regarded the protection sought as vitally important and considered that they were demanding no greater measure of security for fair treatment than was dictated by ordinary business prudence. On the other hand, and I would like to emphasise this, we have always pointed out that our concentration on this aspect of constitutional reform does not prevent us or did not prevent us from giving our general support to the recommendations of His Majesty's Government, recommendations which we were aware would lead to self-government and the placing of the ultimate welfare of business interests in the hands of Ministers responsible to the Indian Legislature.

At the Round Table Conference Mr. Gandhi, while he dissented from the formula of the Minorities Sub-Committee, "associated himself completely with the British merchants and European houses in their legitimate demand that there should be no racial discrimination" and even went so far as to suggest a general formula to the effect that no disqualification not suffered by Indian-born citizens of the State should be imposed upon persons lawfully residing in or entering India merely on the ground of race, colour or religion.

Now, Sir, in the Government of India Act there is a chapter on "Discrimination". I would like to remind the House that this protects companies carrying on business in India at the time of the Act from discrimination, but a clear distinction is made between such companies and those companies which, at the time of the passing of the Act, were not carrying on in British India any trade which is encouraged by grants, bounties, or subsidies. In the latter case, the Legislature has the power to impose conditions upon such companies, should they wish to carry on such trade before they can be said to qualify for the receipt of any portion of the bounty or subsidy.

Sir, I have already said that in past years there has been increasing association between Indians and Europeans in business enterprises in this country. There never was a time when, generally speaking, the relationship between Indian and European business was so friendly or close. The tendency is for this association to become even closer and no one can say that European business has not made every effort to adapt itself to the changing conditions of the country, to associate Indians with its enterprises and to use the manpower of this country wherever it is available and qualified. We do believe that in the cultivation of goodwill lies the best safeguard of all. But resolutions such as this force us to look to our statutory safeguards for protection, a process that is not in the interests of India any more than it is in the interests of our community. I, therefore, hope that the House will reject the Resolution.

Mr. N. M. Joshi : I rise to a point of order. This has been raised several times. It is this, that during the discussion of non-official Resolutions, the Government of India ought to take part in the discussion and indicate their attitude at an early stage. You have yourself stated several times that this is absolutely necessary for a proper discussion of the non-official Resolutions. I, therefore, request you to ask the Government of India to be reasonable in this matter and help the proper discussion of the non-official Resolutions. I know, Mr. President, that the Government of India many times treat this Legislature as a farce. I hope, Sir, they recognise that this is not the right thing to do—to treat this Legislature as a farce.

Mr. President (The Honourable Sir Abdur Rahim) : As regards the point of order that has been raised, it has been ruled more than once that it is desirable for the Government to state their case as early as is practicable, but the Chair cannot say that in this particular case Government have waited too long.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, before I come to the main Resolution I would like to deal with the amendment of my Honourable friend, Mr. Essak Sait. He wants to introduce the principle of communalism, I would say, the cancer of communalism, even into business enterprises and this principle cannot be condemned and deprecated too strongly. It is neither desirable nor practicable. I can say that it is absurd that appointments in private enterprises, both as regards service and labour, should be made on communal grounds. I know that he is good enough to restrict this communalism only to protected enterprises, because this Resolution is restricted only to those enterprises. How is it possible for the owner of a private enterprise to find out the percentage of each and every community. There are numerous communities in India. There are Sikhs, Christians, Europeans, Anglo-Indians, Jains, Muslims and others.

An Honourable Member : Marwaris.

Babu Baijnath Bajoria : Marwaris are Hindus. They have never claimed that they are different from the Hindus. If you take it by province, then you can also say there are Mahrattas, Bengalis, Tamils, Telugus and so on. I must give my friend the credit for having had the courage to move this amendment. Then again this amendment is absolutely vague. First, he says that all Indian communities should be represented. That means that each enterprise will have to take a census of the particular city or district in which the enterprise is situated, or it may even be the province or the whole of India. What the communities are is not mentioned. Secondly, it says 'in due proportion'. He has not defined what is a due proportion. Is that on a population basis or educational basis or the basis of any technical qualification necessary for that particular enterprise? Nothing is mentioned there about it. Then his amendment requires this communal restriction not only in services but also in labour. I do not know how Mr. Joshi would like.....

Mr. N. M. Joshi : I have no objection.

Babu Baijnath Bajoria : I would like to know from Mr. Joshi whether at the present moment in Government workshops, in Government enterprises, recruitment to labour is on a communal basis.

Some Honourable Members : Yes.

Babu Baijnath Bajoria : It may be in regard to service but it is not the case in regard to labour. As regards private enterprise, it may be European-owned or Indian-owned or Parsi-owned or Muhammadan-owned. There, there is no discrimination whatsoever. In certain branches Muslims are more expert and skilled and they get much more employment in that branch, whereas in other departments, labour belonging to other communities may be more expert. As regards the recruitment of labour at present, there is no discrimination whatsoever and I do not think there is any grievance on the part of any community whatsoever on that score. Then, again, I cannot understand this. If the enterprise is started and financed and run by a particular community, why on earth facilities should not be given to the members of that particular community. Otherwise, there will be very little enthusiasm or interest for him to start that particular enterprise. At the present moment the Parsi community is very enterprising in business. They have started numerous industrial concerns and if they are to employ the members of their community according to the percentage basis or any proportion whatsoever, then they will be able to employ only a very negligible number. Members of the Parsi community have got a right to expect that when a member of their community starts an enterprise they must look for employment in that organisation. And, similarly, if it is a Muhammadan businessman, and my friend, Mr. Nauman, is himself a businessman, then he must be employing more than a due proportion of the members of his community. It is absolutely ridiculous and absurd that a proposition like this should be placed for consideration before this House.

Now, I come to the main Resolution. I have got every sympathy with this Resolution. I quite realise there is some difficulty on account of the clauses in the Government of India Act which restrict commercial discrimination and it was pointed out during the debate on the Insurance Act that we cannot discriminate against the British. British enterprise is no doubt very necessary and desirable. In the debate on the Insurance Act it was pointed out by Sir N. N. Sircar that account of the interpretation of the Government of India Act, even white Britishers will be considered as brown Indians and so, I think, here also wherever the word 'Indian' is meant, it will include the Britishers also but it will exclude other Europeans and foreigners, such as Swedish, German, Japanese and Americans and so on. If this is the interpretation and if it is made more clear, then I think Mr. James will withdraw his opposition.

Mr. F. E. James : I would like to point out that the Mover of the Resolution made it perfectly clear that that was not his interpretation.

Babu Baijnath Bajoria : If the House makes that clear by an amendment saying—predominantly Indian or British—then I think that will meet your objection.

Mr. F. E. James : You can move that amendment.

Babu Baijnath Bajoria : My idea is this. Here in India, the industrial regeneration has been made possible firstly by the Britishers and in the last 15 or 20 years Indians have come to the front also. Of course, I would like that Indians should take greater and greater share in the industrial regeneration of this country but, at the same time, we must remember that Indian capital is shy. It was very shy before. It is not so shy now as it was before but until Indian capital is forthcoming freely,

we cannot fully develop the resources of this country and industrialise it. The External Capital Committee also came to the conclusion that external capital is necessary for the development of Indian industries and if external capital is needed, I would prefer to have British capital rather than any other foreign capital in this country. The companies which the Britishers form here must also be registered under the Indian Companies Act and they must have half the directors Indian. Why not directors? They will have full control, and they will be as good directors as any. So, Sir.....

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

Babu Baijnath Bajoria : If you will kindly let me finish this sentence,—so, Sir, I say Indians and Britishers, working shoulder to shoulder, should develop the industrial resources of this country. With these observations I support the main Resolution and oppose the amendment moved by my Honourable friend.

Mr. Muhammad Nauman (Patna and Chota Nagpur cum Orissa : Muhammadan) : Mr. President, the Resolution embodies a principle that is being practised in every part of the world today. The policy of protection necessarily means that the country wants to build up its own industry and its own resources, to the benefit of her own nationals and her own people. What has been the basis of the protection of our industry? The only idea behind such protection has always been the prosperity of a country and their people. Sir, if the tariff protection have only resulted into exploitation by foreigners, then it is not only useless but leads to the vital drainage of Indian finance, resources and other things. Sir, I would just like to make one observation on the speech which my Honourable friend, Mr. James, made only before I got up. He says, it is sometimes impracticable to confine the benefits to Indian industrialists only as British capital has done a lot of good by having been invested here and he remarked that it was unjust to bring in the question of discrimination. I very much appreciate that he has taken up the point of discrimination and he expects that Indians should not discriminate against the European mercantile community. Sir, we never want discrimination. He has also quoted Mahatma Gandhi and other people and different resolutions or speeches at different places including those at the Round Table Conferences in his support, but does he realise that the foreign companies have been making a discrimination against Indians all along? What has been the treatment by the British Banks or the other Foreign Banks in this country? Have they given Indian industrialist the same amount of facilities and on the same terms as they have done to foreign companies? Not at all. Sir, I for one, who has been associated with different Indian commercial organisations and Chambers of Commerce in Calcutta and other places, know for the fact that Indians cannot get one-tenth of those facilities which the European firms do get in spite of their probably having no status in this country. So the position is this that it is the European commercial community who is responsible for discrimination. We certainly want co-operation and if they are prepared to take away discrimination from their own side, we will not hesitate to take away the idea of discrimination from our side. However, I hope Honourable Members do realise that the Government of India impose these protective

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duties at the cost of the consumers and the consumers make sacrifices in the interest of the entire prosperity of this country. For example, Java sugar could be imported into this country and sold to consumers at about Rs. 4 per maund, but it is being sold to them at about Rs. 11 per maund and the consumers are making a contribution of a few crores of rupees to the different industries only to develop the resources and benefit their nationals. Can we be happy if people like Begg, Dunlop and Company and Bata and Company and other foreigners thrive who do not show any respect for our own interests and who are not at all careful about prosperity of this country. Never, Sir, we cannot tolerate such state of affairs. European enterprises are financed by the Banks by all sorts of supports, they receive advances even without any security and without documents, while if we go in for establishing an industry and put up say ten lakhs of rupees and ask the Banks to finance us for our output even against hypothecation of stock they say, "No, we cannot, we want collateral security and gilt-edged security, and so on", but I know they do not want anything like that from the European merchants for whose exploitation they exist in this country.

Babu Baijnath Bajoria : But there are Indian Banks ?

Mr. Muhammad Nauman : They are not of that calibre. Can my friend point out any bank which can compete with Lloyds, or the Chartered Bank, the National Bank or New York City Bank ? The Central Bank is a poor analogy with any of these European Banks in this country. Now, Sir, my point is this, that when the consumers are making sacrifices, they have a right to see that their country will be benefited and that discrimination will not be allowed by the foreign people to be continued in this country at our cost. We do not want to give foreigners a ground for exploitation at consumers' cost in India.

Regarding this particular amendment of representation of all communities in services, I only want to suggest this that to Mr. James it may appear a little impractical as it has appeared to Mr. Bajoria. I have got great respect for both of them but I think that with a little effort they will realise that it can be made possible. We do not suggest that by giving communal proportion, every penny should be so adjusted as would give to different communities their due proportions. Speaking about Mussalmans, supposing there are five per cent. of them in a province and if you have given them 12 or 13 per cent. or even 17 per cent. of the appointments, it would not make much difference. The industrialists ought at least be in a position to satisfy us and the Government that they are not excluding that community whenever opportunity arises and whenever they are in a position to give them a certain amount of support. In the same way, supposing an industry is being run by the Mussalmans or by the Hindus, if they can only give all communities their due proportion or assure them of their sincerity in the matter all would be satisfied. It may be quite possible that the Mussalman merchants may not get able Hindus in a particular area and, therefore, may not be able to give them the proportion to which they are entitled or the Hindu industrialists may not get as many Mussalmans as they should, but at the same time if they do give them some reasonable proportion of appointments, it is quite all right. In this connection, I would remind the House of the speech that I made during the Budget

debate on a cut motion of the Commerce Department particularly moved by me for this purpose. I know that Tata and Sons are not employing even five per cent. Mussalmans. I am sorry my Honourable friend, Sir Cowasji Jehangir, is not here to tell me how this has happened. We know that the Tatas are prospering at consumers cost and are making a profit of five or six crores only because the continental iron is not being allowed facilities for being imported into this country because of high tariff walls which are raised to save Tatas, otherwise the Tatas will go into liquidation to-morrow. What business the Government have to give them that protection if the people who inhabit this country are not receiving any benefit from them ? Why should the people of this country make any sacrifice for them, when they cannot reap the benefits in any proportion. Now, Sir, I do not know much about the Ahmedabad mills but from the reports which I have received from different Associations of the Mussalmans in that part of the country I am informed that they are not employing even three or four per cent. Mussalmans. I do not say that they should employ Mussalmans as their engineers or their managers but what I do want is that a gesture should have been made from their side that a regular effort has been made to give appointments to Mussalmans according to their proportion. In some cases they may not be able to get the proportion which would only show that a particular community is not qualified to occupy that position in that particular industry or in that particular mill. I am perfectly willing to accept that position. But what I have noticed is that no effort has been made either by the European industrialists, like Burn and Company, Bird and Company, or by the Hindu industrialists of Ahmedabad or by Tatas to distribute appointments according to the proper method. Mr. Bajoria said "what about the labour ?" There is no harm if effort is also made to recruit labour according to this proportion. This has been possible in many Government Departments or at least an effort is being made everywhere. I know of the Gun Factory in Bengal where they take all due care to employ the labour according to the communal proportions. This has also been made possible in the railways although we are not satisfied that the Mussalmans have been employed according to their proportion, but things may improve soon.

Babu Baijnath Bajoria : How did you get information about the Gun Factory ? Nobody is allowed to go there.

Mr. Muhammad Nauman : But they have got an Association. It is not necessary to go into the factory to get that information. They have got an Association and I hold letters from them to say that the Mussalmans are being employed according to their proportion. There are some complaints here and there but that cannot be helped. My contention, therefore, is that when an industry is being run at the cost of the Indian consumers, they are certainly entitled to reap advantages in the same proportion as they inhabit their country and participate in the sacrifice which all are making by consuming the expensive goods. For this reason I congratulate my Honourable friend, Mr. Essak Sait, for having moved this amendment and I hope Government will take up this matter in right earnest and take such measures as may be necessary to advise the industrialists that in preparing their list for employees they should always take care that they should give to different communities

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their due proportions in so far as it may be practicable from their side. I do not want that if they cannot get a Muslim and if they can run that industry only through some Hindu experts, they should close the industry because a Muslim has not been engaged. That is not what I mean. I only meant that if circumstances are such that Muslims can be employed they should be employed according to their proportion. I do not see any difficulty in adopting this method. It is quite easy. Every industry can ascertain from the Government what are the different proportions of different communities in this country and they can proceed on that basis.

Babu Baijnath Bajoria : You mean an all-India basis.

Mr. Muhammad Nauman : If it is difficult for the provinces it must be an all-India basis. I do not suggest that the all-India basis should always be the criterion. That is for the Government to decide whether it should be an all-India basis or the provincial basis. What have Government done in the railways? They have provided for a percentage of 25 out of every 100 reserved for the Mussalmans on the railways but different railways have been given different proportions according to area of population where they run.

Sir, I do not want to take more time of the House. I only want to place before the House this that when an industry is protected at the cost of the consumers, which is clearly the case, we would not like to see that the fruits of that spoil is distributed mostly to the foreigners and further that we would not be contented if they should not be distributed to the different communities inhabiting this country in their due ratio and proportion. That is my only contention and nothing else.

One word more about discrimination. We are not anxious at all to have discrimination with foreigners. The foreigners are having a discrimination and have been practising it from time immemorial and unless they change their tactics and co-operate with us on an equal basis and not co-operate with us as our masters, it would be very hard for them to continue their commercial exploits in this country any more. With these remarks I support the Resolution with amendment.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Mr. President, I had no intention of delaying the reply on behalf of the Government to this Resolution, but I think my friend, Mr. Joshi, was not quite fair to me when he suggested that such delay was being intentionally caused. You will find that the speech that was made in support of this Resolution was made in my absence and I was not in the House. I was, therefore, anxious to get at least one or two speakers who would support this Resolution and give reasons for supporting it before I could usefully intervene in this debate. That was the only reason why I delayed the reply which I have to make on behalf of Government.

Now, Sir, the Resolution refers to foreign companies and I would have *prima facie* interpreted the Resolution in the manner in which Babu Baijnath Bajoria interpreted it as concerns which are neither Indian nor British, but the speech of the Honourable the Mover of the Resolution

made it amply clear that what he had in mind was companies which were not Indian in the strict sense of the word. The Honourable the Mover of the Resolution made a disquisition on the policy of discriminatory protection. He said that that policy which has been adopted by the Government of India for the last 15 years was a policy which was discriminating against Indians. I wish, Sir, that this sort of remark had been avoided because if there has been protection granted by the Government for various industries, it was certainly to help Indians and to help Indian enterprises in this country and not to discriminate against Indians. I think it will be necessary for me to explain to the House, if indeed such explanation is necessary, what is meant by this policy of discriminatory protection. A more happy phrasing of that policy would have been protection granted with due discrimination, that is to say with discrimination exercised in the interests of various concerns and of various Indian interests which might be affected by that policy of protection.

The Indian Fiscal Commission laid down the essential conditions which should be satisfied before protection should be granted to any industry in this country. Those conditions were three in number as Honourable Members of the House are well aware. First, that the raw products for the industry, the main raw products which are required for the industry should be available in this country, secondly, that there should be reasonable chances after a certain period of protection for the industry to establish itself on its own legs without a high tariff wall. That is to say that it should not be an industry which must perpetually and eternally rely on a high protective tariff wall so that it can conduct its concern without the fear of competition from outside. And, thirdly, the industry must be one which without the help of protection is not likely to develop. The burden on the consumer should be reasonable and not unreasonable. A great deal has been said about the consumer paying for protection and the unfairness of a foreign company walking away with the benefits of protection. My Honourable friend, Mr. James, related the past history of this question. He referred to the Indian Fiscal Commission, the External Capital Committee and various other memoranda by Government and by private individuals on the question of foreign capital. This controversy whether foreign companies should be allowed to establish themselves under a tariff wall of a protective nature has been going on in this country for the last nearly 20 years. Indeed the Indian Fiscal Commission Report—the minority report—raised the very question that has been raised in this House on this Resolution and the minority report suggested that when protection was granted to any industry, foreign concerns should not be allowed to establish themselves under that protective wall because the benefit of that protection would go to others than those who were contemplated by the scheme of protection. The same question was later raised in the External Capital Committee report. Now, Sir, those objections have been very carefully considered and very fully met by the majority report of these Commissions. But I will mention very briefly my viewpoint with reference to these objections. Protection is granted to an industry for various purposes. It is granted to an industry in order to develop among Indians a scientific training, the habit to control industrial enterprises, an equipment which is necessary for running these great industrial enterprises. Protection is granted so that labour could be more usefully employed and a diversi-

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fication of the employment of labour may take place. Protection is also granted because a certain profit will ensure to the Indian capitalist and the Indian capital will thereby be attracted. I want the House to consider each of these aspects from which protection is granted in its proper perspective. The speech that has been made on this Resolution and the speeches which have since been made in support of it suggest that the only idea of protection is to give a certain amount of profit to the capitalist. I venture to state very respectfully but very emphatically that that was one of the last considerations in granting protection (hear, hear). The main considerations were otherwise. The employment of Indian labour in these highly technical industries, the improvement of technical qualifications of the Indian employee, the conditions and wages of the employees being improved, these were, as far as I can see, far more relevant considerations in the policy of industrialisation of the country.

Mr. N. M. Joshi : It is a right policy, but that policy was never followed.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I would have been surprised if my Honourable friend, Mr. Joshi, representing labour, did not rise to make this interruption. He knows very well, taking the industrial enterprises on one side and the agricultural enterprises on the other side and comparing the wages and conditions of life of the industrial labourer with those of the agricultural labourer that however much he might have raised these questions in the past and however much he may be disappointed and discontented with the reception that they have received, the fact still remains that the industrial labourer in this country in protected and unprotected industries is far better off than the agricultural labourer.

I was explaining the position with reference to protected industry because it is with protected industries that this Resolution deals. When the Tariff Board grants protection, on what basis is the quantum of protection required decided? What are the facts that enter into the calculations of the Tariff Board when it arrives at the amount of protection that is required by an industry? Let me explain the position, as I have first-hand knowledge of the methods which are employed by the Tariff Board in arriving at a decision on this issue. The industry that requires protection is asked to produce before the Tariff Board the calculated costs of its production. The costs of raw products are taken into consideration, the cost of labour at whichever level it is employed, and very often at a higher level than those employed in most concerns which want protection is taken into consideration and finally the profit on the capital invested is taken into consideration. That profit was at one time as high as eight per cent. I said as high as eight per cent. but to be fairer, I should say at eight per cent. in view of the relative interest bearing concerns which were then in existence, that is to say in view of the rate of interest both of the Bank and of the Government securities which then prevailed. Latterly, during the last four years at least, the House must be aware that the Tariff Board calculates the profit on capital at six per cent. Therefore, Sir, in this Resolution where we talk of foreign companies carrying away the benefits of protection, we really mean if the policy of protection advocated by the Tariff Board and accepted by the Government is being strictly carried

out we really mean that the interest at the rate of six per cent. on the capital that has been put into this country by foreign companies goes out of India. Let us have no misconception on this point : that somehow or other foreign companies are walking away with a great deal of advantage and that the consumer is paying for all that advantage which they are carrying out of this country. The consumer pays for the labour that is employed, for the wages that that labour requires, the consumer perhaps pays for the inefficient way in which at the early stages when protection is required that labour has necessarily to work. The consumer pays for the raw products which are being bought in this country. My Honourable friend gave a very good illustration,—sugar, and he said that the consumer could have had that sugar at very much less cost if it had to come from Java. That of course is the consumer's point of view and I recognise that point of view. But then let us be fair also. What is the profit which, if the scheme of protection is scientifically and properly worked, the capitalist will get from this? The consumer pays in that case for the sugar cultivator in the first place the price of whose sugar-cane has been fixed in some provinces at least at a certain limit; for example, in the United Provinces. The consumer pays for the labour that is involved in the sugar factory; and finally, the consumer pays for whatever profit the sugar concerns are making out of it. And if all that I hear and if all the complaints that are addressed to the Government of India on the subject today are correct, the profit of these sugar concerns is very little indeed. I do not myself recognise that point of view or accept it, but I am only pointing out that it is that little profit which the few foreign companies that are engaged in sugar production today, are carrying out of the country,—using that word "foreign" in the widest sense in which even the Mover of the Resolution has ventured to use it.

Now, Sir, so far as the training of Indians is concerned, to the best of my knowledge, with such available information as is before me, I cannot see how the training of Indians in these protected industries is undertaken to any less extent in these foreign companies which are in this country than in indigenous companies. If statistics were to be taken and an actual analysis of the figures were to be made I am told that the number of Indians is not very much less or indeed any the less than those that are employed in purely indigenous concerns to which the Honourable the Mover referred. Sir, my Honourable friend the Mover said somewhat lightly that there was no difficulty about Indian capital being attracted to these enterprises and that the time had, therefore, come when we must put an embargo on foreign capital coming into the country. I think the answer to that was given by my Honourable friend, Mr. Bajoria, and I would only underline that answer by suggesting that whatever may have been the position a year or two ago there are indications today that Indian capital is not quite so enthusiastic about putting its money in ventures, even under a protective tariff, as might have been the case sometime back, that there is a tendency to again fight shy of industrial concerns owing to a variety of reasons not the most important of which is the fact that they may come into competition with foreign companies. There are other circumstances, and I need not dilate on them, which have made Indian capital a little more shy today than it was a couple of years back.

Mr. Muhammad Nauman : Has the Honourable Member made any inquiries as to the conditions in which the European companies are working and whether or not the capital which they invest is smaller than the facilities they get from the banks ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I am only concerned with the facilities which Government are giving to all concerns alike, whether foreign or Indian, and I have neither the opportunity nor do I think it is my concern at this stage to go into the question of what facilities they may receive from members of their own community or their own countrymen.

Mr. Muhammad Nauman : They have monopolised the finances.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Now, Sir, there is another proposition that I should like to state. The Indian Fiscal Commission itself visualised the possibility that in the scheme of protection internal competition would arise and while the tariff wall may remain, the internal level of prices will be far different from that which would be indicated by the mere existence of a high tariff wall. If internal competition is the desired aim of the policy of protection it seems to me clear that whether it was foreign companies or Indian companies that on account of their efficiency reduced their costs and therefore reduced the level of prices of the commodities concerned, it would be an advantage to the consumer on whose behalf I have heard more than one Member raise his voice today. The moment we erect a high tariff wall a corollary of that must be to encourage as far as possible internal competition so that the prices may not be kept at a high level. But there was a danger,—I do not say it has come about,—which the Indian Fiscal Commission envisaged and to which I should like to refer. Under the protective system companies may form combines ; there may be an attempt to form a monopoly. Indications are not wanting that under the protective tariff today in one or two industries at least there are attempts to form combines, trusts, monopolies ; and if the Indian manufacturers all join together and form that monopoly surely the person who will be most affected and the person who will be the least benefited will be the consumer who has paid for this protection all along the line. Now, Sir, it is possible that when that situation arises the reduction of the tariff may be proposed and by the reduced tariff the evil of that monopoly or combination may be removed. But Honourable Members are aware that once the protective duty is raised it is a very difficult proposition in this House or in any House in this country or any other country to come before it on the ground that such a monopoly has been created and ask for a reduction of that high tariff wall. Under these circumstances, it seems to me that the incursion of a foreign venture which carries out its business and which would be able to check to some extent the monopolistic tendencies that may develop is a safeguard as much to the industry as to the consumer himself.

Then, Sir, my Honourable friend, the Mover,—the subject is vast and as it is not possible to cover all aspects of it I must necessarily be brief,—made one very important statement from his point of view. He said :

“ Sir, if I were the Honourable the Commerce Member I would at once put a stop to all non-Indian companies.”

It may be so ; it may be that he thinks that that is a right course to follow. But so long as I am the Commerce Member I can say definitely that I shall take a far different line from that. And who will be most affected by such a short-sighted policy ? Sir, there are foreign companies operating in this country. Most of them are operating under what is termed the most favoured nation clause. India has made commercial treaties with various countries ; in fact today the pressure from Indians abroad is that the Government of India should move faster in this matter and make such commercial treaties with countries with which it is not in commercial alliance already. I have before me now not only an appeal from the Indian residents in the United States of America but their appeal has been fortified and strengthened by resolutions of the Federation of the Indian Chambers of Commerce, that an early attempt should be made to enter into a treaty of commerce with the United States of America, one of the essentials of which would be the incorporation of a most favoured nation clause to the subjects of both countries. I will just read a sample of that most favoured nation clause from one of the treaties :

“ The subjects of each High Contracting Party shall be entitled, on the same terms and subject to the same laws and regulations as subjects or citizens of the most-favoured-nation foreign country to carry on in the territories of the other High Contracting Party their commerce, manufacture, industries, professions and occupations and to trade in all kinds of merchandise of lawful commerce, to employ agents of their choice, and generally to do everything incidental to or necessary for trade.”

Now, Sir, we know that there are a number of Indians in all parts of the world, that they are constantly appealing to us for protection if at any time any discrimination is shown against them, either in commercial matters or otherwise, and my friend says without the slightest regard to the future of those Indians trading in those countries that, if he were the Commerce Member, he would immediately put an end to all non-Indian companies in this country. Sir, that is an argument which, I venture to think, cannot be accepted by this House.

Then, my friend, Mr. Essak Sait, has moved an amendment to which in the brief time I have, I feel I should make some reference. The Honourable the Mover of the Resolution in the course of his speech made a somewhat cryptic utterance which I could not understand till indeed I came upon the amendment moved by my friend, Mr. Essak Sait. He said : “ it is not merely that the English capital has come but the English capitalist also has come with his close control, with his patronage, and there are many other things in which by showing their patronage they can create trouble between caste and caste and community and community ”. I did not understand that statement when I read it for the first time, but the amendment that was moved by my friend, Mr. Essak Sait, gave some indication of what was in the mind of both these gentlemen, but in exactly the contrary direction. Now, Sir, the position has been very clearly explained by my Honourable friend, Mr. James. The analogy of Railways is no analogy at all. It is a public utility concern, to a large extent dependent upon the Government for its capital, and rules have been framed with reference to that. To stretch that to private companies and to ask private companies, by legislation or otherwise, to adopt this policy, is a thing beyond the means even of the Government of India, powerful as it is said to be.

[Diwan Bahadur A. Ramaswami Mudaliar.]

I am not one of those who decry the question of the representation of the various communities adequately and fairly either in the services or elsewhere. My entire political education has been based on the fundamental principle that equal opportunities to all should be granted in this country (Applause) if we have to promote unity, nationalism, and those greater interests of the country which most of us who have paid any thought to the political development of this country wish to promote, and I, therefore, shall not be one of those who will ridicule a proposition like this. But may I say this, that the Honourable Mr. Nauman who spoke last has clearly given an indication of the direction in which efforts should be made to bring about this result. He asked the Government to advise commercial concerns; but what better method of conveying this advice can there be to these commercial concerns than by a speech made on the best platform in India, this House, by members of the various communities which would go forth to these industrial concerns and make them think that if good-will is to be the first essential of all trade and commerce,—and it is admitted that it is so,—whether that trade and commerce is carried on by Indians and Britishers, Hindus or Muslims, Parsis and Sikhs,—if goodwill and good relations ought to be the basis of all commerce, the appeal will certainly fail not on fallow soil, but as I hope, on productive soil, and in that hope, I commend to this House that both the Resolution and the amendment may be rejected.

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.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : I was very pleased to hear my Honourable friend, Sir Ramaswami Mudaliar, after a period of five years. I congratulate him on the brilliant performance he has made from the other side. What is a loss to these Benches is the gain of the Treasury Benches. He has proved himself, and I am sure he will continue to do so, a great asset to the Government Benches.

I do not want to make a long speech on the Resolution before us. It has been fully debated upon and all points have been covered. I think the policy which the Honourable Member has enunciated has got great support from many of us. Personally speaking, I should have liked this Resolution to include among the Indians the British element, and we should not ignore the fact that the Britishers have from the beginning developed India industrially to a great extent. I should have liked this Resolution to confine itself to foreign companies which are non-British; certainly no foreign company has got any right to claim a privilege which Indians want for themselves. We find that no distinction is made between Indians and Englishmen in England and, therefore, there is no necessity for us to ask that there should be discrimination against the Englishman here. We should not ignore facts. Our association with the British has been such that we cannot by one resolution or on one day cut off all relations with them. But there is one thing which

I would like the Honourable the Finance Member to take note of. The British capital which is making its income in this country—does the Honourable the Finance Member get all the income taxed for the benefit of India?

The Honourable Sir Jeremy Raisman (Finance Member) : Undoubtedly.

Sir Muhammad Yamin Khan : I suppose, according to the Bill which was passed in the last Session, a great portion of that income is not taxed here. If it is taxed in England because the man whose capital is invested in this country is resident in England—whatever income he derives here, that is to be taxed on account of his residence in England, being the world income—that portion is not taxable in this country. Therefore, India is losing in the shape of income-tax if even British capital is employed in this country. That being so, Indian revenues suffer to a certain extent. I do not say that this should not be, because it would be very hard on any person, even an Englishman, if he makes an income here and has to pay two income-taxes, one in England and one in this country—it will be very hard on him, and I was one of those people who gave full support on this point, namely, that the English people should not be double taxed and there should be relief from double taxation. But the fact still remains that the Indian revenues do suffer.

Now, we cannot ignore the very important elements which have been elucidated in his speech by the Honourable the Commerce Member today. He said that protection is given not on one consideration but on many considerations. One of them is the employment of Indian labour, to give facilities so that those Indians may be employed who would not otherwise be employed. Keeping this factor in view, I think the taxpayer who has to make a sacrifice must certainly expect some kind of return to him, and that was the object which my Honourable friend, Mr. Essak Sait, had in view. He said that if you are giving protection to private companies or any other companies, it means really that a certain amount of money gets out of the pocket of the taxpayer, and taxpayer must include all communities and interests. It follows that any particular class should not be prevented from enjoying the benefits of the protection when they have to make a sacrifice. This amendment should not be described as communal. I would not put it like that. I would not say that there should be hard and fast rule made that in every branch of employment, clerical, technical, etc., there should be employment of all communities and interests there. But certainly there should be no bar to any proper person being employed if he comes here, and if there are technical people available of one community or the other community they should be employed. I say there should be no discrimination against the Mussalmans as such and they should not be debarred from employment in the big concerns. It has become the fashion in India to make excessive demands. It is on the principle of the Persian proverb :

“ *Bā murgush begir ta ba tūp razi shawad* ”,

which means that if you ask for death, you will at least get fever. That is not really the case here. Haji Sathar Sait has said that all communities may be represented. That means that if there are people available, there should be no discrimination against them simply because they belong to a particular religion. He says that in a big firm like Tatas, there are hardly

[Sir Muhammad Yamin Khan.]

four or five per cent Muslims employed in that concern. If it is situated in a place like Orissa where Muslim labour is not available, then one can understand it. In Orissa, the Muslim population is very small and labourers cannot be found in sufficient numbers there but that is not the case where Tatas are. Of course, I quite realise that you cannot run a concern with inefficient labour. You cannot have the two things together. A commercial concern must be run with efficiency and efficiency means that you must employ men who can do the maximum amount of work with the minimum wages. That is the theory. If you take the figures of employment in the case of Tatas, you find that there is an element which really discourages the employment of Muslim labour. If Tatas are anxious to have our money for their benefit, then they must see to it that we have no grievance. As patriotic people, we want that our industries should be independent of other countries but, so far as the profits which go into the pockets of certain people are concerned, we have to be satisfied that even if they are not partial towards us, they must at least be impartial. They have got to show why they have not been able to employ people from the other communities also. This amendment of Haji Sahar Sait seeks nothing more than to draw the attention of the Government to the fact that they should be alert and see that no injustice is done to the Mussalmans as Mussalmans and they should not be at a discount on account of their religion and they should be given the same facility for earning their bread as any one else in that neighbourhood. At least that is the intention of the amendment. Of course the Resolution goes a much longer distance than that. The Indian consumers whose representatives we are should not be made to suffer unless the benefit accrues to the Indians as a whole. That is the point. If money goes from my pocket to Mr. Aney's, then I have got no grievance. But if it gets out of my pocket and goes out of India, then why should it get out of India? It should remain in India. We are really thankful to the British people that they have done a great deal to develop our own industries in this country, which would not have been developed without the help of their capital, and still, if they are carrying on, whatever may have been their motive—certainly we could not say that they were philanthropic and came in and invested their capital without any idea of making a gain, but whatever may be the fact....

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

Sir Muhammad Yamin Khan :....with these words, I support the proposal that this amendment should be accepted whatever may be the fate of this Resolution, and I hope that the Government will accept the Resolution in the shape as it has been put by Mr. Bajoria. They may say that they have only pinned it down to the speech of Mr. Gadgil, but, though Mr. Gadgil has moved the Resolution, yet the Resolution, if it comes on the vote of the House, should be treated as it has been debated by the House, and it should come in in that spirit as has been explained by Mr. Bajoria, and at least if the Government will act on those lines, we will be satisfied.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadian Urban) : Sir, I listened with rapt attention to the speech of the Honourable the Commerce Member. This was not his maiden speech in the Assembly for he had been a Member of this Assembly for several years, but this

was his maiden speech in his capacity as an official Member of this House. I congratulate him on the able and eloquent manner in which he spoke, but I am afraid I am unable to congratulate him on the substance of his speech. The Honourable Sir Ramaswami Mudaliar seemed to me to be obsessed with only one idea, viz., the benefit that is derived by India from foreign capital and enterprise. But he failed to recognize that there was another aspect of the question. All those who have studied this question carefully and well are of the opinion that foreign capital has two aspects,—one beneficial and the other harmful to the interests of the country. Sir, I am not one of those who would ignore altogether the beneficial aspect of foreign capital in India, but it would be going too far to say that it is entirely beneficial and that it has not a darker side. The Honourable the Commerce Member rightly emphasised that the profits of industry are not the only consideration. There are other things. I entirely agree with him. He mentioned the training of experts, but may I ask to what extent experts are employed by foreign firms in the higher ranks of their labour force? To what extent are Indians appointed in any managing capacity?.....

Mr. F. E. James : To a large extent.

Dr. P. N. Banerjee : My Honourable friend, Mr. James, says that this is done to a large extent. If he can prove this by facts, I shall be the first person to revise my opinion. But so far I know, there are very few Indian directors on the Boards of European firms established in India. Then, Sir, if we look at the appointments, we will find that it is only the lower-grade appointments that go mostly to Indians. Of late, I admit there has been a tendency towards the appointment of persons on higher scales of pay, but this is merely a beginning. This ought to have gone very much further by this time. The Indian Fiscal Commission reported seventeen years ago, and they definitely said that all these things should be done,—that the firms should be registered in rupee capital, that Indians should hold a large proportion of the shares, and that Indians should be trained. But has anything substantial been done?

Mr. F. E. James : Yes.

Dr. P. N. Banerjee : My Honourable friend, Mr. James, says "yes". Well, I must agree to differ from him on the interpretation that he would put on the word "substantial". I do not think anything substantial has so far been done. If anything substantial had been done, people would not feel so sore and my friends would not have any objection to the acceptance of this Resolution. For what are the words of the Resolution? The words of the Resolution are "that measures, legislative or otherwise, be taken immediately to prevent companies and concerns, the capital, membership, control or management of which is not *predominantly Indian*, from taking advantage of protective tariffs imposed to foster the industrial development of this country". Can anyone say that the capital, membership, control, or management is *predominantly Indian*? Even if my friend can prove that it is *substantially Indian*, I would agree with them. But I am afraid that is not the case.

Mr. A. Aikman (Bengal : European) : What about the jute industry?

Dr. P. N. Banerjea : How many European firms are there in the jute industry, and how many persons do they employ in the higher services, and how many Indian directors do these Scottish jute concerns have? Are there many directors on their Boards?

An Honourable Member from the European Group Benches : See the directory.

Dr. P. N. Banerjea : What percentage? The directory shows that the number is exceedingly small. (Voices : "No, no.")

This is only one aspect of the question. But we are not concerned only with British firms. British firms are non-Indian but I do admit that they come under the connotation of the provisions of the Government of India Act—section 113 and so forth. These are special privileges given to British firms. The question is whether these special privileges should be enjoyed by them. Of course it is for them to consider whether it is consistent with their self-respect to enjoy these special privileges without sharing those privileges with Indians. Then, what about the other firms which are non-Indian-owned, what about them? The Batas, for instance, enjoy the same privileges as Indians. Why should they? The Honourable the Commerce Member said that there are most-favoured-nation clauses in the agreements with some of the countries, but that does not apply to all countries. All foreigners, all non-British foreigners—take advantage of the provisions of the Government of India Act in order to compete and compete on unfair terms with Indian firms. This is not right. Why was protection demanded by India? Protection has been demanded for the last thirty or forty years by Indians not to help non-Indian firms but to help Indian concerns, and for that purpose a sacrifice is made by the Indian people,—a substantial sacrifice—I was sorry to find the Honourable the Commerce Member making light of this sacrifice. Sir, a great sacrifice is involved in giving this protection, and why should protection be given unless the benefit accrues to the people of the country?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : May I say that I have no recollection of having made light of the sacrifice involved by the grant of protection, on the other hand, I emphasised the sacrifice.

Dr. P. N. Banerjea : I stand corrected. If he did not speak lightly of this sacrifice, I will not pursue the matter further. But I do say that a great deal of sacrifice is made by the people of the country; and for what purpose? The purpose is that the people of the country should benefit, that the industrial development of the country should proceed. A great Englishman, who was a member of the Indian Civil Service, Sir Frederick Nicholson, once said that the industries of India should be developed in the interests of India firstly, secondly and lastly. I would like to put this opinion before my English friends and ask them to ponder over it.

Sir, the Honourable the Commerce Member said that we should have trade regulations with other countries. Surely we should have, but do other countries safeguard their own interests or not? If they are entitled to safeguard their own interests, are we not entitled to safeguard our own interests? Look at the question from the broader

standpoint. I would ask the Government to look at the question not from the narrow standpoint and to refer only to technical matters and certain sections of the Government of India Act and so forth. They should look at the question from the broad standpoint of justice. If you look at the question from the broad point of justice, you will find that India suffers a great deal from the present arrangements. Therefore, we want that, in order to safeguard the industrial interests of the country, it is essential that some steps, legislative and administrative, should be taken by which the foreign concerns should be prevented from reaping the benefit of the sacrifice which is made by the people of this country.

Coming to the amendment which was moved by my Honourable friend, Mr. Essak Sait, although I have full sympathy with the spirit underlying it, I am afraid the amendment, as it stands, is neither feasible nor desirable. It is not feasible because, as my Honourable friend, Mr. Nauman, pointed out, there were various difficulties in the way of giving effect to it; and it is not desirable because we have already too many divisions in the political field and we ought not to carry these divisions into the economic sphere. It would be very undesirable to carry our quarrels into the economic field. But we should appeal to the organisers and leaders of industry themselves in order that they may give proper shares of the fruits of industry to the different sections of the community. With these words I oppose the amendment, but I strongly support the original Resolution.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I have listened with very great pleasure to the maiden speech of my former colleague, Sir Ramaswami Mudaliar. His speech of today cannot be called to be a maiden speech in this House, but I call it so because he has been transferred and transplanted from our side to the other side which we really expected at one time because of his brilliance, because of his eloquence and because of his experience, and we are really glad to see our friend on the Treasury Benches. Sir Ramaswami Mudaliar is not a stranger to us. We have heard his eloquent speeches from the Opposition Benches for a very long time, and I think Mr. James will support me when I say that we were proud of having Sir Ramaswami Mudaliar on our side. The way in which he treated the subject today has made us proud of him. The dissertations that he gave on the tariff policy and the tariff rules and regulations are a lesson to us. If he had been on the Opposition side, I am sure he could wax more eloquent than he has been today on the Treasury Benches. However, the subject is undoubtedly a technical subject and the Resolution moved by Mr. Gadgil—I am sorry he is not here today—would have found a very good support in the House today if the Congress Benches were not vacant. The object of this Resolution was not what has appeared from the speeches of today. The object of the Resolution was to help Indian industries, and I am sorry to say that the subject of the speeches has drifted into communalistic tendencies. When my friend, Mr. Bajoria, began to speak, he at once took the subject as though it was a Hindu-Muslim subject. I am very sorry to say that every time when there is any suggestion from the Muslim League Benches or from the European Benches, it is always taken as a communal suggestion. I am very sorry for that. It is not even a European or an

[Mr. Muhammad Azhar Ali.]

Indian question. We do not recognise our European friends as non-Indians. I would ask my Honourable friends on the European Benches to believe me that we do not want that British interests and British capital should be driven out wholesale from India. That is not the object of this Resolution, and it is a pity that we have drifted from the real issue and have started abusing each other. The most important words in the Resolution are "prominently Indian from taking advantage of protective tariffs". Nobody can deny that India is a country for the Indians. Our European friends have got interests not only in Great Britain, but also in other European countries, and if we Indians claim here that the benefits of protective tariffs should be more for the Indians, I do not think they ought to grudge our demand. When we say that the tariff benefits should accrue to us, what we mean is that the Indians should really find that the tariff protective policy of the Government of India is favourable to them. I assure my Honourable friend, the Commerce Member, that just as the Indians have invested lakhs and lakhs in the sugar industry which ought to open the eyes of the Government of India, so I may tell my Honourable friend that Indian capital will not be shy at all if we find that the trade conditions and the tariff protective policy of the Government of India is in favour of the Indians. They will then invest more and more, and capital may not be wanting. It is not a communal question, as I said, and when my friend, Mr. Nauman, pressed this point, he made it very clear that the Mussalmans of India do not want that they should be at every stage and in every concern. What we really want is that Indians ought to be trained by European firms. They ought to have scholars and apprentices, whether they be Hindus or Muhammadans or Christians. Are not Indian Christians Indians? So, Mr. Essak Sait's amendment only seeks to give due proportion to all Indian communities. He has never referred to the Mussalmans of India only, but he has referred to all the Indian communities. He referred to all the Indian communities,—Christians, Hindus and Muslims, and Europeans too. What we say is that we as Indians claim that we ought to have all the facilities, we ought to have opportunities to invest our money. We ought to be on the directorate, we ought to be co-sharers in the companies and concerns. I am very sorry that the question has been discussed on communal lines, and I hope that Government will accept this amendment and the Resolution moved respectively by Mr. Esak Sait and Mr. Gadgil.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, the attitude taken up by the Government as indicated by the speech of the Honourable Member speaking on behalf of the Government is actually deplorable. The only policy the Government of India have is the policy of might is right and when might intervenes all impracticables become practicable. The other day the Turks when they regained power asked all the companies, banks and trading concerns in Turkey to employ only Turks from top to bottom and use Turkish language. Although the demand was apparently impracticable but it became practicable and these conditions were accepted by those trading concerns. As regards the expression used by my Honourable friend, Mr. James, that it is impracticable to give share to communities in service of companies may I ask him, is it practicable or is it not discrimination to fix 40 per cent.

seats to Anglo-Indians in the services of the Telegraph Department as has just been adopted by the Home Department Resolution? What is the percentage of Anglo-Indians in the country? Is it not discrimination? Surely it is. There what is impracticable has become practicable. Mr. James's policy is to swallow the sweet and throw away the bitter. What is demanded by the Resolution and the amendment is that Indian capital and labour should be encouraged and every community in India should have a fair share. Sir, I support the Resolution as well as the amendment moved by my Honourable friend, Mr. Sathar Seth.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair has already read out to the House what the effect of this Resolution would be if the amendment is adopted. The Chair will now put the amendment first to the House. The question is :

"That the following words be inserted between the words 'Indian' and 'from' in the Resolution :

'or which do not employ all Indian communities in due proportion in their services and labour'."

The motion was negatived.

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

"That this Assembly recommends to the Governor General in Council that measures, legislative and otherwise, be taken immediately to prevent companies and concerns, the capital, membership, control or management of which is not predominantly Indian from taking advantage of protective tariffs imposed to foster the industrial development of this country."

The motion was negatived.

RESOLUTION *RE* DEDUCTION OF THE AMOUNT OF PROVINCIAL EMPLOYMENT TAX FROM THE INCOME-TAX PAYABLE TO THE CENTRAL GOVERNMENT.

Shaikh Rafiuddin Ahmad Siddiquee (Chittagong Division : Muhammadan Rural) : Sir, I beg to move :

"That this Assembly recommends to the Governor General in Council that all persons who may be compelled by a Provincial Government to pay additional tax on their income under the name of employment-tax should be given relief of an equivalent amount in the income-tax payable to the Central Government and the amount so deducted should be written off against the subsidy given under the Niemeyer Award to the provinces out of the revenues derived from the income-tax and railway profits, and that necessary amendment be made in the Income-tax Act."

Sir, the Resolution is simple and does not require a great deal of explanation. By this, my intention is that the Employment Taxes which are or which may be levied by Provinces are only another form of income-tax. The provinces have all been introducing all sorts of taxes to make up their budget without the least consideration of the effect they are going to make on the general finances of individuals. The Niemeyer Award gave the provinces a portion of the Central income with two views, that is the provinces should receive central contributions from central subjects because their inhabitants made a portion of contribution to the central funds and because provincial finances had to be adjusted to make up their needs. There was definitely this idea that the provinces will not assume

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concurrent jurisdiction of taxing their people again for the same income. What is the position of the Employment Tax? Sir, it is a tax on the earnings of individuals in the provinces and what is an income-tax? The same except this that the income-tax is a taxation from the Centre. To illustrate more clearly, I would say that it amounts to this. Suppose a man has a salary of Rs. 400 per month. He pays income-tax on Rs. 4,800 which amounts to about Rs. 250 as tax and then he pays to the province in which he resides an Employment Tax of about another Rs. 200 per year on his salary of Rs. 4,800. This is most inequitable and unjust and I suggest that individuals who have paid the Employment Tax of Rs. 200 should have a refund from the central finances and this amount of Rs. 200 should be deducted out of the total contribution which is made to that province from the Centre according to the Niemeyer Award. There should be no double taxation on one and the same income and relief must be given to the persons paying the same in the provinces out of the central contribution to the provinces. With these few words, I request this House to accept the Resolution moved by me.

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

"That this Assembly recommends to the Governor General in Council that all persons who may be compelled by a Provincial Government to pay additional tax on their income under the name of employment-tax should be given relief of an equivalent amount in the income-tax payable to the Central Government and the amount so deducted should be written off against the subsidy given under the Niemeyer Award to the provinces out of the revenues derived from the income-tax and railway profits, and that necessary amendment be made in the Income-tax Act."

Mr. F. E. James (Madras: European): Sir, I should like to put to the Honourable the Finance Member one or two points in connection with this Resolution. I had not realised that it was coming up this afternoon, otherwise we might have given the Honourable Member due notice. But I see that the Resolution prays for relief on the part of persons in the provinces who have to pay additional tax on their income in the name of employment tax; and with the desire underlying the Resolution I am entirely in sympathy. Coming from a province where we have for many years suffered the imposition of a tax which is erroneously known as a profession tax and which is levied by the local boards under the authority of provincial legislation and is based solely upon income, without any relation whatever to the profession a person might follow, I am entirely sympathetic although I doubt whether it will be practicable or indeed wise from the wider political point of view to agree to this. But what I should like to remind the Honourable the Finance Member of is the general point that was made by my Honourable friend, Mr. Buss, during the budget debates earlier this year as to the urgency of attempting in some way to reconcile the conflicting claims of the provinces and the Centre in regard to the field of taxation. We are all being increasingly taxed in the provinces in various ways and each new tax is raising a problem as to whether in certain respects it does not impinge upon the central field. We have an employment tax in the United Provinces and there are sales taxes in the Madras Presidency and also in Bombay. And there surely should be some attempt on the part of the Provincial Governments and the Centre, if there is room for doubt

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as to the legislative lists under the Government of India Act, to come to some agreement. Otherwise, not only is the taxpayer going to be forced to pay on the same income twice, not only is the merchant going to be forced to pay on the same transaction twice, but the taxpayer and the merchant are going to be obliged, owing to this conflict, to go to the expense of fighting these taxes in the courts, and that means a reference to the Federal Court and possibly to the Judicial Committee of the Privy Council, which is bound to be extremely expensive. When Mr. Buss raised this matter last March he urged first of all that there should be a conference, at which this item should appear on the agenda, between the Finance Ministers of the provinces and the Finance Member of the Centre; and I think he expressed some disappointment that there had not been a second conference during the last cold weather. He went further and suggested that if it were not possible by agreement between the Centre and the provinces to delineate carefully the limits of provincial taxation in regard to the central field, there was a case for an inquiry as to whether some amendment of the legislative lists by Parliament could not be devised which would put the matter beyond the doubt in which it is at present. Those are the points which I should like the Honourable the Finance Member to address himself to when he replies to this Resolution, in addition to the points raised by my Honourable friend, the Mover.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa: Muhammadan): **Mr. President**, the Resolution has been explained by the Honourable the Mover and does

not require any further elucidation so far as the part of the employment tax goes. The reason why this Resolution has been moved from our side is that we feel that the taxation policy of this country should be consolidated or revised either by a conference or by an Act of Parliament or by any other measure which would put a stop to the race which the Congress provinces have begun in the way of piling one tax upon another. It is not only a question of double taxation but sometimes it may be triple and quadruple taxation, the same thing being taxed if it passes from one province to another. My Honourable friend, Mr. James, has just explained to the House that this question is getting serious as the different provinces have already introduced different taxes, named as professions tax and sales tax, etc., over and above the export and import duties which are paid to the Central Government and part of which provinces receive under the Niemeyer Award. The purpose of the Niemeyer Award was as follows as stated in the report:

"It has been recognised that at the inauguration of provincial autonomy each of the provinces should be so equipped as to enjoy a reasonable prospect of maintaining financial equilibrium and in particular that the chronic state of deficit into which some of them had fallen should be brought to an end."

With this idea the Niemeyer Award gave each province such quotas from the Central revenues and such contributions as he thought would adjust their finances. In spite of that what we find is this that they are legislating all sorts of taxes. This Resolution particularly refers to the employment tax which has already been introduced in some provinces and is contemplated to be introduced in other provinces. The position is that a man with an income of about Rs. 6,000 a year from some service pays income-tax to the Central Government on that income and in addition to that he is asked by the province in which he unfortunately resides to pay

[Mr. Muhammad Nauman.]

a further tax under the name of employment tax. It, therefore, amounts to double taxation on that same amount of Rs. 6,000, his yearly earning.

The suggestion which we want to make by this Resolution is this, that in case the Government is not able to make an adjustment of the taxation policy of the whole country, either by summoning a conference or by other means immediately, they should at least give relief to those people who have paid this Provincial employment tax to the extent of the amount that they have paid to the provinces in some form or the other. This is only quite fair and just, because the contribution which the Central Government make to the provinces is out of those taxes which they derive from the residents living in those very provinces, and, therefore, if the provinces are permitted to impose a further tax on the residents inhabiting those provinces, it means double taxation, and, therefore, relief must be given either at the centre or in the provinces. The best method for the present would be this, that until such time as the whole taxation policy of the country is not consolidated either by mutual arrangement or by some other means, the amount which has been paid in one way or other as employment tax in some of the provinces should be refunded by the Central Government, and it should be deducted from the contribution which the Central Government are making to those provinces. To make myself more clear, I would give this illustration: supposing the United Provinces Government levies an employment tax and realises about Rs. 50,000. Then under the award the United Provinces Government receive about Rs. 25 lakhs for five years. What I would suggest is that out of the 25 lakhs, Rs. 50,000 should be deducted and only Rs. 24 lakhs 50 thousand should be paid to those provinces and this fifty thousand should be refunded to those who paid in the United Provinces. That is the concrete suggestion which this Resolution makes, and I hope the Government will consider it seriously. We maintain that the people should not be subjected to double taxation, and relief should be given to them by the Centre in respect of such tax until such time as the whole taxation policy of the country is decided either by conference or by an Act of Parliament or by the Federal Court or by any other means that may be decided upon in future. With these few observations, I take my seat.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I must confess that I find myself in considerable difficulty in dealing with this Resolution, and I cannot say that I have derived very much assistance or guidance as to the arguments I have to meet from the speeches which have been made so far. My friend, Mr. James, certainly proposed to me some definite and intelligible questions, but they did not seem to me to arise very directly out of the Resolution which is before the House. I must, therefore, turn to the wording of the Resolution itself and examine what exactly we are being asked to do, and the Resolution falls into two parts. In the first place, I am asked to make such amendments in the Income-tax Act as will enable the payment of an employment tax to be deducted from the assessable income-tax. Well, to confine myself for the moment,—and I shall not enlarge on this point,—to confine myself to that point, I must make it clear that that is a proposition which could not be acceptable to the Government. There is an important principle underlying the treatment of other taxes for purposes of income-tax. Honourable Members will find, if they refer to the Income-tax Act, that certain kinds of taxes are allowed as deductions from the

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gains or profits of a business. Under section 10 any sums paid on account of land revenue, local rates or municipal taxes in respect of any premises used for the purposes of the business, profession or vocation are permissible deductions, but these taxes are in the nature either of rent or payment for services rendered. But we allow no deduction, and this is the important principle,—we allow no deduction for payment of a tax which is purely a tax, not even for the payment of the income-tax itself. It may be argued that if a man's income is Rs. 10,000 and we are going to take a thousand rupees off him, then he should be taxed on Rs. 9,000; we don't do that. Still less can we accept the principle that if anybody else has put his hands into the tax payer's pocket first, we should deal only with what is left. We claim to come first, or at any rate as early as anybody else in dealing with that matter.

Now, I will leave that point because it is not, I realise, the main object of this Resolution. The main object of this Resolution, as I understand it, is to secure an automatic adjustment which will nullify the attempts of Provincial Governments to levy income-taxes under the guise of employment taxes. The Resolution asks that if and when such taxes are levied, we shall in effect give back the money to the assessee and deduct it from the province when we make the distribution of income-tax which is required by the Order in Council. Well, in the first place, that is not a change which under the Constitution we have any power to make. It would require, in my opinion, not merely an amendment of the Order in Council, but also an amendment of the Government of India Act. But before I come to that aspect of the matter, it seems to me that there is something fundamentally wrong with this Resolution,—and this is the main point, if not the only point,—which I want to put before the House and on the basis of which I would ask the House to negative this motion. An employment tax is either an income-tax or it is not. If an employment tax is genuinely an income-tax which trenches on the Central field of taxes on income, then the constitution provides a remedy. An employment tax, which is in reality a tax on income, is by the Constitution unable to come or remain in existence. We are, therefore, left with employment taxes which are not income-taxes. Now, in regard to such employment taxes, I can see no reason either why any special relief should be given to the assessee or why any adjustment should be made at the expense of the province. It seems to me that that dilemma is complete and entirely removes the basis of this Resolution. You cannot have an employment tax which is genuinely an income-tax continuing in being, even if it comes into being, and therefore, there is no need for an amendment of the Constitution in order to deal with that situation. The Constitution itself provides for it, because by section 100 of the Act, a tax which is both an employment tax and an income-tax is *ultra vires* of a Provincial Legislature.

I refer to section 100. Sub-section (1) says:

“Notwithstanding anything in the two next succeeding subsections, the Federal Legislature has, and a Provincial Legislature has not, power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to this Act (hereinafter called the ‘Federal Legislative List’).”

In sub-section (2):

“Notwithstanding anything in the next succeeding subsection, the Federal Legislature, and, subject to the preceding subsection, a Provincial Legislature also, has power to make laws with respect to any of the matters enumerated in List III in the same Schedule. (It is known as the Concurrent List).”

[Sir Jeremy Raisman.]

In sub-section (3) we have :

"Subject to the two preceding subsections, the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule."

But the important thing is sub-section (1) whereby notwithstanding sub-section (3) the Federal Legislature has, and a Provincial Legislature has not, power to levy an income-tax because taxes on income is one of the items included in List I. However, I do not want to go into a lengthy dissertation on the legal aspect. It seems to me quite clear that the scheme of the Constitution is that income-tax shall be levied by the Centre and not by the provinces and that under whatever guise an income-tax is levied it would be invalid unless it is levied by the Centre. In other words, I claim that the situation with which this Resolution purports to deal is a situation which cannot, in fact, arise.

I will only add a few words since my Honourable friend, Mr. James, did ask me certain questions in relation to the whole subject of overlapping taxation. I have not been able to refresh my memory of the debate which took place last Session on that subject, but I think my predecessor Sir James Grigg indicated that this question would be one for me to deal with. All I can say is that I have taken up the question of a conference with Provincial Finance Ministers and have already addressed them on the subject. But I would like to add that the question of overlapping fiscal jurisdiction is not a question which could easily be treated by a friendly informal conference of Finance Ministers. It is a highly complicated and highly controversial field, and as far as I know, this type of problem has arisen in the case of every federal constitution, and the process of liquidating the various disputes and controversies which have arisen has been, I regret to say,—it is a very discouraging fact—a lengthy one.....

Mr. F. E. James :and an expensive one.

The Honourable Sir Jeremy Raisman :and an expensive one. It has had to be fought out point by point in the courts, and for the very simple reason that no constitution however elaborate can possibly foresee and provide for all those possible disputes. And the function of the courts is to deal with these difficulties. It is not really practicable—human nature being what it is and various other factors coming into the matter—it is not really practicable for a group of Ministers in charge of finance to come together and merely have a gentlemen's agreement as to how these difficulties shall be met. Even if they did temporarily arrive at a settlement, it would obviously not be binding on their successors, and nothing except further elaborations of the constitution could deal with these difficulties, and the process would be an endless one. So that it is inevitable that most of these difficulties should go to the courts. That was by the way and in reply to Mr. James's question. On the main Resolution I can only say that it appears to be unnecessary and for this reason I must oppose it.

Mr. F. E. James : May I ask the Honourable Member a question arising of something that he said, and that is this. In the event of the Central Government being satisfied that a particular tax enacted by a province under the guise of employment tax is, in effect, a genuine income-

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tax, I take it that the Central Government will undertake the responsibility of moving the appropriate machinery in order to get the matter settled by the Courts. If the Central Government is satisfied, I take it that the issue will not be left to the private individual to fight it out before the courts.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is making a second speech.

The Honourable Sir Jeremy Raisman : I am afraid that appears to me to be a hypothetical question with which I can only deal on a concrete situation.

Mr. N. M. Joshi (Nominated Official) : I rise to oppose this Resolution. The Mover of this Resolution pleaded in support of his proposal that no income should be taxed twice. I do not accept that view ; as a matter of fact, that view is not followed by any Government anywhere.

An Honourable Member : It is followed by every Government.

Mr. N. M. Joshi : If my Honourable friends will have the patience,—without patience they are not likely to get this Resolution passed. Nowhere in the world, at present, income is taxed only once. The income may be taxed once, may be taxed twice. The same man if he has got only one kind of income will pay income-tax, will pay to the Government of India the customs. Out of what income does he pay all that ?

Mr. Muhammad Nauman : Customs is not a direct tax.

Mr. N. M. Joshi : He never said direct tax, he said no income should be taxed twice. Customs tax is paid out of the same income.

Mr. Muhammad Nauman : Customs is not a tax.

Mr. N. M. Joshi : It is paid out of the income. You have only one kind of income. If a Government servant, unless he takes bribes—his income is fixed. He pays customs duties out of his income. If there are municipal duties he pays them out of that income.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : It is not a tax, it is a sort of duty.

Mr. N. M. Joshi : The tax does not cease to be a tax because it is a sort of duty. I do not think that a tax becomes no tax if it is called a duty or by some other name.

Mr. Muhammad Azhar Ali : It is a sort of cess.

Mr. N. M. Joshi : Call it a cess. If it is called a cess it ceases to be a tax,—that is my Honourable friend's interpretation. I am a practical man. If money is taken from me, whether in the name of a cess or a duty or a tax, it is all the same to me, it is the same thing. In the first place, I feel that Governments in India will find it difficult to carry on their work if we agree to the principle that no income should be taxed twice. The Honourable Member wants the Government of India to give relief to those people who have to pay employment tax, from income-tax. Well, Sir, I do not know whether the Government of India are generous enough. They do not seem to be generous. He makes another recommendation to the Government of India. I do not know whether my Honourable friend was simple enough to believe that the Govern-

[Mr. N. M. Joshi.]

ment of India will turn a law-breaker. The Government of India Act provides that they have to pay the Provincial Government a part of the income-tax. You may pass a Resolution and request them to break the law but I do not think the Government of India will take that risk. I do not know whether any punishment is provided for the Government if they break the Government of India Act. Perhaps not but if the Government of India begin to do that, some punishment will have to be provided. The Honourable the Finance Member while speaking very carefully gave out a hint that the employment tax may be an income-tax. I do not think the employment tax can be an income-tax. The difference is quite clear. The employment tax is a tax on your income from employment. A man may have income from other source which is not counted for employment tax. For income-tax you include both. Therefore, an income-tax is different from an employment tax.

Mr. Muhammad Nauman : Does not an employee pay income-tax ?

Mr. N. M. Joshi : You pay income-tax as an employee. You pay taxes for various other things. Mr. James told you that he used to pay a profession tax. It is a kind of tax but not an income-tax. You have to pay tax to the courts in the shape of stamp fees. Therefore, a man may pay taxes for various things. Therefore, it is wrong to say that employment tax is an income-tax. It is quite true that some people have begun to make a grievance that they pay more taxes. Every one grumbles when he is asked to pay taxes. I have to pay more taxes in Bombay. We should remember this, that no Government, Provincial or Central can carry on work without somebody paying for it. If you want the Provincial Governments to do some work in the interests of the people and the masses, then they must find the money and considering the merits of the tax, I think the employment tax is not a bad tax. It falls upon the people according to their ability to bear the burden. I would not, therefore, complain about the employment tax in the United Provinces, if the United Provinces Government is utilising the money properly. I am not one of those people who would complain of taxes, so long as the money is spent on purposes which I approve of. I, therefore, feel that the complaint that the Provincial Governments, especially the Congress Governments, are levying taxes which fall heavily upon some people is not justified. I would not say that the Congress Governments have not made mistakes as regards certain taxes. There are certain taxes which are not good taxes. I am not in favour of the sales tax which the Bombay Government is levying. Property tax is a good tax. I feel, therefore, that although the Congress Governments have made some mistakes as regards their measures of taxation, their taxation policy has not been altogether a bad policy. In any case it is a better policy than that of the Government of India who derive their major portion of the income from indirect taxation. The Government of India have something to learn from the Provincial Government in this respect and change the character of their taxation. They should certainly derive greater income than they are doing today by means of direct taxation. I, therefore, feel that the complaint about the employment tax is not based on reason and, therefore, this Legislature in any case should not

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pass this Resolution. My Honourable friend, Mr. James, made the suggestion that the Government of India should come to some agreement with the Provincial Governments. If the Provincial Governments and the Government of India consider proposals in the right way, I have no objection but if the Provincial Governments and the Government of India agree to increase the burden on the poor people, I shall not agree to that. It is quite possible that the Provincial Governments and the Government of India may come to an agreement and say 'let us have more and more of indirect taxation'. It will be wrong on their part to come to such an agreement. It will not be a good agreement. I would, therefore, judge each agreement on its merits. My Honourable friend, Mr. James, also suggested to the Government that they should change the Government of India Act. I do not know whether the Government of India will take that risk. They will be making a mistake if they try to reopen the question of these schedules of taxation. It will not be easy for them again to come to an agreement. They may persuade Parliament to do what the Government of India like but there will be trouble in the country. I would, therefore, suggest that the House should not agree to this Resolution which is bad in every way.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, the Resolution before the House is for two purposes. One is to secure the refund of the amount which the taxpayer will have to pay under a provincial tax such as the Employment Tax. That is one thing. In order to secure their claim for refund, a further suggestion is made that the Government of India need not be afraid of its own revenues in this matter. They have got a remedy and a very easy remedy is suggested, namely, that the contribution that the Government of India have to pay under the Niemeyer Award should be proportionately reduced. I thought that no elected Member of this House, understanding the importance of Provincial Autonomy, would ever come out with a suggestion like that before the House. It is virtually asking the Government of India to bring a kind of pressure upon the Provincial Governments not to exercise the rights which they have got under the Constitution. This is the most objectionable principle that underlies this Resolution. The question is this—whether the Provincial Governments have or have not the right to impose a particular tax. Now, that is a matter on which there is likely to be difference of opinion. The Government of India Act contemplates such a possibility of difference of view and, therefore, they have provided a remedy also to tide over the difficulty. The remedy is quite clear. If the Government of India really think that a particular kind of tax, imposed by a Provincial Government, impinges on their spheres of taxation, they have got a remedy to take the matter to the proper forum and get a decision on that. Instead of asking the Government of India to proceed in that way or allowing the Government of India to make up their mind coolly as to whether the thing is really within the sphere of provincial taxation or within the sphere of the Central Government's powers, my friend says, "why bother with all these things ? You have got certain amount to pay to the Provincial Government, do not pay them, and at the same time recoup the loss which the taxpayers have to bear under that particular taxation by granting them a refund of the amount recovered under the Income-tax Act." Sir, that is not an easy solution. I am sure the Government of India have their own responsibilities and the reply which my Honourable friend, Sir Jeremy Raisman, has just

[Mr. M. S. Aney.]

given has clearly indicated that the Government of India are not going to do anything of the kind at all ; they know their own responsibilities in the matter. Now, I further desire to urge that the ground that the imposition of a particular tax amounts to a double taxation on the same source of income does not appeal to me. I am not a socialist like my friend, Mr. Joshi. In fact I am not a socialist at all, let me first make a clear confession to that effect. I think I am on the right side in disclaiming my association with socialists in the first place but that does not mean that I do not appreciate the good points which they have got.

Because a particular kind of tax amounts to a double taxation on the income of a particular assessee, that ought not to be for that very reason to be considered as unreasonable or unconstitutional. As to whether the employment tax is really an income-tax or not is a constitutional question and a legal issue which will be decided by the proper court. All that we need consider here is whether the taxation that has been imposed under a different name, *viz.*, "employment tax" is of such a nature that it has exceeded the taxing capacity of the assessee or not. If it has not, then there is no reason why this House should take cognizance of that fact. What are the data placed before this House by any one of those who have propounded this proposition so as to convince us or even to give us any reasonable idea as to the taxable capacity of these assesseees to pay the employment tax imposed in any particular province ? The only ground on which they have based their claim is that it amounts to a double taxation. That does not appeal to me—it might be a treble tax—for this reason, *viz.*, that a man has got several duties to discharge ; he has to live as a citizen of the State, he has to live as a subject of a particular province, and he has also to live as an inhabitant of a particular locality or of a particular district. Now, in all of these capacities he has to bear his burden for helping the administrations of firstly, the State as a whole, then of the province, then of the city and also of the district or locality which he inhabits and for all of these purposes he will have to make some amount of contribution to the funds out of which these administrations are to be run. If people are not prepared to take that responsibility of giving their proper quota to the funds out of which the administration of a State or of a province or of a district or of a town is to be managed, then they are lacking in the capacity to run or the right to demand the establishment of any representative institution at all. Now, a man's income may be made up of many things out of which "employment" may be only one source of income but whatever amounts of income he has got, out of all that he will have to make all these contributions. He will have to pay some tax to the State, then as a resident of the province he will have to contribute towards provincial funds, and then he will have to contribute something also to local bodies and also to the municipality within whose jurisdiction he carries on his trade or business. These are responsibilities that are inherent in his status as a citizen of a particular State. Therefore, naturally, his income is liable to be taxed in various ways. I leave aside the reference to the indirect tax, but something has to be paid, otherwise how can the administration of that particular town go on ? In my own province there is a profession tax levied under the municipal law there. Therefore, the mere plea that a tax amounts to a double taxation on certain income is not sufficient to warrant this House to come to the conclusion that,

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therefore, that tax should be taboo or cease to exist, and in going still further that this Government should bring to bear all its pressure on the Provincial Government by going to the extent of withholding the payment of what is legitimately due from them to the Provincial Government. Of course, if anybody is legally assured of the position that the employment tax is an income-tax, then he might persuade the Government of India to take the case to the proper forum to get a favourable decision thereon. If it is decided there that it is an income-tax, I am sure all assesseees will not only be not taxed, hereafter, but whatever they have already paid by way of tax will have to be refunded by the Provincial Governments and the Government of India will not come into the picture at all in the matter of making refunds. But if that is not so, then they cannot bring any kind of pressure to bear upon the Provincial Government. If the powers exercised by the Provincial Governments are properly exercised within the rights given to them by the Government of India, I am sure the Government of India cannot be persuaded by any persons simply by taking the name of "Congress Province"—and this sort of distinction between a Congress Province and a non-Congress Province has no meaning in the discussion of an important issue like this—to bring such pressure to bear upon the Provincial Governments. From the gravity of the issue raised by this Resolution I am sure my Honourable friend will see that it will not be proper for him to press a Resolution like that on the House and to ask the House to record its vote, and he would be better advised to withdraw this motion. We have heard from the Government of India what they have had to say on this point and if there is any legal remedy, the Government of India in its own interest will do it. The Government of India are jealous of any encroachment upon their own source of taxation and if they can see that some encroachment on their own sphere of taxation has been caused, they are sufficiently alert and will take all the necessary steps. You can rely upon their sense of greed and covetousness for lucre and remain content with having expressed what you feel about this matter and then not proceed further. If this suggestion of mine appeals to my Honourable friend, I hope he will withdraw his motion ; otherwise, Sir, I have to oppose the motion.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural).
Sir, I had no intention of speaking on this Resolution but I would like to drive away a misunderstanding which has been created in certain quarters about this Resolution. I can at once tell my friend, Mr. Aney, that this has never been the intention either of the Mover or of the Member who really drafted this Resolution and who is, unfortunately, not present here today. It was never the intention that he would force the Provincial Governments through the Government of India or in any other manner not to exercise their proper functions or rights. I want to clear this point at once that it is neither the intention of the Mover of the Resolution nor of Dr. Sir Ziauddin Ahmad, who really drafted this Resolution, that the Provincial Governments should be coerced in any manner whatsoever. Neither do we think that persons who are living in different spheres have not got their own responsibilities as citizens of India or as citizens of the provinces or as citizens of the towns. We all know that everybody has to shoulder his responsibility in whatsoever sphere he is. But what we do want to bring to the attention of the Government is that in the shape of employment tax, certain people are particularly picked out and they are

[Sir Muhammad Yamin Khan.]

made to pay the double tax. If the same theory had been applicable to all the people who derive their income from one way or the other, then there would have been no grievance. If you say that a man who is in receipt of a salary has to pay besides his income-tax another income-tax but the man who is carrying on the profession of a money-lender has not to pay it, then I do not agree with you. Why should those people who derive their income from money-lending should escape from paying this income-tax and pay only the ordinary income-tax? Does my Honourable friend, Mr. Aney, mean to say that those people are not to share the responsibility which an employee has to take. If the taxation had been brought by the Government of India, it would have meant no discrimination to anybody because everybody having an income up to a certain level would have paid that tax and those people who are going to be hit by that measure would not have had any grievance at all. But the grievance now is that there is a discrimination and only a few persons have been selected to pay a certain kind of tax which the others are not asked to pay who are enjoying the same kind of income or probably much bigger income. That is the only point. I would like to draw the attention of the Government of India to the fact that this is an encroachment on the rights of the Government of India by the Provincial Governments when they are levying a tax under some other name but which is in reality an income-tax and which is to be levied only on a certain class of people. It is to be seen whether it is an encroachment on the rights of the Government of India or not.

Now, the Honourable the Finance Member has said that he is watching the interests of the Government of India.

4 P.M.

That being the case, we have achieved our object. All that we wanted to bring to the notice of the Government was that there is a kind of injustice which is being done to a certain class of people who should be protected by the Government of India because the tax is being levied in a sphere which is the exclusive sphere of the Government of India and not of the Provincial Governments. If the Honourable the Finance Member says that he is carefully watching this position, then there is nothing more to be said about it. Even if a Resolution had been moved and carried, the Government of India could not stop what has been laid down to be paid by the Niemeyer Award to the Provincial Governments. As has been rightly said by Mr. Aney, if it is an income-tax, it will have to be refunded either now or in the future and with that view we quite agree. But if it is not an income-tax, then even if the Resolution had been passed, the Government of India could not even accept the Resolution. I think the House has succeeded through this Resolution in drawing the attention of the Government and getting their reply as to what they are going to do. There are lots of Government employees who are interested in the matter because they are waiting to see what is going to be their fate and whether this power of taxation is to remain in the hands of the Government of India alone or it will rest with other bodies too. That was our intention and I think we have succeeded in bringing it to the attention of the Government. Like Mr. Aney, I would also request the Honourable the Mover that he may see his way to withdraw the Resolution.

The Resolution was, by leave of the Assembly, withdrawn.

RESOLUTION RE APPOINTMENT OF A COMMITTEE ON THE "BUNDER BOAT" DISASTER.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move :

"That this Assembly recommends to the Governor General in Council to appoint a committee of enquiry to investigate into and report on the 'Bunder Boat' disaster in Kiamari harbour, resulting in the loss of five lives of Sind college students, and also to suggest the compensation, if any, that may be awarded to the relatives of the deceased students, consisting of two non-official and one official members of the Central Legislature, and one member of the Sind Assembly and to be presided over by one of the judges of the Judicial Commissioner's Court, Karachi."

This tragic and disastrous collision that took place in the Kiamari harbour is, I hope, known to the House because many questions have hitherto been put in the House with regard to it. Through the echo in this House, this disaster is known all over India. My Resolution makes a simple and a reasonable demand that with regard to this collision it should be made clear how it happened and who were responsible for it and also to find out whether it was the Bunder Boat master and the officers who were responsible for this collision or whether the crews of the boat with which it collided were responsible for it or whether the Port Trust officers were responsible for it. I am also suggesting in the Resolution that compensation should be given to the relatives of the victims who suffered in this tragedy. What are the facts of this tragedy? On the 25th September, 1938, about 12 college students who had a holiday on that day went on a picnic to an island called Manora. Between Manora and Kiamari they had to cross a creek. They went in the morning and after enjoying their picnic, they returned in the evening at about 8-30 P.M. They had gone by a Bunder boat, which is a country craft. There are many such country boats in the harbour and there are also launches. These Bunder boats have been plying for a long time past in the harbour and they are under the control of the Port Trust. When these students were returning they were not aware that a boat of the British India Steam Navigation Company was due that day. At any rate the boatmen were not informed of the incoming of the steamer. Actually the pilot had gone already to guide the Bunder boat into the creek. This Bunder boat had actually come by a turf into that place and it was not known till then to the boatmen that the boat was likely to come into collision with the steamer. The result was that the Bunder boat struck the Bunder boat. The result was that some students jumped off and others remained in the boat until it went to the bottom. The question is whether any assistance was given to those persons who were being drowned. An enquiry of a particular and peculiar nature was held into this incident. It was ascertained that a tug came to the rescue of those who were in water, so did a launch. All credit is due to them for having come to the assistance of the sinking men. Seven students were actually lifted up and five got drowned. My submission is that the Government ought not to rest content with this partial enquiry but that they should take strong measures, to find out whose fault it was for this tragedy. It would not only be an act of sympathy towards the relatives of the victims but it is also the bounden duty of the Government to find out the real cause and award compensation to the relatives of the victims. After this incident occurred, according to the Indian Merchant Shipping Act, 1923, an enquiry was held on the 31st October, 1938. A formal investigation was made to find out only the incompetency or mis-

[Mr. Lalchand Navalrai.]

conduct of the officers concerned. That enquiry was conducted by the City Magistrate of Karachi, Mr. Agha, who was assisted by two or three assessors. Of course, his terms of reference were restricted only to find out whether there should be any punishment or any censure to be given to these officers. I want to make it clear to the House that that enquiry was more or less of a departmental nature. It was nothing more. I will read out the relevant section. Section 248 says :

“ The officer appointed under sub-section (3) of section 246, whether he has made a preliminary enquiry or not, may, and where the Central Government so directs shall, make an application to a Court empowered under section 249 requesting it to make a formal investigation into any shipping casualty ; and the Court shall thereupon make such investigation.”

Then, section 249 says :

“ Magistrates of the first class specially empowered in this behalf by the Central Government and Presidency Magistrates shall have jurisdiction to make formal investigations into shipping casualties under this Part.”

The next section 250 says :

“ Any court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.”

The power that is given to the Court is laid down in section 257 :

“ The court shall, in the case of all investigations under this Part, transmit to the Central Government a full report of the conclusions at which it has arrived, together with the evidence and shall also send a copy thereof to the Provincial Government.”

Subsequent section 258 provides :

“ Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.”

Then, Sir, the certificate has to be removed. Now, Sir, my Resolution is much more extensive and comprehensive and is intended to show that that inquiry is not sufficient. When a public servant is charged with negligence or incompetency a charge sheet is given to him and on inquiry he is dismissed or something else is done to him. That is not what I want. I want that in regard to this tragedy a full inquiry should be made and it should be found out whether these persons are liable and what should be done to do justice in this case and to avoid and prevent such accidents in future, at the same time what compensation should be given to those who have suffered.

[At this stage, Mr. President (The Honourable Sir Abdur Rahim) vacated the Chair which was then occupied by Mr. Aney, one of the Panel of Chairmen.]

Before I state what Government have done in this inquiry or what the Court of Admiralty to which an appeal had been preferred in this case have done, I will read some portions of the report of the City Magis-

trate to show the reasonableness of the demand contained in this Resolution. I will show that the court of inquiry has laid the blame upon the Master of the ship and on the pilot and also some blame on the Port Trust itself. At page 45 it is said :

“ This points to the conclusion that the collision directly resulted from the pilot's manoeuvre of directing the course of the vessel to starboard, although it is to be remembered that blame is attributable to the boatman for being undermanned and keeping a bad look-out astern which latter fact led to his first bringing himself in the way of the ship in the channel and then having to cross ahead of her and thus contributing to the result.”

Further on, they say :

“ The order to turn the ship to any one side in the circumstances of the case showed a lack of skill on the part of the pilot.”

Again, on page 47, we find :

“ The pilot brought the vessel practically right up to the time and place of the collision at full speed.”

The rules as given in paragraph 14 on page 47 are :

“ Pilots, when bringing in or taking out steamers, should go dead slow when passing the Dredgers or ships at the Bulk Oil Pier wharves or fixed Moorings. In order to avoid risk of collision, they are to keep vessels leaving the port on the Manora or west side of the channel, and vessels coming in on the east side.”

With regard to the Port Trust, it is said on page 48 :

“ It should be a matter for the Trustees of the Port of Karachi to enforce with greater rigidity their existing rules and instructions and to frame any others regarding speed and the care with which ships should be brought in and taken out, taking into account the fact that bunder boats have to use their channel ; as otherwise it would seem that if a boat gets into the channel under adverse circumstances, it will have no chance of getting away with a ship coming at a great speed”, etc.

On page 49, this is what we find in paragraph 18 :

“ Five of the twelve students who went on their ill fated excursion on the 25th of September last lost their lives. Seven were picked up by the tug DUGGAN which was behind the ship and by the mooring launch CHENAB which, having come from Manora for the Bandra, stood at the mooring buoy No. 8 and then joined the ship. The tug DUGGAN was the first to come to the rescue and then came the launch. To the Masters of both these vessels, Messrs. Dawood and Emanuel, considerable credit is due for the yeoman service rendered by them in saving life..... I greatly regret that the same cannot be said about the Ship's Officers or the Pilot. And both the above expressions of regret I have voiced and the remark my colleague Mr. Walsley has made on this aspect of the case ‘ it is most regrettable that no life buoys were thrown ’, etc., is not in my opinion expressing the regret deeply enough. Section 422 of the English Merchant Shipping Act of 1894 imposed on the Master of the Bandra a great responsibility in the matter of rendering assistance to the crew and passengers of the boat consequent upon the collision—a responsibility which Mr. Clark and other officers of the ship, as well as the Pilot, as certificated seamen must be aware of.”

So it will be observed that this court of inquiry finds more or less all of them guilty of negligence and of not doing their duty and in an inhuman manner giving no help to these men who were getting drowned. The court also passed a censure on the Master of the ship and an appeal was preferred by the British Indian Steam Navigation Company to the Court of Admiralty in England, and they have maintained that the censure is well deserved. And they said that on account of sheer callousness no step was taken to help these drowning men and no life buoys were thrown to them.

[Mr. Lalchand Navalrai.]

Now, I submit that, so far as the departmental inquiry is concerned, it is all right, but appeals have been submitted to the Government of India by the parents of some of the unfortunate victims asking that justice should be done by awarding them suitable compensation, and I feel that it is the duty of the Government of India to afford them some relief. I find, Sir, that applications have been sent to the Government of India by several of the parents,—and they must all be before the Government of India,—and one of those applications is from Mr. Dingomal, the father of Mr. Mirchandani, one of the college students. I also know that several other parents have made applications asking for compensation or relief. Therefore, the inquiry that has already been made affords us a basis, the cause of action. That the Karachi Court has more or less proved the charges from their own point of view. Now, what I want is that another regular Committee of inquiry should be appointed consisting of two non-official and one official member of the Central Legislature, and one member of the local Legislature, presided over by a judge of the Judicial Commissioner's court at Karachi, because only when this Committee finds out what the exact facts are, it could be said that justice is done to these people. Sir, I submit it is our duty, it is the duty of the Legislature, to pacify the public, by appointing a Committee of the kind that I propose to prove on whom the fault lies for this tragedy. If the Government of India hold that a formal inquiry has already been held and nothing further need be done, that will not be a right step. I have no doubt that the Honourable the Commerce Member will agree that this is a very disastrous tragedy. It is too tragic, and, therefore, I trust that he will do all he can to render such assistance as he can to satisfy the public in this matter. I don't suggest for a moment that the Government of India should at once pass orders to pay compensation, nor do I suggest that what the Court of Inquiry has held should be regarded as gospel truth. No doubt there was an appeal preferred to the Admiralty Court who have also attached some blame to the Captain of the ship, but what I do say is that the Government of India should do something and not tell the parties, the parties in this case,—to seek their remedy in the civil court. In the first place, the public should be told as to how this unfortunate collision took place, who were all responsible for it, and what were the precautions taken by the Port Trust authorities at Karachi, for, Sir, towards the end of this Report of the Court of Inquiry it is stated :

"I may state that I consider it would be a good thing if our Port Trust required the country crafts using the harbour to have a fixed light in the bunder boats in a suitable place from where there would be no possibility of light being obscured by the sail or in any other way not being seen by other vessels using the harbour."

This shows that there are certain rules passed by the Government of India to guide the Port Trust authorities, and it is for the Government of India to see whether in this particular case those rules were actually complied with or not. If a committee of the kind I have suggested is appointed, they will be able to go through these rules and also find out the facts by calling for any necessary evidence and ascertain whether all the instructions and rules given for the safety of the public were complied with by the Port Trust authorities or not. Sir, the safety of the people should not be trifled with, and I am sure the Honourable the Commerce Member will not allow the matter to rest where it is. Now,

it will be pertinent to draw the attention of the Honourable the Commerce Member,—because he was not present in those days,—to the fact that I put a question in this House on the 31st August, 1939, and I asked—"Is it a fact that a reference was made to the Commerce Department that a representative of the Government of India be appointed to represent the Government side in the High Court in England? Have the Government of India appointed any such representative? If not, for what reasons have Government not arranged for such a representation?.....".

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : May I know, Sir, is there no time limit?

Mr. Chairman (Mr. M. S. Aney) : The Honourable Member has still two minutes more.

Mr. Lalchand Navalrai : Very well, Sir, I will try to finish within two minutes I have. Now, the reply I got from the Government of India was that the Report of the Committee was still under their consideration, and the fact that the Government of India is still considering that Report shows that they recognise their responsibility in this matter. Of course they will, and it is also entirely in their hands to give suitable compensation to the parents of those unfortunate deceased. Therefore, all that I am now asking is that the Government of India should appoint a Committee of the kind I suggest, because the Report of that Committee will also help them in coming to a proper decision. The Government of India have not yet reached any final conclusion, and the Committee that I propose will merely facilitate the task of the Government of India. I, therefore, hope and trust that my Resolution will be unanimously accepted by this House.

Mr. Chairman (Mr. M. S. Aney) : Resolution moved :

"That this Assembly recommends to the Governor General in Council to appoint a committee of enquiry to investigate into and report on the "Bunder Boat" disaster in Kiamari harbour, resulting in the loss of five lives of Sind college students, and also to suggest the compensation, if any, that may be awarded to the relatives of the deceased students, consisting of two non-official and one official members of the Central Legislature, and one member of the Sind Assembly and to be presided over by one of the judges of the Judicial Commissioner's Court, Karachi."

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, my Honourable friend has drawn attention to a most unfortunate accident that happened some time in September last year. As he has said, a party of 12 college students were out to enjoy themselves in a country boat manned by three boatmen. After they had enjoyed themselves during the whole day they were returning at night at about 8-30 singing songs. They were entering the harbour when suddenly like a veritable bolt from the blue a huge ship came across them and as a result of the collision the little boat sank. Reading these papers, months after the accident, I could not help being touched by the pathos of the whole situation, and if it has not already been conveyed, I should like the sympathy of the Government to be conveyed to the parents and other relatives of the deceased schoolboys for an accident of such an unfortunate and tragic nature.

Mr. Lalchand Navalrai : Thank you.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The Government of India, as soon as they were made aware of this unfortunate accident, took the step which is provided for in the Indian Merchant Shipping Act. They appointed an investigating officer to investigate into the whole accident. The investigating officer made a preliminary investigation and was satisfied that the matter should be further examined. The Government of India thereupon directed under the section which my Honourable friend has quoted, 249, that the City Magistrate of Karachi should make the necessary formal investigations into this casualty. He was assisted, as in these cases he has to be assisted, by three assessors with technical qualifications to judge of the various conditions under which certain navigation rules have to be observed by pilots and shipping masters. I emphasise that aspect because it is an intricate question of navigation laws and technical ways in which a certain ship has to be piloted in certain circumstances, and those who have these technical qualifications and have some knowledge of navigation can alone help a Magistrate in coming to a conclusion. As my Honourable friend has pointed out, the questions were elaborately put to the assessors, twelve in number, by the City Magistrate and their answers have been recorded. Two of these questions and their answers along with the decision of the Magistrate on the subject are relevant to this issue. On the first of these important questions, whether the pilot exercised all due care and whether his directions as regards the navigation of the ship were proper, one of the assessors and the Magistrate held that the pilot had not exercised proper discretion and that the order he gave in the technical terms was incorrect. The other two assessors were of the opposite opinion. On the second question, whether the Master of the ship did all that was required of him under the British Merchant Shipping Act in giving help to the students who were thrown off their balance and fell into water when the boat capsized, practically all the assessors were of the opinion that the master had not exercised that function which it was his duty to exercise, that he did not throw lifebelts into the water, that some of the boys could have been saved, as indeed the other boys were saved, if immediately after this collision occurred lifebelts had been thrown into the water, and the Magistrate censured the Master of the ship for his gross negligence in not doing this obvious duty. This report came up to the Government for consideration. I may observe that if the Magistrate had come to the conclusion that there was what was called criminal negligence by doing a rash and negligent act it was competent on his part under another section of the Indian Merchant Shipping Act, section 256, to direct that the party should take his trial before a criminal court. That section reads :

" Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court."

I have to point out that, in the course of the judgment, the City Magistrate, though he came to the conclusion that the pilot did not act rightly, did not come to the conclusion that he did anything rash or negligent to justify a criminal prosecution, and, therefore, he did not act under section 256 and commit him for trial before a proper Court. As regards

the master of the ship himself, though it was an unfortunate thing that he did act against all the best traditions of the mercantile marine service of the world and of Great Britain in particular, there was nothing with which he could be charged in a criminal court. It is perfectly true that on this report of the Magistrate, fortified at least by the opinion of one assessor, the Government of India were called upon to examine the question. What form that examination would have taken I am not in a position at present to state. But I may say this that it would not have taken the form which my Honourable friend invites the Government to take in this Resolution, namely, the form of granting compensation to the parties concerned. The question would have been one of disciplinary action against the pilot for such a negligence. But whatever it may be, the whole question has taken a different turn on account of the fact that an appeal was presented to the Court of Admiralty in England, under the provisions of the British Merchant Shipping Act, by the pilot and by the master of the ship. In that appeal the Government of India were not represented, and in answer to questions of my Honourable friend I explained why the Government of India were not represented on that occasion. The Board of Trade in England which looks after mercantile marine affairs, just as the Commerce Department of the Government of India is charged with such matters in this country, took upon itself the duty of having a legal representative to argue the technical points involved in navigation law before the Court of Admiralty, and as there was nothing further that the Government of India could have done in this matter, the Government of India were content to have that representative put forward the case as we understood it with reference to the navigation laws. The result of that decision is now before us. The High Court of Admiralty in England completely exonerated the pilot of the ship and said that the course that he followed was the course which anybody under those circumstances would reasonably have been expected to follow, and, therefore, the charge which the Magistrate made, albeit in a very modified form, of negligence to some extent was not sustainable. We have, therefore, the judgment of one of the highest courts that the pilot of the ship was not responsible for the accident. I may explain in passing that there was no question at any stage that the country boat itself and those who were responsible for the country boat were not in a great measure responsible for this accident. They had not the necessary staff on the board, they did not have lifebelts which they ought to have on that boat, they did not have light in the proper position, they cut across the course of the ship in violation of the orders that had been issued by the Port Trust authorities in such matters, and there could be no question at all that there was contributory negligence in every sense of the word so far as the country boat was concerned. The judgment of the High Court of Admiralty is interesting in another respect. I referred to its finding and to the fact that it vindicated the pilot of the ship, but so far as the master of the ship was concerned, the judgment of the High Court of Admiralty endorsed and confirmed in every way the judgment of the City Magistrate. The High Court held that the master of the ship must have thrown life belts into the water to save these unfortunate victims, that he did act contrary to the best traditions of the mercantile marine service in England, and, therefore, they confirmed the censure which has been passed by the City Magistrate on the master of the ship. That censure does not, however, involve a cancella-

[Diwan Bahadur Sir A. Ramaswami Mudaliar.]

tion of the certificate that he now holds as a master mariner. But to a man who has spent his life in shipping, who has a reputation to sustain, who has got a name to maintain, I understand that in the mercantile marine service that censure will be looked upon as a great blot.

Now, I come to the Resolution which my Honourable friend has moved. It is under those circumstances, in the light of these facts, that my Honourable friend still wants the Government of India to appoint a committee to investigate into these matters and to come to certain conclusions. How is it possible for me, with the greatest sympathy that I have shown and I do feel for the victims of this accident, to accept this Resolution?

Mr. Lalchand Navalrai : That will be only lip sympathy.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : What does my Honourable friend want? He says :

" This Assembly recommends to the Governor General in Council to appoint a committee of enquiry to investigate into and report on the ' Bunder Boat ' disaster in Kiamari harbour, ———."

Apart from the personnel of the committee that he has suggested, I am asked to accept this Resolution and to appoint a committee to investigate into facts on which there has been a detailed formal investigation by a City Magistrate on the spot, assisted by assessors with technical qualifications on which an appeal has been filed to the highest court, the High Court of Admiralty, with technical and efficient knowledge of the whole subject. They have already given a decision.

Mr. Lalchand Navalrai : There was only one particular point that they had to decide. I am asking for another point to be decided. We are not bound by that at all.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : This committee is now to sit in judgment on the finding of the City Magistrate and in fact on the findings of the High Court of Admiralty of England itself and what is this Committee? With all respect to this House, I was once a Member of this House on the other side, as my good friends have reminded me this morning, I cannot commend and I could not have, even if I had sat on that side of the House, commended the proposition to the acceptance of this House. There are to be two non-official Members of this House. The Member from the Sind Assembly would perhaps have been better qualified than any Member of this House.

Mr. Lalchand Navalrai : They are on the spot there. They can throw more light on the question.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : It is to be presided over by one of the Judges of the Judicial Commissioner's Court.

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

They have to examine this whole question which is of a highly technical nature—the duties of a pilot under certain circumstances, the order that he should have given, whether he should say " Hard to star-board and full astern " or something else. These are the questions on

which this committee is going to investigate. They are questions which, as I have shown, have been investigated both by the City Magistrate and the High Court of Admiralty. Secondly, there was a section of the Act under which the City Magistrate investigated in this case. He had all the powers conferred on him by the Code of Criminal Procedure and the Evidence Act. What are the powers which this Committee is going to be invested with and by whom are these powers going to be invested on this committee for securing evidence, the calling of witnesses and asking for their statement on oath or affirmation? How is this committee going to investigate into a matter which may form still the subject of a criminal trial and certainly of civil proceedings? How is this committee going to get evidence and adjudicate on a matter of this nature on which, as I have already said, there has been adjudication by more than one tribunal?

Mr. Lalchand Navalrai : Under the authority of the Governor General.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I do not know what the authority of the Governor General is in these matters but I can certainly say that the Government of India have very little authority to confer such powers on a committee of this nature. Then, Sir, of what value will the findings of this committee be? My Honourable friend suggests that compensation may be given. By whom? Are the findings of this committee going to bind any one at all?

Mr. Lalchand Navalrai : The Government of India can give that compensation.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I am glad that my Honourable friend has interjected that statement. If the Government of India has to give this compensation, there is no necessity for an inquiry, for any committee, for any investigation. These poor unfortunate students are dead. Their parents are suffering. Then why not straightaway give compensation if it is within the powers of the House or the Government of India to give that compensation? I understood that this committee was to decide who should pay this compensation, that is to say, the British India Steam Navigation Co., whose steamer collided with this country boat or the pilot or the Karachi Port Trust authorities, who were the parties involved in this matter. Surely the Government of India were not contributaries to this accident and, therefore, I can find no reason at all for accepting the proposition such as my friend has moved. Under these circumstances, I regret very much, while expressing the greatest sympathy with the victims concerned and the parents and relatives of the victims, that I cannot see my way to accepting this Resolution.

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

" That this Assembly recommends to the Governor General in Council to appoint a committee of enquiry to investigate into and report on the ' Bunder Boat ' disaster in Kiamari harbour, resulting in the loss of five lives of Sind college students, and also to suggest the compensation, if any, that may be awarded to the relatives of the deceased students, consisting of two non-official and one official members of the Central Legislature, and one member of the Sind Assembly and to be presided over by one of the judges of the Judicial Commissioner's Court, Karachi."

The motion was negatived.

THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I present the Report of the Select Committee on the Bill to amend the Law of Evidence with respect to certain commercial documents.

The Assembly then adjourned till Eleven of the Clock on Monday, the 4th September, 1939.

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LEGISLATIVE ASSEMBLY.

Monday, 4th September, 1939.

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

STATEMENT BY THE LEADER OF THE HOUSE *RE* THE INTERNATIONAL CRISIS.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands that the Honourable the Leader of the House wishes to make an important and urgent statement.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, we meet this morning under the shadow of a tragedy which may well prove to be the biggest catastrophe which has yet overwhelmed civilised humanity. As the House is aware, the British Empire has been at war with Germany since yesterday. How far the conflagration which Hitler started on Friday last may spread, and what the extent of the destruction may be, no man can foretell ; but we can look forward with confidence to the ultimate issue, and of this I am certain that everyone of us here fully realises the gravity of the crisis and is determined to do his duty to King and country faithfully and with steadfast courage and resolution. The war is bound to add to the anxieties and responsibilities of every one of us, and I have no doubt that the House will realise that it will lay a heavy burden on the shoulders of those of us who happen to be public servants charged with duties in connection with the prosecution of war. I am, therefore, well assured that such business as is brought before the House will not only receive the usual care and attention of Honourable Members, but also that it will be despatched in a manner which will leave these public servants sufficient time to discharge their duties outside the House adequately and effectively.

The House is aware that certain Ordinances were issued by the Governor General before the Session commenced ; indeed, a reference was made to them by one Honourable Member on the first day of the Session. The Defence of India Ordinance was promulgated yesterday. I am to assure Honourable Members that these Ordinances shall be brought before the House in the shape of legislative proposals as early as possible, and I am sure that they will receive the assent of the House at a very early date. For this purpose a certain amount of re-arrangement of Government business will become necessary.

The House is further aware that His Excellency the Governor General had appointed the 21st September, as the day on which he desired to address both Houses of Legislature. The date has now been accelerated and His Excellency will address both Houses on the morning of the 11th September, which is the earliest date by which Members of the Council of State can conveniently reach Simla. That day is at present set down

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for the transaction of non-official business. I have, therefore, to inform the House that it will now be fixed for the transaction of official business and that in substitution thereof some other day will be fixed for non-official business.

STARRED QUESTIONS AND ANSWERS.

(A) ORAL ANSWERS.

†78*—81*.

PROHIBITION TO DEFEND INDIAN MERCHANTS UNDER TRIAL IN CONGO.

82. *Mr. Lalchand Navalrai : (a) Will the Foreign Secretary please state if he is aware that an Indian Association of Dar-es-Salam in a cable to United Press stated that Congo authorities have by order prohibited Mr. Micheaux, an Advocate, to defend the Indian merchants who stood trial before Congo Courts and that they asked for the intervention of the Government of India ?

(b) Is it a fact that the conditions in Congo are worsening and causing great anxiety to the Indians there ?

(c) Will Government be pleased to state under what law the order is passed by the Congo authorities prohibiting appearance of an Advocate on behalf of the accused ?

(d) What steps have Government taken in time or what steps do they propose to take to see that full representation is given and justice done to Indian merchants under trial ?

Mr. O. K. Caroe : (a) Government have seen the newspaper report.

(b) and (d). A statement, outlining the position of Indians in the Belgian Congo, and the steps taken by the Government of India to remove their grievances, is placed on the table of the House.

(c) Enquiries made in the matter reveal that the presiding officers of Courts in the Congo have discretionary powers to refuse to hear lawyers not officially attached to the Belgian Congo Bar. There is no reason to suppose that these powers are not founded on a legal basis.

Note regarding the grievances of British Indian subjects in the Belgian Congo and the Mandated Territory of Ruanda Urundi.

The difficulties experienced by British Indian subjects in the Belgian Congo and the Mandated Territory of Ruanda Urundi who number approximately 1,000 were first brought to the notice of the Government of India in 1935, when the British Consul-General at Leopoldville reported to His Majesty's Government that the British Asiatic communities centered largely in the gold mining regions of the territories mentioned above, were experiencing considerable difficulties at the hands of the local Belgian authorities. The amount of gold stolen from the Congo mines annually was considerable and the Belgian authorities were convinced that the Indian traders travelling throughout the district played a principal part in the thefts which occurred.

2. In April, 1937, a representation tendered by one Mr. Suleman, a British Indian subject in Belgian Congo, was received from the Imperial Indian Citizenship Association to the effect that Indians were :

- (a) subjected to residential and commercial segregation ;
- (b) prevented from participating in the mining business ;

†These questions were withdrawn by the questioner.

(c) subjected to illegal deportation ; and

(d) inadequately provided with Consular facilities.

These grievances were referred to His Majesty's Government and in September, 1937, His Majesty's Consul-General at Leopoldville reported that the disabilities complained of by Mr. Suleman were not substantiated and that British Indians were not being subjected to unfair discrimination. He, however, added that unfortunately, a large percentage of the Indian residents in the mining areas had laid themselves open to suspicion of gold stealing and smuggling and the number of authenticated cases had been so large that there was little likelihood of Indians being admitted into the ranks of mining prospectors. The Consul-General toured throughout the districts concerned and took considerable pains to encourage local Indians to bring their grievances to him. No indication was, however, given anywhere that Indians were under any genuine disabilities in regard to their trading or other activities.

3. In reporting on the political and economic conditions of the Belgian Congo during 1938, the British Consul-General at Leopoldville observed that the Belgian authorities had introduced repressive measures to prevent gold stealing and these had caused considerable unrest among the British Indian, Greek and Cypriot traders. The local police had resorted to dragooning methods and inoffensive traders were frequently subjected to search and often ruined. Complaints regarding the methods employed were widespread among the Indian and Cypriot population and associations had been formed, and lawyers engaged, to defend the interests of the communities concerned in the courts.

4. Early in 1939, the attention of the Government of India was drawn to a statement issued by Rev. C. F. Andrews alleging that respectable and responsible Indian traders in the Belgian Congo were being arrested on mere suspicion of gold stealing, often solely on the information of agents provocateurs and police spies who trumped up false charges against them. It was stated that prosecutions for offences committed as far back as 1932-34 were being instituted as a political move in order to oust the Indians from the Belgian Congo and the persons accused were refused the right of legal representation in the courts. His Majesty's Government were requested by the Government of India to enquire into these allegations and to take whatever action might be possible through His Majesty's Consular authorities to ensure that the Indian community was not treated with injustice.

5. In May of this year, Mr. Ishmael, the legal representative of the Indian community in the Belgian Congo and the Mandated Territory of Ruanda Urundi came to India, and in an interview accorded to him by the Foreign Secretary, described fully the difficulties which are being experienced by British Indians in these territories. He stated that a large number of respectable and wealthy merchants had been arrested on fabricated charges of gold stealing and he had been refused permission to represent them in court. Four persons were eventually convicted and sentenced to long terms of imprisonment on evidence which was in his opinion wholly unreliable. He said that the remainder of the accused were still under trial and that no justice could be expected in the local courts. His Majesty's Government have been informed of the situation as described by Mr. Ishmael, and have again been asked to take all possible steps to have the grievances of the British Indian subjects removed. A report recently received through His Majesty's Government from the British Consul-General at Leopoldville shows that the agitation among the Indian community has become greatly intensified recently. Much indignation is felt regarding the existing state of affairs and over the amount of material damage which is being suffered by Indians incarcerated for long periods under suspicion of gold trafficking. It is reported that some 30 Indians have been accused of trafficking in gold in the Costermansville area and in Ruanda Urundi. Representations were made to the Governor General of the Belgian Congo by the British Consul-General, and the former promised to issue instructions to the local Belgian authorities to be more reasonable and discreet in their methods of search. The Consul-General affirms that the Indian population of the Belgian Congo is by no means alone in this agitation against the administration of justice in the mining area. His Majesty's Government are taking all possible steps to remedy this unsatisfactory state of affairs, and the Consul-General at Leopoldville has been authorised to visit the affected areas and to interview the Indians imprisoned, the lawyers in the cases, and the judicial authorities and mining officials. No request for the services of an eminent counsel has been received by the Government of India from the Indians in Belgian Congo.

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Mr. Lalchand Navalrai : Has the Honourable Member also shown the reasons given for not accepting this advocate, in the statement that he has laid on the table ?

Mr. O. K. Caroe : The Government of India have no information, but presume that this particular advocate is not one of those who is officially attached to the Belgian Congo Bar.

Mr. Lalchand Navalrai : Has he ever been practising there or is this his very first case ?

Mr. O. K. Caroe : Sir, I have no information.

INCREASE IN THIRD CLASS ACCOMMODATION IN CERTAIN EXPRESS TRAINS BETWEEN KARACHI AND PESHAWAR.

83. *Mian Ghulam Kadir Muhammad Shahban : Will the Honourable the Railway Member be pleased to state :

- whether it is a fact that 19 Up and 20 Down Express trains between Karachi and Peshawar on the North Western Railway are very popular trains for Sind passengers and are therefore overcrowded specially in the third classes ;
- whether it is proposed to increase third class accommodation on these trains ; if not, how do the Railway Administration propose to relieve overcrowding ; and
- if the reply to part (b) above be in the affirmative, what is the extent of proposed increase in third class accommodation on these two express trains ?

The Honourable Sir Andrew Clow : (a) I am informed that these are popular trains and that at least one of them has been, on occasions, slightly overcrowded.

(b) No. The slight overcrowding, revealed by a prolonged census, occurred at two stations only and does not justify additional accommodation.

(c) Does not arise.

Mr. Lalchand Navalrai : May I know from the Honourable Member, if there is overcrowding, why they cannot attach more wagons or carriages to the train ?

The Honourable Sir Andrew Clow : That, Sir, would not be justified. A count was taken for two separate months. In one month there was overcrowding on three occasions to the extent of nine, two and one third class passengers and that occurred only at two stations. That would not justify even one extra carriage.

Mr. Lalchand Navalrai : May I know from the Honourable Member if it is not a fact that the reason that is being given is that a small engine is working between Karachi and Rohri and, therefore, they cannot attach more carriages even though there is overcrowding ?

The Honourable Sir Andrew Clow : I do not think that arises. What I said was that there was no necessity for extra carriages.

REVISION OF PASS RULES FOR RAILWAY EMPLOYEES.

84. *Mian Ghulam Kadir Muhammad Shahban : Will the Honourable the Railway Member be pleased to state :

- whether it is a fact that under the Travelling Allowance rules for the Central Government Departments, intermediate class fares are allowed to all subordinate members of service irrespective of pay, and second class fares to those who draw over Rs. 200 ;
- why the Railway Board have not adopted these pay limits for grant of free passes to railway employees ; and
- whether Government propose to so revise the Pass Rules for the Railway employees as to bring them in line with the Central Government Travelling Allowance Rules ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) and (c). I would refer the Honourable Member to the reply given to parts (d) and (e) of Mr. Lalchand Navalrai's starred question No. 1449 of 31st March, 1939.

Mr. Lalchand Navalrai : May I know from the Honourable Member if the rules for passes have at least been changed to this effect that those that were drawing over Rs. 60 on the old scale will have passes restored to them for the coming year ?

The Honourable Sir Andrew Clow : To the best of my recollection, the classification has not been altered.

SALE OF PRIVATE PROPERTY BY RAFFLE ON THE NORTH WESTERN RAILWAY.

85. *Mian Ghulam Kadir Muhammad Shahban : Will the Honourable the Railway Member be pleased to state :

- whether it is permissible to the Government employees to sell their property by private raffles, to which their subordinates are asked to subscribe ; if so, do Government propose to refer to specific rules or orders on the subject ;
- if the reply to part (a) above be in the negative, whether on the North Western Railway certain senior subordinates and officers have tried to sell their old properties by private raffles to which employees have been made to contribute ; and
- whether Government propose to issue instructions that the employees should not sell their properties by private raffles to which their subordinates or colleagues are made to subscribe on the penalty of a severe action being taken against such persons ; if not, why not ?

The Honourable Sir Andrew Clow : (a) In certain circumstances a raffle, conducted by any person, is an offence punishable under the Indian Penal Code : and in certain circumstances a raffle conducted by a gazetted officer may offend against rule 9 of the Government Servants' Conduct Rules.

(b) No such case has recently come to the notice of Government. If the Honourable Member has particulars of such a case and will give them to the Railway Board, they will forward them to the General Manager.

(c) No addition to the Government Servants' Conduct Rules appears to be necessary as any officer who brought pressure on other officials for his own financial advantage would be liable to disciplinary action.

SUSPENSION OF EMPLOYEES ON THE NORTH WESTERN RAILWAY.

86. *Mian Ghulam Kadir Muhammad Shahban : Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that under rule 11 of the rules circulated under the Government of India, Railway Department, letter No. E-34/R.G./6, dated the 22nd June, 1935, an employee could only be suspended from duty if :
 - (i) he is arrested pending trial or committed to prison ; or
 - (ii) his conduct is undergoing an investigation for which the maximum penalty is discharge or dismissal from service ;
- (b) whether it is a fact that on the North Western Railway employees are suspended from duty when there is nothing in the procedure of enquiry to show that the man's conduct is undergoing investigation for an offence the maximum penalty for which is either a discharge or dismissal ;
- (c) whether it is a fact that when an employee is under suspension, he is given subsistence allowance up to the minimum limit of one-fourth of his pay ;
- (d) whether it is a fact that even for suspensions referred to in part (b) above, the employees on the North Western Railway are not given full pay for the period of suspension ;
- (e) whether Government propose to issue instructions that the Government of India's rules on the subject should be strictly observed ; if not, why not ; and
- (f) what instructions, if any, Government have issued to restrict suspensions of the employees on the North Western Railway, to cases authorised by the rules referred to in part (a) above, and in view of the passage of the Payment of Wages Act (IV of 1936) by this House ?

The Honourable Sir Andrew Clow : (a) Yes.

(b), (d) and (e). Government have no reason to believe that employees have been suspended otherwise than in conformity with the rules.

(c) The limit of one-fourth of pay is the maximum, and not the minimum.

(f) No special instructions have been issued.

FOREIGN PASSES FOR RETIRED RAILWAY EMPLOYEES.

87. *Mian Ghulam Kadir Muhammad Shahban : Will the Honourable the Railway Member be pleased to state :

- (a) whether the retired employees of the State-managed Railways were allowed foreign passes under the Railway Board's letter No. 6502-T., dated the 16th November, 1936 ;
- (b) why these foreign passes for retired railway employees were stopped afterwards ;
- (c) whether the Railway Board have received any representation to allow retired railway employees the concession of foreign passes ;
- (d) if so, whether Government propose to revise Pass Rules in this respect ; if not, why not ;
- (e) whether it is a fact that Pass Rules had been finally revised in 1936, to take effect on the State-managed Railways with effect from the 1st January, 1937 ; and
- (f) why the Railway Board have made a further retrograde revision in the pass rules for the retired railway employees ?

The Honourable Sir Andrew Clow : (a) Yes, but only over State-managed Railways.

(b) and (f). Because it was considered that the concession was too liberal and that passes over the home line were a sufficient concession.

(c) Yes.

(d) The matter is under consideration.

(e) The rules were revised in 1936, and were again revised in 1938. Further minor modifications are now under consideration.

Mr. Lalchand Navalrai : May I know if all foreign passes that they used to get before have been restored now, or even that a smaller number is being given ?

The Honourable Sir Andrew Clow : I have no exact information, but I said that retired officials do not get foreign passes now.

DIVISION OF OFFICERS IN THE RAILWAY DEPARTMENT IN CERTAIN CATEGORIES

88. Maulvi Muhammad Abdul Ghani : Will the Honourable the Communications Member please state :

- (a) whether officers in the Railway Department are divided into two categories, viz., the Secretary of State's officers and the Governor General's officers ; if so, since when ;
- (b) what is the distinction between, and educational qualifications of, these two categories of officers, and their respective functions ;
- (c) whether it is a fact that the Secretary of State's officers are ordinarily Europeans and the Governor General's officers are ordinarily Indians ;

- (d) whether it is a fact that the Secretary of State's officers ordinarily get overseas pay in addition to their pay proper and the Governor General's officers do not ordinarily get this overseas pay ;
- (e) what are the different scales of the rates of overseas pay allowed to respective officers of the Secretary of State's group ;
- (f) whether it is a fact that more than 2 years ago the Railway Board issued orders to the effect that the Calcutta and Bombay compensatory allowances should be withdrawn from all railway officers including the Secretary of State's officers and the Governor General's officers ;
- (g) whether it is a fact that after the lapse of more than two years the Railway Board have ordered that in the case of the Secretary of State's officers, the compensatory allowances should be paid to them again with effect from the date from which they were stopped ;
- (h) whether it is a fact that under these orders the Secretary of State's officers will receive arrears of compensatory allowances for more than two years ; if so, the total amount of such allowances ;
- (i) whether it is a fact that compensatory allowance is given to re-imburse an officer for expenditure incurred by him in the discharge of his official duties ;
- (j) whether it is a fact that there are orders to the effect that compensatory allowances should be so fixed as not to be source of profit to those who receive them ; if so, whether Government propose to lay a copy of the order on the table ;
- (k) the reason why the compensatory allowances have not been restored in the case of the Governor General's officers ; and
- (l) whether it is a fact that the Government of India decided to discontinue the compensatory allowances at Calcutta and Bombay because the cost of living had gone down ?

The Honourable Sir Andrew Olow : The question should have been addressed to my Honourable colleague in the Finance Department.

FILLING UP OF VACANCIES BY DIRECT RECRUITMENT ON THE NORTH WESTERN RAILWAY.

89. *Maulvi Muhammad Abdul Ghani : Will the Honourable the Communications Member please state :

- (a) whether it is a fact that the Railway Board have issued orders to the effect that 20 per cent. of vacancies in certain intermediate grades on railways should be filled by direct recruitment ;
- (b) whether it is a fact that prior to the issue of these orders, there existed rules on the North Western Railway permitting direct recruitment in certain intermediate grades to the extent of 50 per cent. of vacancies ;

- (c) if the answer to part (b) above be in the affirmative, whether Government propose to state the reasons, if any, which led the Railway Board to reduce the percentage of direct recruitment from 50 per cent. to 20 per cent. ;
- (d) what is the percentage of vacancies secured by Muslims during the last three years on the North Western Railway in these intermediate grades ; and
- (e) if the percentage in part (d) above is less than the quota fixed for Muslims in direct recruitment on the North Western Railway, whether Government propose to consider the question of compensating their losses in future in direct recruitment in intermediate grades from 20 per cent. to 50 per cent. ?

The Honourable Sir Andrew Olow : (a) The instructions issued authorise General Managers of State-managed Railways to make initial recruitment to grades higher than the lowest up to a maximum of 20 per cent. of the vacancies.

(b) No. In the case of guards in the lowest grade, previously termed grade II guards, 50 per cent of the vacancies have been and continue to be filled by direct recruitment.

(c) Does not arise.

(d) The orders authorising recruitment up to a maximum of 20 per cent to intermediate grades were issued in April, 1937. The relevant figures are, therefore, available only for two years. The figures are :

1937-38	..	..	..	..	75 per cent.
1938-39	..	..	..	..	65.6 per cent.

(e) The percentage is greater than the quota fixed which is 60 per cent.

CLASSIFICATION OF SELECTION POSTS IN THE TICKET CHECKING BRANCH ON THE EAST INDIAN RAILWAY.

90. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) whether the General Manager, East Indian Railway, has declared what the selection posts in the various grades of the Ticket Checking Branch classed under Commercial Group are ; if not, when he is expected to declare the same ; and
- (b) whether the selection posts are described in any part of the State Railways Establishment Code ; if not, why not ?

The Honourable Sir Andrew Olow : (a) Yes : the posts of Inspectors in the Ticket Checking Branch are selection posts. The second part does not arise.

(b) I would refer the Honourable Member to clause (v) of rule 2 in Appendix XXII, page 374, of the State Railway Establishment Code, a copy of which is in the Library of the House.

Mr. Muhammad Nauman : With reference to part (a) of the question, since what date the General Manager, East Indian Railway, has declared them to be selection posts ?

The Honourable Sir Andrew Clow : I am afraid I do not know.

SENIORITY OF NON-GAZETTED STAFF ON THE EAST INDIAN RAILWAY.

91. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member please state :

- (a) whether the General Manager, East Indian Railway, who has full powers to deal with the question of seniority of non-gazetted staff, has made any rule in that direction like the one mentioned in Rule 98 of the State Railways Establishment Code ;
- (b) whether the non-gazetted staff other than those governed by Rule 98 mentioned above is entitled to know the rules that govern their seniority ; and
- (c) whether any circular or rule has been issued to inform the non-gazetted staff in this connection ; if so, whether Government propose to place a copy of the same on the table of this House ?

The Honourable Sir Andrew Clow : (a) Rules have been framed for this purpose.

(b) Yes.

(c) No special circular or rule was issued, but I understand that copies of the rules were circulated to all offices.

Mr. Muhammad Nauman : May I know if the copies of the rules which have been circulated to the officers by General Managers are available to us here ? Can the Honourable Member place a copy of the rules on the table of the House ?

The Honourable Sir Andrew Clow : I am prepared to consider the matter.

STRENGTH OF THE ASSISTANT TRAFFIC CANVASSERS ON THE EAST INDIAN RAILWAY.

92. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member please state :

- (a) what the sanctioned strength of the Assistant Traffic Canvassers on the East Indian Railway, by Divisions, is ;
- (b) how many appointments and promotions to the above post have been made during the period from 1934 to 1939 per Division ; and
- (c) how many Muslims per division, were examined for the above posts and how many appointed ?

The Honourable Sir Andrew Clow : (a) It is presumed the Honourable Member's question has reference to Traffic Canvassers in Grade II. Of these only two are on the divisional staffs ; and both are in the Howrah Division.

(b) and (c). Government maintain no record of such examinations or appointments and I am not in a position to supply the particulars.

Mr. Muhammad Nauman : May I ask whether Government have considered it necessary to take the number and the percentage when so many complaints have been made from the Muslim side that they are not being used rightly ?

The Honourable Sir Andrew Clow : Complaints regarding these two appointments ?

Mr. Muhammad Nauman : We have made complaints regarding all appointments and as such we want that Government should take notice and make such regulations that they ought to be in a position to set matters right about all appointments, and not only with regard to these two appointments.

The Honourable Sir Andrew Clow : What I said was that there were only two such appointments on the whole of the divisional staff.

PASSENGER SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

93. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member please state :

- (a) what the sanctioned strength of Passenger Superintendents on the East Indian Railway is ;
- (b) under what group or class of the State Railways Establishment Code the same may be found ;
- (c) whether it is contemplated to make any increase in the present number of Passenger Superintendents ;
- (d) whether the orders announcing the appointment of the Committee of three Senior Scale Officers, as referred to in answer to my starred question No. 1581, dated the 29th November, 1938, asked in this House, are proposed to be placed on the table of the House ;
- (e) whether this Committee was appointed before the officiating arrangement for the post of the Passenger Superintendent was made or after one year of the said arrangement ;
- (f) whether it is a fact that this Committee recommended the confirmation after employing the candidate for one year and over in officiating capacities and did not decide the question of promotion as stated in answer to starred question No. 1581 referred to above ;
- (g) whether the promotion of Passenger Superintendent was made on probation for one year as is required by the rules ;
- (h) whether the recommendation of the Committee was based on a definite act of selection after giving due weight to seniority and other relevant factors ;
- (i) whether this Committee interviewed the candidates or judged the candidates through their service records ; and
- (j) whether the General Manager is prepared to take action against this sort of arrangement made in contravention of the rules ?

The Honourable Sir Andrew Clow : (a) One.

(b) I am not clear as to the precise information the Honourable Member desires ; but if he seeks to know where this man's name appears in the State Railway Establishment List, the answer is that it is not there as the post is not a gazetted one.

(c) Government are not aware of any arrangements in contemplation in this respect.

(d) A Committee was appointed under departmental arrangements and no announcement of its appointment was either necessary or called for.

(e) The committee was appointed before the officiating arrangement was made.

(f) The General Manager states that on the recommendation of the committee an employee who had rendered over ten years service was appointed to officiate and was later confirmed.

(g) The rules do not require staff already in service to be on probation when appointed to another post.

(h) Yes.

(i) Government have no information as to the procedure followed by the committee but the claims of candidates were considered and this must have involved a review of their services.

(j) There was no contravention of the rules.

INCONVENIENT TIMINGS OF TRAINS ON THE D. U. K. SECTION OF THE NORTH WESTERN RAILWAY.

94. *Sardar Sant Singh : Will the Honourable the Railway Member be pleased to state :

(a) whether it is a fact that there is a keen motor competition with railways on either side of the railway station Shahabad Markanda on the D. U. K. section of the North Western Railway ; if so, whether Government have taken or propose to take any steps to defy that competition ; if not, why not ;

(b) whether it is a fact that between 4 P.M. and 7 A.M., i.e., nearly for 15 hours there is no down-train for passengers for and from the railway station Shahabad Markanda ; and

(c) whether it is a fact that between 11-30 A.M. and 8 P.M. and again between 10 P.M. and 11-30 A.M. there is no up-train for passengers for and from the railway station Shahabad Markanda ; if so, whether Government have taken or propose to take into consideration the defective time table of trains on the said section ; if not, whether Government propose to consider it now and change the time table of the trains to suit passengers ; if not, why not ?

The Honourable Sir Andrew Clow : (a) The answer to the first portion of the question is in the affirmative. As regards the second portion, I understand that the Administration has taken and will continue to take all lawful steps to meet this competition.

(b) and (c). It is correct that between the approximate times given in the question, there are no Up or Down trains stopping at this station. Timings and stoppages of trains at stations are detailed matters of administration in which Government do not propose to interfere.

INCONVENIENT TIMINGS OF TRAINS ON THE D. U. K. SECTION OF THE NORTH WESTERN RAILWAY.

95. *Sardar Sant Singh : Will the Honourable the Railway Member state :

(a) whether it is a fact that when the D. U. K. section was under the East Indian Railway prior to 1925, there were 10 trains in the Up and Down directions, but as soon as the section was taken over by the North Western Railway and the motor competition started, the number of trains was reduced to 8 ; if so, what the reasons are ;

(b) whether it is a fact that the Up and Down trains on the Ambala-Karnal-Delhi section are running on the same timing for the last ten years ;

(c) whether it is a fact that 81 up-train arrives at Karnal and Kurkshetra, where courts exist, too late to suit the litigants who are free from courts at about 4 P.M., and instead of waiting for long hours at those stations to catch 81 Up train, they travel by motor buses which run at an interval of two hours for the convenience of the passengers ;

(d) whether it is a fact that the Station Master, Shahabad Markanda and a certain Railway Inspector recommended several times for the introduction of cheap return tickets from Shahabad Markanda to Ambala Cantonment, Karnal and Kurkshetra railway stations ; if so, what are the reasons for the delay in giving effect to their recommendations and how the railway administration have arrived at a decision that such tickets are not justified without giving a trial ;

(e) whether Government propose to introduce third class cheap return tickets from Shahabad Markanda to Ambala and Karnal railway stations in order to defy motor competition as is done on some other stations of the North Western Railway ; if not, why not ;

(f) whether it is a fact that a few years ago there were two night trains (2 Down and the other which runs from Ambala to Narwana via Kurkshetra) which used to stop at Shahabad Markanda at an interval of about 1½ hours and that the railway administration cancelled the stoppage of 2 Down at Shahabad Markanda for the reason that passengers for that station could travel by the next train ; and

(g) whether it is a fact that 2 Down does not stop at that station owing to unusual or inconvenient time in the night ; if so, whether any train stops at any similar station on the North Western Railway at such a time ; if so, what are the reasons for the differential treatment so far as stoppage of trains at night time is concerned ?

The Honourable Sir Andrew Clow : (a) I would refer the Honourable Member to the reply given to Mr. S. Satyamurti's starred question No. 421 on 15th February, 1939.

(b) The additional posts were created to deal with the increase in work involved by an extension of activities, and it is not practicable to isolate the effect on the general working of the railway of the work done by the officers holding these posts.

(c) A Commercial Department has been organised on the Assam Bengal Railway.

Maulvi Muhammad Abdul Ghani : May I know if any Muslim has been appointed ?

The Honourable Sir Andrew Clow : I have not the names here of the persons appointed.

PUBLICATION OF RAILWAY NOTICES IN THE ITTEHAD OF PATNA.

98. ***Maulvi Muhammad Abdul Ghani :** Will the Honourable the Railway Member be pleased to state :

(a) whether notices of appointments, changes in time table and matters of amenities for the travelling public in Bihar concerning the East Indian Railway, Eastern Bengal Railway and the Bengal and North Western Railway are published in the vernacular newspaper named *Ittehad*, Patna ; and

(b) if the answer to part (a) above be in the negative, whether Government propose to get them published in the said papers in future ?

The Honourable Sir Andrew Clow : (a) Government have no information.

(b) Government do not propose to interfere with the discretion of the Railway Administrations in their choice of newspapers. This question will, however, be brought to the notice of the Administrations concerned.

RECRUITMENTS AND PROMOTIONS ON THE EASTERN BENGAL RAILWAY.

99. ***Mr. Muhammad Nauman :** (a) Will the Honourable Member for Railways lay on the table of the House the results of the Selection Boards in the matters of recruitments on the Eastern Bengal Railway from January, 1935 to June, 1939 ?

(b) Who appoints the Selection Boards Committees on the Eastern Bengal Railway ?

(c) Are promotions given by Selection Boards or by individual officers on their personal views ?

(d) In matters of promotion on the Eastern Bengal Railway what are the exact numbers of employees promoted during 1937-38 and the six months of 1939 ; what is the number of Muslim employees so promoted and what ratio it bears to the promotions of other communities ?

(e) Is it a fact that instances of accelerated promotions are numerous among Hindu Bengalees on the Eastern Bengal Railway ?

The Honourable Sir Andrew Clow : (a) and (d). Government maintain no record of the proceedings of Selection Boards or of promotions and regret that they cannot undertake the research necessary to provide this information.

(b) The constitution, by designation, of Selection Boards or Committees has been determined under the orders of the General Manager, but the actual personnel for each Board or Committee is arranged by the Administrative or Executive Officer concerned according to the categories of posts for which selections are required to be made.

(c) The responsibility for all promotions made rests with the officer empowered to make such promotions, who gives due weight to the recommendations of the Selection Board and other relevant considerations.

(e) Government have no information, but I have no reason for believing that there is any unfair discrimination.

Mr. Muhammad Nauman : May I know if the names of those members who sit on the Selection Boards are ever sent to the Railway Board by the various General Managers ?

The Honourable Sir Andrew Clow : So far as I know, that is not the practice.

Mr. Muhammad Nauman : Have Government made investigations that these Selection Boards are so selected that they do not prejudice the interests of any community ?

The Honourable Sir Andrew Clow : I have no reason to suppose that they are not selected in a perfectly fair manner.

Mr. Muhammad Nauman : May I bring to the notice of the Government that Muslim Members have been repeatedly saying that the Selection Boards are so formed that they always act prejudicially to the interests of the Muslim employees ?

The Honourable Sir Andrew Clow : The Honourable Member is imparting information, and I have no reason to suppose that the information is correct.

Mr. Muhammad Nauman : We made definite statement on the floor of the House and we also gave memorials to the Government signed by 22 Honourable Members of this House.

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

NON-GRANT OF HOLIDAY ON CERTAIN MUSLIM FESTIVALS ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

100. ***Mr. Muhammad Nauman :** Will the Honourable the Railway Member please state :

(a) whether Government are aware that " Id-uz-Zuha " and " Id-ul-Fitr " days of Muslim festivals, are not included in " Paid Holidays " in the workshops on the East Indian Railway and the Eastern Bengal Railway ;

- (b) whether it is a fact that Locomotive Shed staff and Checking staff on the East Indian Railway and the Eastern Bengal Railway are also deprived of " Trip off and leave " for this purpose ; and
- (c) whether it is a fact that Europeans and Anglo-Indians are granted " Leave and trip off " on their religious occasions ?

The Honourable Sir Andrew Clow : (a) Both are paid holidays at all workshops on the East Indian and Eastern Bengal Railways, except at Jamalpur where Id-uz-zuha is not a paid holiday.

(b) and (c). Government have no information, and I have consequently no reason for believing that there is any unfair discrimination. A copy of the Honourable Member's question and the answer will be sent to the General Managers of the East Indian and Eastern Bengal Railways for such action as they may consider necessary.

Maulana Zafar Ali Khan : With reference to part (c), may I know whether Government propose to afford the same facilities to Muslim employees in these workshops on festivals like Id-uz-zuha and Id-ul-Fitr as they have extended to European and Anglo-Indian employees ?

The Honourable Sir Andrew Clow : There is no reason to suppose that any discrimination is shown. My information is that Id-ul-Fitr is a paid holiday at all workshops and Id-uz-zuha in every workshop except one.

Mr. Muhammad Nauman : If there is any discrimination and if the Honourable Member is satisfied with that fact that there is discrimination, then do Government propose to remove that discrimination ?

The Honourable Sir Andrew Clow : That is a hypothetical question.

Maulana Zafar Ali Khan : Will the Honourable Member please find out whether there is any discrimination or not ?

The Honourable Sir Andrew Clow : Unless I am given particulars about discrimination, there is no point in making enquiries. As I have said, out of the two holidays mentioned, one appears to be a paid holiday everywhere and the other in every workshop except one.

Mr. Muhammad Nauman : By putting this question we have drawn the attention of Government to this fact and we hope Government will make enquiries and see that this discrimination is removed.

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

TRIBAL RAIDS AND INDIANS KIDNAPPED.

100A. ***Sardar Sant Singh :** Will the Secretary for External Affairs kindly state :

- (a) the number of tribal raids from across the border of India on the settled districts that took place during the last six months ;
- (b) the number of Indians kidnapped ;

- (c) how many of them were Hindus, Muslims and Sikhs ; and
- (d) the steps taken by the Department for their restoration ?

Mr. O. K. Caroe : (a) to (c). A statement is laid on the table giving all the details available with the Government of India regarding the trans-border raids that took place during the period from the 1st January, 1938, to the 15th August, 1939.

(d) Government are employing civil armed forces of all kinds in abnormal numbers and are bringing all possible pressure to bear on sections who either offend themselves or harbour outlaws or others who take part in raids in the settled districts. It will also be seen from the statement laid on the table that the majority of the persons kidnapped during the last six months have already been released.

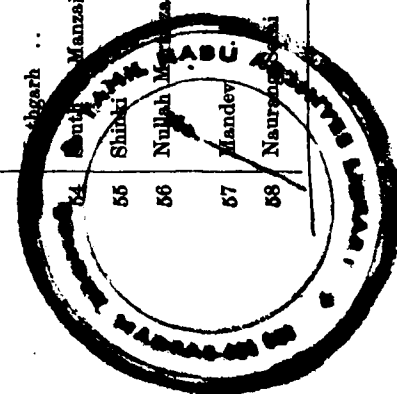
Statement of raids and kidnappings in the settled districts of the North-West Frontier Province for the period from 1st January 1938, to the 15th August, 1939.

Serial No. (1)	Place of raid. (2)	Date. (3)	No. of persons kidnapped. (4)	No. released. (5)	No. of persons killed. (6)	No. of persons wounded. (7)	Loss of property. (8)
1	Bozi Khel ..	14/15th March 1938 ..	2 Hindu children	2	..	..	..
2	Bakhtan Ahmedzai ..	1st April 1938 ..	1 Hindu	1	..	..	..
3	Hassan Khel ..	30th April 1938 ..	1 Hindu	1	..	..	..
4	Between Takwara and China ..	4th May 1938 ..	2 Sikhs	2	..	..	..
5	Between Bakhmal Ahmedzai and Tajori ..	7th May 1938 ..	3 Hindus	3	..	..	..
6	Kot Naaran ..	23rd May 1938 ..	1 Muslim	1	..	..	..
7	Lalozai ..	23rd/24th May 1938 ..	1 Hindu	..	..	..	..
8	Tank ..	2nd June 1938 ..	1 Hindu	1	..	..	..
9	Zawa Post ..	22nd July 1938 ..	1 Hindu girl	..	..	..	..
10	Bannu City ..	23rd July 1938 ..	..	..	12	25	3 lakhs.
11	Nazam Dharma Khel ..	2nd August 1938 ..	1 Hindu boy	..	..	..	Rs. 400.
12	Chhel Nala N. E. of Bakhmal Ahmedzai.	5th August 1938 ..	2 Muslims	..	..	..	3 camels lifted.
13	Kachkoh bridge ..	5th August 1938 ..	1 Hindu boy	1	..	..	..
14	Koti Sadat ..	13/14th August 1938 ..	..	..	..	1 Hindu	..
15	Kharoti Nullah ..	15th August 1938 ..	{ 1 Hindu man. 1 Hindu woman.	..	..	..	..

16	Bahram Khel ..	15th August 1938 ..	{ 3 Hindu men 1 Hindu woman.	4	..	..	..
17	Tajazai ..	15th August 1938 ..	2 Hindus ..	1	..	..	..
18	Balkhund Ahmedzai ..	6th September 1938 ..	1 Hindu woman and 1 child.	2	..	..	..
19	Matora ..	13/14th September 1938 ..	1 Hindu woman and 1 child.	2	..	..	Cattle (value not known).
20	Shabbaz Khel ..	13/14th September 1938.	10 Hindus ..	10	..	..	..
21	Luni ..	14th September 1938 ..	..	..	1 villager	..	70 cattle (since recorded).
22	Henbeck ..	14/15th September 1938.	1 Hindu ..	..	..	..	House looted (value not known).
23	Howedara ..	15th September 1938 ..	1 Hindu ..	1	..	..	..
24	Tochi near crossing on Bannu-Jani Khel road.	17th September 1938 ..	..	..	..	..	Lorry looted (value not known).
25	Imail Khel (P. S. Ghoriwala)	18/19th September 1938.	1	1	..	..	One shot gun (value not known).
26	Darsamand village near Thal ..	24/25th September 1938.	..	..	..	..	..
27	Tochi Road near Shiki Pass ..	27th September 1938 ..	..	..	..	..	..
28	Kala Khel ..	28/29th September 1938.	1 Hindu and his daughter.	2	..	..	..
29	Manghi Post ..	28/29th September 1938.	Chawkidar ..	1	..	..	Post burnt (value not known).
30	Sagai ..	29th September 1938 ..	..	..	..	..	56 goats.
31	Paharpur ..	5/6th October 1938 ..	..	..	..	..	..

Serial No. (1)	Place of raid. (2)	Date. (3)	No. of persons kidnapped. (4)	No. released. (5)	No. of persons killed. (6)	No. of persons wounded. (7)	Loss of property. (8)
32	11 miles from Bannu ..	13th October 1938 ..	..	..	..	3	..
33	Dharma Khel ..	13/14th October 1938	..	..	..	..	Shop looted (value not known).
34	Jehangir Lalozai ..	21st/22nd October 1938	..	..	..	..	One buffalo (value not known).
35	Jandu Khel ..	22nd/23rd October 1938	2 Hindus	2	..	1 Hindu woman.	..
36	Kot Khadak ..	27th October 1938 ..	..	..	..	..	Village def. Rifles (value not known).
37	Near Thal ..	30th October 1938 ..	..	..	1 Sikh	..	..
38	Landiwah ..	2nd November 1938	1 Hindu	..	..	..	..
39	Bannu City ..	8th November 1938 ..	1 Muslim child ..	1	..	..	..
40	Haibak ..	9th November 1938 ..	..	..	..	..	Mill looted (value not known).
41	Between Kighi and Subhadi Kasb.	13th November 1938..	..	..	..	..	Some camels (since recorded).
42	Allahyar Wala ..	} 18/19th November 1938.	..	..	..	..	Some jewellery & cash looted (value not known).
43	Mundan Wala ..		..	..	..	..	..
44	MaNaurang Sarai ..	19th November 1938..	..	..	1 Hindu	..	..

45	Maaba Khel ..	18/19th November 1938.	1 Hindu	..	1	..	..
46	Mama Khel .. Urbaahi ..	21st/22nd November 1938.	1 Hindu and his son.	1	..	..	One village def. rifle (value not known).
47	Bechakan Ahmadi ..	2nd/3rd December 1938	..	..	1 Head constable.	..	..
48	Gomal Police station	4th December 1938 ..	..	..	..	..	Some camels and donkeys (value not known).
49	Dera Ismail Khan District	17th December 1938	..	..	..	..	25 camels (since released).
50	Jatta ..	27/28th December 1938	..	..	1 Hindu	2 Hindu men. 1 Hindu woman.	2 houses looted (value not known).
51	Bain Pass ..	31st December 1937 ..	1	..	..	..	2 lorries looted (value not known).
52	Shahab Khel ..	25/26th December 1938.	1 Hindu	1	..	..	..
53	Thaggarh ..	2nd January 1939 ..	4 Hindus	..	2 Hindus	..	Rs. 4,578.
54	South Manzi ..	7th January 1939	..	..	..	..	Rs. 605.
55	Shinkri ..	14/15th January 1939	2 Hindus	2	..	..	Rs. 1,117.
56	Nullah Maza ..	18th January 1939 ..	1 Hindu 1 Sikh.	..	1 Muslim 1 Hindu.	3 Muslims	Rs. 154-8-0.
57	Mandev ..	19th January 1939 ..	3 Hindus	..	..	..	Rs. 12.
58	Naurang ..	19th January 1939 ..	..	..	..	..	Rs. 3.



Serial No. (1)	Place of raid. (2)	Date. (3)	No. of persons kidnapped. (4)	No. released. (5)	No. of persons killed. (6)	No. of persons wounded. (7)	Loss of property. (8)
59	Zarkani ..	19th January 1939 ..	..	..	..	..	..
60	Manj Khel ..	21st/22nd January 1939 ..	2 Hindus	1	..	..	Re. 0-10-6
61	Tauran Nau ..	22nd/23rd January 1939 ..	..	..	..	..	Rs. 850.
62	Rodi Police station ..	25th January 1939 ..	..	..	..	3	Hindu houses looted.
63	Kathgarh khurd ..	28/29th January 1939 ..	..	..	..	..	Rs. 962.
64	Dhoda ..	30th/31st January 1939 ..	1 Hindu	..	..	..	3 camels.
65	Chunni Nullah ..	30th January 1939 ..	1 Hindu 1 Muslim.	1 Muslim	..	..	Rs. 20.
66	Nasir Shamsi Khel ..	3rd February 1939 ..	..	..	..	..	Rs. 55.
67	5 miles below Manzai ..	5th February 1939 ..	..	..	..	..	Rs. 300.
68	Titta Khel Guli Jan ..	7th February 1939 ..	..	..	..	2 Hindu women.	Re. 0-2-0.
69	Khawaja Khel ..	7th February 1939 ..	..	..	..	..	Rs. 12-4-0.
70	Mullasai ..	13th February 1939 ..	..	..	..	..	120 sheep taken (some sheep released).
71	Nar Hakim Khan ..	14/15th February 1939 ..	1 Hindu girl	..	..	..	..
72	Kirri Khaisora ..	28th February 1939 ..	..	..	1 Hindu 1 Moham- medan.	2 Hindus 2 Moham- medans.	Rs. 7,644.

73	Near Mullasai ..	27th February 1939 ..	..	..	..	..	..
74	Kotjai ..	4/5th March 1939 ..	..	..	..	1 Hindu	Rs. 403.
75	Dhakti ..	10th March 1939 ..	5 Hindus	..	..	1 Muslim	Rs. 840.
76	Jani Khel ..	15th March 1939 ..	2 Powindahs	2	..	..	50 camels (Rs. 2,500).
77	Piplan ..	19th March 1939 ..	..	..	..	..	Rs. 15,000.
78	Mash Mansur ..	18th March 1939 ..	..	..	..	..	..
79	Basiya Khel ..	30th March 1939 ..	..	..	1 Muslim	..	Rs. 19-10-0.
80	Maugram Nullah ..	1st April 1939 ..	7 Hindus	7	..	..	..
81	Kahiri village ..	3rd/4th April 1939 ..	..	..	4	10 Hindus	Rs. 3,602.
82	Roda village ..	11th April 1939 ..	4 Hindus	4	..	1 Hindu	Rs. 3,290.
83	Kot Sultan ..	24th April 1939 ..	..	..	..	..	Cattle & sheep (since returned).
84	Wanda Dost Mohd. ..	4/5th May 1939 ..	5 Hindus	5	..	..	..
85	Dera Melan ..	5th May 1939 ..	..	..	..	..	Flock of goats driven off. 6 goats released.
86	Shahidan Darga ..	5th May 1939 ..	1 Muslim Police constable.	1	..	..	..
87	Dadiwala ..	11th May 1939 ..	..	..	..	..	..
88	Hathala-Kulachi Road ..	12th May 1939 ..	4 Hindus	4	..	..	Rs. 696-4-0.
89	Bachkan Ahmedzai ..	14th May 1939 ..	..	..	..	..	..
90	Kot Nasran ..	21st May 1939 ..	1 Hindu	1	..	..	..

Serial No. (1)	Place of raid. (2)	Date. (3)	No. of persons kidnapped. (4)	No. released. (5)	No. of persons killed. (6)	No. of persons wounded. (7)	Loss of property. (8)
91	Tank City ..	21st May 1939	1 Hindu girl	1	..	..	..
92	Kohat Road Police Post	28th May 1939	..	..	1 Hindu	..	Two mules killed and two wounded (belonging to Government.)
93	Basya Khel village ..	29th May 1939	..	..	..	1 Muslim	..
94	Chaudhwan ..	2nd June 1939	1 Muslim girl	1	..	..	..
95	Nangrahi Mameth Khel	4th June 1939	..	..	1 Muslim	..	..
96	Zindi Nullah ..	6th June 1939	..	..	..	..	Rs. 230.
97	Bannu Military Grass Farm	9th June 1939	..	..	..	..	Rs. 2,915-3-4.
98	Bharat village ..	9th June 1939	..	..	1 Muslim	1 Muslim	..
99	Bodha ..	11th June 1939	1 Muslim girl	1	..	..	..
100	Kiri Haider ..	15th June 1939	..	..	..	..	6 camels (since released).
101	Kaki ..	17/18th June 1939	1 Hindu	..	..	..	..
102	Muhammed Akbar ..	20th/21st June 1939	4 Hindes	4	..	..	..
103	Gul Imam Railway station	24th June 1939	4 Muslim girls	4	..	..	Rs. 96.
104	Mander Police post ..	26th June 1939	..	..	..	..	..
105	Bannu Miran road ..	29th June 1939	1 Sikh and 1 Muslim.	1 Muslim	..	..	..

STARRED QUESTIONS AND ANSWERS.

106	Gurguri-Teri Road (Kohat District).	13/14th July 1939	..	..	..	..	4 camels (all recovered).
107	Teri village ..	28/29th July 1939	..	..	1	2	22 Shops looted 2 burnt (1/2 lorry load of looted goods recovered).
108	Nesam Bazar ..	2nd/3rd August 1939	..	..	..	2	3 shops looted.
109	Boza Khel ..	4th August 1939	2 Muslim women	..	..	..	Houses looted and set fire to (value not known).
110	Bannu Kaki road ..	4/5th August 1939	..	..	..	..	Tonga looted (value not known).
111	Khandaj Nullah ..	5th August 1939	..	..	1 Marwat	..	Cash and clothing robbed (value not known).
112	Kotla Talib Shah ..	6th August 1939	..	..	1 Muslim chowkidar.	..	..
113	8-6 miles from Bannu	10th August 1939	..	..	1 British Officer, 1 Driver & 1 Sikh.	..	..
114	Mobati ..	14th August 1939	2 year old Hindu girl.	..	1 bearer of the B. O.	2 Hindus	..

Sardar Sant Singh : May I know if any ransom is demanded on account of the persons kidnapped, do Government help these relatives in making good some of the ransom that is paid by them ?

Mr. O. K. Caroe : Government endeavour, as far as possible, to discourage the ransom system. Ransom is frequently offered, but if it is encouraged, a vicious circle is set up and kidnapping becomes the order of the day. The means adopted by Government to discourage ransom is to fine the tribes.

Sardar Sant Singh : May I know if, from these fines, Government pay some contribution to the persons who have been forced to pay that ransom ?

Mr. O. K. Caroe : No, Sir.

Sardar Sant Singh : Why ?

Mr. O. K. Caroe : In the opinion of Government that would encourage the outraged relatives of persons who have been kidnapped to give ransom, and the vicious circle would remain.

UNSTARRED QUESTION AND ANSWER.

CERTAIN INFORMATION REGARDING OFFICERS UNDER THE RAILWAY BOARD.

1. **Maulvi Muhammad Abdul Ghani** : Will the Honourable Member for Railways please state whether Government propose to lay on the table of the House a list of the officers under the Railway Board appointed by the Secretary of State and by the Governor General, mentioning against every officer of both the categories their native homes and educational qualifications and amount of pay and overseas pay, if any ?

The Honourable Sir Andrew Clow : Particulars of the grade, pay, and academic degrees of all officers in State Railway Service will be found in the Classified List of State Railway Establishment and the History of Services of the Officers of the Indian State Railways, copies of which are in the Library of the House. The former list shows which officers have been appointed by the Secretary of State.

THE INDIAN RUBBER CONTROL (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Diwan Bahadur Sir Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I present the Report of the Select Committee on the Bill further to amend the Indian Rubber Control Act, 1934.

STATEMENTS LAID ON THE TABLE.

OBJECTS ON WHICH THE AVIATION SHARE OF THE PETROL TAX FUND WAS EXPENDED DURING THE YEAR 1938-39.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : I lay on the table a statement showing the objects on which the Aviation share of the Petrol Tax fund was expended during the year 1938-39.

Object.	Expenditure. Rs.
<i>Clubs.</i>	
Financial assistance to flying clubs in India	20,500
<i>Research.</i>	
Scholarship and financial assistance to Mr. P. P. Nazir, an aeronautical research student in England	3,747
<i>Training.</i>	
Training of Indian ' B ' Pilots as Pilot Instructors	3,660
Training of Indians in multi-engined aircraft and as wireless operators	1,293
Flying training for Indian ' B ' licence pilots on Government Avro X	5,013
Financial assistance to Mr. B. L. Dhawan in connection with his training in England as first officer for Indian Trans-Continental Airways	1,500
Training of Major W. Jones, in England on the operation of the ' Link Trainer '	993
Cost of ' Link Trainer ' and its installation	24,637
	37,096
<i>Experimental.</i>	
<i>Aircraft.</i>	
Experiments for determination of performance tests of aircraft	36
Experiments in connection with the investigation of air looks on certain types of aircraft engines	200
	236
<i>Meteorology.</i>	
Experiments for the collection of data regarding atmospheric bumps in India	63
Charges for constructing three boxes to house the lamps with switch board on each box in the Observatory at Karachi Air Port in connection with experiments with Holophane Lumeters	72
	135
<i>Wireless Telegraphy.</i>	
Flights in the Avro X in connection with the calibration of the Delhi Wireless station, for experimental purposes	1,681
<i>Works and Equipment.</i>	
Purchase, as an experimental measure, of a Pegson Power Rammer	1,240
Purchase and erection, as an experimental measure, of a remote controlled wind Tee and a Wind direction indicator	5,539
Purchase and installation, as an experimental measure, of a Radicone Wind Indicator	4,549
Purchase, as an experimental measure, of an A. G. A. Illuminated Wind Sleeve Indicator	1,133
Construction of an experimental pontoon for flying boats at Allahabad	9
	12,470
<i>Miscellaneous.</i>	
Maintenance and operation of the Government aeroplane Avro X, VT-ACT	1,184
Total	77,049

NOTIFICATION PROHIBITING THE EMIGRATION OF UNSKILLED LABOURERS FROM BRITISH INDIA TO CEYLON FOR THE PURPOSE OF UNSKILLED WORK.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, on behalf of Mr. G. S. Bozman I lay on the table a copy of the Department of Education, Health and Lands' Notification No. F-33] 39-Overseas, dated the 1st August, 1939, prohibiting the emigration of unskilled labourers from British India to Ceylon for the purpose of unskilled work.

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

NOTIFICATION.

OVERSEAS.

Simla, the 1st August, 1939.

No. F. 33]39.—Whereas the Government of Ceylon have decided to terminate from the 1st of August, 1939, the employment of a large number of Indians engaged in unskilled work in that country and the declared policy of that Government is to discontinue in course of time the employment of many more such Indians;

And whereas in view of the great uncertainty consequently prevailing in Ceylon regarding the employment of Indian unskilled labour in that country it appears necessary and expedient to the Central Government to issue this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30A of the Indian Emigration Act, 1922 (VII of 1922), the Central Government is pleased to prohibit with effect from the 1st of August, 1939, all persons from departing by sea out of British India to Ceylon for the purpose of unskilled work unless exempted by special order of the Central Government from the provisions of this notification.

G. S. BOZMAN,

Secretary to the Government of India.

RESOLUTION RE PAYMENT OF CONTRIBUTIONS FROM RAILWAY REVENUES TO GENERAL REVENUES.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I move the following Resolution :

" That this Assembly recommends to the Governor General in Council that railway revenues be declared not liable, before the 1st April, 1942, or before the fixation under section 187 (1) of the Government of India Act, 1935, of the sum therein referred to, whichever is earlier, to repay to the Depreciation Reserve Fund maintained for Indian State-owned railways, the balance outstanding on the 1st April, 1937, of loans taken from the fund to meet railway deficits or to pay to general revenues any contributions or deficiency in contributions due under the Resolution of this Assembly of the 20th September, 1924, in respect of the period beginning on the 1st April, 1931, and ending on the 31st March, 1939 "

Sir, it will be within the memory of Honourable Members that on the 7th October, 1937, this House adopted a Resolution which recommended to the Governor General in Council that a declaration very similar, almost identical in terms to the one now before the House, should be made which should have effect up to the 31st March, 1940. The object of the Resolution was explained at that time and the Resolution was accepted by this House after some discussion. Now, the position at the present moment is that the sum referred to in section 187 (1) of the Government of India Act, 1935, namely, the capital debt of railways to the Central Government has

PAYMENT OF CONTRIBUTIONS FROM RAILWAY REVENUES TO GENERAL REVENUES. 309

not yet been fixed and is not likely to be fixed before the 1st April, 1940. We have, therefore, to consider now what arrangements should be made from the date of the expiry of the Resolution now governing the subject in respect of these arrears to the depreciation fund and to general revenues. We have to make arrangements governing the treatment of these matters in the period beginning on 1st April next. Now, I should like to remind the House first of all of the general underlying position, namely, what would be the position if a Resolution of this character were not adopted by this House and if action were not taken on the lines which this Resolution recommends. The position would be this : that any surplus earned by the railways would be due in the first instance to be devoted to the purpose of making good the arrears in the depreciation fund.

Now, as Honourable Members are aware, those arrears amount to no less than over thirty crores and the position would, therefore, be that the surplus earned by the railways would have to go straight into the depreciation reserve fund. No portion of that surplus could accrue to general revenues until the whole of the debt to the depreciation reserve fund had been paid back. Now, it will be my object to convince this House that this matter must be approached mainly, if not solely, from the point of view not of railway revenues but of general revenues and of the relations between the finances of the Central Government and of the Provincial Governments. I am free to admit that there are a number of very important questions relating to railway finance which would be germane to this question if certain arrangements were not now in force in regard to Central and Provincial finance. But I must emphasise, and I shall endeavour to satisfy the House, that those considerations cannot possibly be gone into at the present time because of the constitutional position in relation to Central and Provincial finance and that those questions, although they are of the utmost importance and will, undoubtedly, have to be considered with great care in due course, cannot influence our decision on the point now before the House. I will, therefore, remind the House of the main features of the arrangement for the distribution of certain revenues between the Centre and the Provinces ; in other words, the arrangement embodied in what is known as the Niemeyer Order-in-Council. Under that Order we have first to determine what is known as the divisible pool of income-tax. When we have arrived at that figure we have to add to it the railway surplus as determined in accordance with the convention of 1924. We have then to deduct 13 crores and the surplus after that calculation is made must be distributed to the Provinces in accordance with the proportions laid down in the Order-in-Council.

Now, the present position is, and, particularly, after the amendment of the Income-Tax Act, that the distributable pool of the income-tax receipts may be taken to be at least in the neighbourhood of 13 crores ; and, therefore, the practical effect of that regime is that the railway surplus has to be distributed to the Provinces in the proportions laid down. Now, if during the period that the Order-in-Council requires that to be done any departure is made in the method of calculating the railway surplus or in the manner of treating the railway revenues which results in a change or a reduction in those railway revenues, then the position will be that we shall have to make a distribution from general revenues of a sum exactly equal to the railway surplus. Let me give an example. Supposing this Resolution were not adopted and supposing for the sake of argument that

[Sir Jeremy Raisman.]

railways in the current year were to achieve a surplus of three crores,—I wish that this example had a closer approximation to probable reality but I am taking it as an example,—then if this course of action were not taken, that three crores would have to be paid into the depreciation reserve fund. But the Niemeyer Order-in-Council specifically excludes such repayment of arrears to the depreciation fund and would require me to calculate the railway surplus as if that had not been done and to provide three crores of other money for distribution to the Provinces. I should, therefore, be faced with the problem of raising three crores by new taxation from the general taxpayer. I submit that that is a position which is not really feasible and cannot be accepted by me as Finance Member or I think by this House as representing the general taxpayer. For how long will this state of affairs continue? It will continue until the first period mentioned in the Niemeyer Order-in-Council, namely, the first period of five years, has expired. At the end of that five years which will expire on the 31st March, 1942, Provincial finances will be disentangled from the question of railway surpluses and the distribution to be made to the Provinces will proceed on another footing. It is, therefore, only until the end of that period that we are in this position of having virtually no option but to continue to treat these arrears as we have done since the last Resolution was passed, unless we are prepared to raise sums from the general taxpayer to pay the amounts due to the provinces under the Order-in-Council. What I have said up to now covers primarily the position in regard to arrears due to the depreciation fund which, under the convention, I would remind the House, have a certain priority and which would come before the determination of the railway surplus.

Now, the other type of arrears which is covered by this Resolution are the arrears of the contributions to general revenues which accrued during the period of deficits. As regards these arrears, while the considerations which I have already mentioned do not apply with equal force because the sums would really accrue to general revenues it is, I would submit, academic or virtually academic at this moment to undertake to treat these arrears in any other manner. For what is the position? The amount of current railway contribution which has to be made to general revenues, if the railway surplus is large enough, is of the order of 4½ crores of rupees.

Now, Honourable Members are aware of the size of the railway surplus in recent years. In 1937-38 which I think was the most satisfactory year which railways have had for a long time if not in this decade the railway surplus amounted to 2½ crores. In the following year, 1938-39, of which the results have only recently been finally arrived at the surplus was less than half that amount, that is to say, it was of the order of about 137 lakhs. I regret to say that in the current year the prospects hitherto do not encourage us to hope that the sum will be even as large as 1½ crores. There is, therefore, no prospect whatever that Railways at the present time could produce a surplus of the order of 4½ crores of rupees, and my point is that until Railways have produced a surplus of this size and something beyond that, the question of paying arrears of contribution to general revenues does not arise.

Now, Sir, I have at some length explained the exact way in which Central and Provincial finances are tied up with the calculation of the

railway surplus according to the existing convention and how we have no option but to continue on the same lines until the expiry of the first quinquennium of the Niemeyer award. It is solely on those grounds and on no other that I now ask this House to prolong the moratorium in respect of these arrears.

As regards the position under section 187 (1) of the Act, I would only say that if and when the capital debt comes up to be determined in accordance with that section, it will obviously be necessary for the whole situation to be reviewed and for the relations of Central and Railway revenues to be determined for the future. If that stage should supervene before the expiry of the first quinquennium of the Niemeyer Award, then automatically this Resolution by its terms would cease to have effect.

I will now indicate briefly what my own attitude is to the other questions which, undoubtedly, have a most important bearing on railway finance but which, I claim, should not occupy us to any extent at this stage. I am in full sympathy with the feeling of many Honourable Members of this House that the separation convention of 1924 is due for reconsideration. It is obvious that it has failed in certain important respects. It is probably incapable of enabling Railways to build up the reserves which are necessary not merely in order to ensure the financial stability of Railways, but also in order to ensure to general revenues the payment of the interest due on the capital which has been provided from general revenues for railway purposes. The Convention is also unsatisfactory, in that it makes no provision or entirely inadequate provision for dealing with the important question of amortisation of debt and reduction of railway capital. I freely admit that that is a question of the utmost importance; it is a question which should be taken up at the earliest moment; it is a question, which, I think, we should have fully examined by the time when this regime is due to expire. I am entirely in sympathy, as I have already said, with the feeling that the whole question requires reconsideration, and I know that on the last occasion when this matter was discussed in the House, it was suggested that some change might be made before the question of the continuance of this moratorium came before the House. But we have gone into the question fully, and I can only say that at the time when that suggestion was made, it was not fully realised how completely we were tied by the existing arrangements. I am prepared on my part to undertake that the questions relating to the separation convention and to the evolving of a more suitable system for the future will be carefully gone into during the period of the extension of this moratorium, but I remain convinced, and I trust I have convinced the House that, until that period, until the first quinquennium of the Niemeyer Award has expired, we are unable to make any departure from the existing practice. Sir, I move.

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

“ That this Assembly recommends to the Governor General in Council that railway revenues be declared not liable, before the 1st April, 1942, or before the fixation under section 187 (1) of the Government of India Act, 1935, of the sum therein referred to, whichever is earlier, to repay to the Depreciation Reserve Fund maintained for Indian State-owned railways, the balance outstanding on the 1st April, 1937, of loans taken from the fund to meet railway deficits or to pay to general revenues any contributions or deficiency in contributions due under the Resolution of this Assembly of the 20th September, 1924, in respect of the period beginning on the 1st April, 1931, and ending on the 31st March, 1939 ”.

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Mr. L. C. Buss (Nominated Non-Official) : Mr. President, the method originally proposed for dealing with borrowings from the Depreciation Fund and arrears of payments due to the Central Revenues was to write them off and start again with a clean slate. When a Resolution in these terms was tabled, my Party were in no doubt that this was the proper course to pursue as far as arrears of payments were concerned, but we found ourselves in considerable doubt whether it would be financially prudent to write off the borrowings from the Depreciation Fund. In the event, however, the original Resolution was not moved and in October, 1937, Sir James Grigg substituted a Resolution in the same terms as that before us today, as a gesture of responsiveness to those Members in various parts of the House who did not like the idea of writing off the many crores of rupees involved.

In my view, cancellation and a moratorium amount to much the same thing as I can see no reasonable prospect of these large sums becoming available over and above the annual interest obligations of the Railways and their other recurring liabilities to the Depreciation Fund and the Central Revenues. I am, therefore, prepared, on behalf of the European Group, to accept the present Resolution as we did the Resolution of 1937, albeit with some reluctance, since it appears to be the general view of this House that these millstones should be carried forward in the hope that some miracle may transmute them into gold.

Before I sit down I should like to re-state very briefly our views about Railway finances generally, and I am glad to learn from the Honourable the Finance Member's remarks that he is largely in sympathy with them. We feel that a revision of the 1924 Separation Convention is imperative in order to permit the finances of the Railways to be put on a sound footing. The effect of that Convention is to encourage extravagance in prosperous years and to impose undue parsimony in lean years. The Railways should be freed from the obligation of piling up debts when the bad times come and it should be possible to retain a certain percentage of their profits in good years as a reserve for various purposes, such as, the equalisation of expenditure, improvement of amenities to the public, stabilisation of wages, and so on, and for the setting up of an amortisation fund to write off unremunerative and obsolete capital expenditure. That, very briefly, is the ideal we have in view, and it is in hope that something will be done on these lines at the earliest possible date that we support this Resolution as a temporary expedient.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : I agree with the Honourable the Finance Member that it would be undesirable to disturb the existing arrangements with the Provinces in regard to the payments under the terms of the Niemeyer Award. At the same time I feel that the present state of things is very unsatisfactory. We had a moratorium only a short while ago and we are again extending this moratorium. What is the unsatisfactory state of things in the railways due to ? It is well-known that from 1898 to 1930 the railways were able not only to pay large sums to the depreciation fund but also to contribute to the general revenues of the country to the extent of Rs. 5 or 6 crores a year. After that, for a while the depreciation fund was raided for making contributions to the general revenues, and then several raids were made on the depreciation fund. The railway revenues have shown some

prosperity during recent years, as has been pointed out by the Honourable the Finance Member, but still they cannot be said to be in a very satisfactory condition even at the present moment. What is this due to ? I submit that this is due to the want of observance of economy in railway administration. Economy may be observed in two ways ; first, by elimination of all sources of waste, and secondly, by Indianisation. Even the Wedgwood Committee, which consisted of reactionaries, suggested that the pace of Indianisation should be further speeded up. But what has been done ? During the last few years very little has been done. In the higher services of the Railway Department there are very few Indians, whereas the number of Europeans is not merely not less than what it used to be ten years ago but more. This is a very unsatisfactory state of affairs. If you introduce Indianisation to a greater extent, a great deal of economy will ensue. I urge that this should be done without any further delay.

As regards the question whether there should be a moratorium or whether the loans should be cancelled as suggested by my Honourable friend, Mr. Buss, there is a great deal to be said in favour of both courses. If it is thought desirable to cancel the debt altogether, the matter should be very carefully considered and all the sections of the House should be consulted. As regards the policy of revising the Convention which was arrived at in 1924 at the time of the separation of railway finance from general finance, I do not see eye to eye with the Honourable the Finance Member. But if any concrete proposals are placed before the Legislature, then there will be time to consider them. At the present moment we should be satisfied with the moratorium. But every effort should be made to ensure economy in the railway administration. With these few words, I support this Resolution.

Sardar Sant Singh (West Punjab : Sikh) : Sir, I take this early opportunity of congratulating the Government on the statement today which showed the initiation of a new policy of trusting this House at a time of emergency. More I would say at the proper time when emergency legislation is brought forward before this House for its consideration.

As regards the Resolution before the House, I want to raise a word of warning as to the principle involved in it. The principle of cancellation of debts or repudiation of obligations is such a vicious principle that every commercial man will agree with me when I say that it knocks the bottom out of the moral basis of society. We have seen, during the last two and a half years of Provincial Autonomy, that cancellation and repudiation of debts have become a common phase throughout the country with the result that credit in the country has suffered to such an extent that in responsible quarters fears are felt that it may drive capital underground and make it more shy. The other day it was said on the floor of this House that Indian capital was becoming shy. It is bound to become shy when repudiation of debts becomes the general feature of administration in the country. I must, with your permission, refer to this principle a little more because of the fact that I find that, under the pretence of doing away with the debts, the dishonest debtors are being more and more encouraged, and if the same principle is followed by the Government of India in their dealings with their own Departments, I am afraid that this illustration will be used as a sort of guide in the provinces to do more mischief in the country than what is being done now. Therefore, before

[Sardar Sant Singh.]

the Government of India undertake such an important matter as the repudiation of their own debt, which will encourage repudiation of debts outside in the provinces, they should think several times. I am sure. Honourable Members will agree with me when I say that most of the legislative measures in the provinces are more a vote catching device by the Governments concerned, than a real help to the genuine sufferers or honest debtors in the country. They have constituted conciliation boards, and, under the plausible name of conciliation boards, they are really conciliating dishonest debtors. Therefore, I will submit for the consideration of the House that before such an important principle is set forth, the Honourable the Finance Member will take into consideration the mischievous effects which such a repudiation will have on the finances of the country outside. I find the sense of the House is in favour of writing off or cancelling these debts.

Mr. N. M. Joshi (Nominated Non-Official) : To whom does it belong ?

Sardar Sant Singh : It belongs to the same person no doubt, but it

12 Noon. will be used as a handle by the Ministers in the provinces, and that is why I give this warning to the

Government before I give my vote for this Resolution.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, we have heard a doleful story from the Honourable the Finance Member today. He finds himself in a quandary. He says that the depreciation fund has gone, that the Niemeyer Award cannot be worked and that the provinces cannot get anything from the Centre. This is the most discouraging feature of the Railway finances. It all shows how the Government of India have been mismanaging the whole Railway show. We have been clamouring for economy and for Indianisation. We have moved Resolutions, and the Government of India do not listen to our voice, and this Resolution now comes to us like a bolt from the blue. If we want to reject this Resolution, the present position is such that we cannot do it. We know that the proposal of the Government of India is a choice of their own, and whatever they like to do this Session they can easily do without any compunction on their part. My friend, Dr. Banerjee, suggested that the Railways should either economise or Indianise. Our voice is like one in the wilderness. Of course we must ask the Government of India not to be entreating the provinces. The provincial revenues are depleted. Every day we find that taxes are being increased in the provinces, and if anything is lessened from the items given to them, there will be a crisis in the provinces. There is not much to say on this Resolution except to ask the Government of India to look carefully to their finances, and not to disappoint us in this way.

Mr. Muhammad Nauman (Patna and Chota Nagpur cum Orissa : Muhammadan) : Sir, the Resolution is so important and complicated that I find myself in a difficult position to support it or say 'No' to it immediately. On the one hand it appears to be a *fait accompli* in the circumstances in which the House is today. Whether any suggestion which my Party or I may make will have any effect on the other side or not is a matter for the Government to decide. Without going into the different

implications which the Resolution entails and the conventions of cancelling debts or establishing moratorium, I would suggest that the Government should accept the proposal of appointing a committee of this House to go into the whole question of adjusting Railway Finance with general Budget before deciding whether this should be done or not. The Resolution has been very well explained by my Honourable friend, the Finance Member, with all eloquence but I confess my own deficiency in not having been able to follow exactly what implications this Resolution will have on the present budget and the future financial policy of the Central Government. When the Resolution of 1924 was passed, the chief idea was that the Railway should be a paying commercial concern. Why it has not been a commercial concern is a big question on which I do not wish to enter at the moment and I would only suggest that we cannot be a party to the Resolution, as it is, unless the Government agrees to appoint a committee of this House which will look into the whole thing. If the Committee of the Members of the House who are responsible to their constituencies think that this will be in the interest of the provinces and that it will save us from further taxation, as the Honourable the Finance Member pointed out, then and then only we will agree to the proposition. Under these circumstances, I request the Government to accept my amendment to appoint a committee of this House to examine the whole question and avoid rushing this important financial issue.

Mr. N. M. Joshi : Sir, this Resolution and the debate that has taken place have brought to my mind forcibly the fact that the Railway depreciation fund has been raided to the extent of 30 crores during the past few years. I tried to bring to my mind whether this raid has put the railway administration in any disadvantage in the matter of the depreciation fund. The depreciation fund is intended to meet the expenditure in connection with certain repairs and renewals, and, as such, it is required for the use of the Railway Administration.

Sir, what I ask myself is this. If the Railway Administrations have not suffered anything—and they have not said that they have suffered some disadvantage on account of this raid—then the fact which we have to consider is whether we were not taking from the railway revenues a much larger sum by way of a depreciation fund than what is necessary. I have not heard either the Railway Member or the Finance Member telling us that the Railway Administrations have suffered on account of this raid. That there is a raid, I understand.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : They have suffered.

Mr. N. M. Joshi : Now, any man, who suffers a pinch and feels it, says it. Sir, the fact, therefore, that we have to consider is—have we not been charging too much for the depreciation fund, and if we are, then the first people who have suffered are the railway employees, because you have been exploiting them ? You say there are no funds for the amelioration of the lot of railway employees. I have been asking the Government of India to remove one of the greatest injustices of the Railway Administrations, viz., their discrimination in the matter of providing a provident fund for the lower-paid staff.....

Mr. President (The Honourable Sir Abdur Rahim) : All that does not arise now.

Mr. N. M. Joshi : I am not dealing with that point at length. The point which I am making is this. The time has come to see whether the rate of depreciation fund which we are charging is not too much. If we do not consider this, well, there will be a raid; the Government of India and the Railway Board will be in the same condition as a man who goes on hoarding and hoarding money, and one day there is a raid. My Honourable Friend, Sardar Sant Singh, believes that there is a raid and that there is repudiation. But that is what happens in the world. If a man goes on hoarding and hoarding, one day there will be a raid and a repudiation. I therefore, want this House to consider whether we are not charging to the depreciation fund a much larger sum of money than it has needed, and that too by exploiting the railway employees.

Sir Muhammad Yamin Khan : Sir, as regards the Resolution as it stands, of course if my Honourable friend comes up and says that he has no other course left but this, well, that is one side of the question. Our grievance is that the Government have been turning a deaf ear to the constant warnings this House has been giving to the Government. This is not the first time that we have been telling you that your policy is a wrong policy. You are launching the railway administration in something which will prove disastrous in future. The Government always said that there was a hopeful thing and that behind the clouds the sun was still rising to them. But we find that ultimately the same thing has happened which we were telling them five years ago, *viz.*, that this will happen, and we were asking them to be cautious, but they will not listen to us. Now, they have come up and say that there is a hopeless condition. One Member gets out and another man comes in, and one Member says, "this is all done by the other man, I am not responsible for the actions of those who have been before me". I wonder how long Government will go on with this policy. If they want to deal with the problems properly, then they certainly must seek the help of others. They are not ready to abdicate. Will you at least seek the help of others who will come to your rescue, who will give you proper advice?

If the Honourable Members will turn to the pages of the Debates on the Railway Budgets, they will find that for the last six or seven years this has been told to the Government of India, *viz.*, that by your living on the depreciation fund, where are you going to get your things when you want to purchase them. My friend says that the depreciation fund is too much which we have fixed. I may say that five crores of rupees may be a little bit too much, but where is the depreciation fund left now? Where is your reserve fund left now? You have exhausted the whole thing. You have got nothing left. There were very bright years; we used to have revenues of Rs. 106 crores and the budget went up to such a great extent for several years continuously, and we could also contribute towards the reserve fund and towards the depreciation fund. Now, your income is hardly Rs. 70 crores and every week we find that the income this week as compared with last week is two lakhs less. Every year we are hearing that the revenue is falling and falling. The Retrenchment Committee which sat in 1931 retrenched many things and brought down the expenses and the income to the same level but what do we find now? We find that every year there is a demand that so many new posts may be created, so much other extra expenditure may be incurred and, ultimately, we find that there is really no money, there is no income. Instead

of capital paying back, your capital is not giving you any kind of profit; the five crores of rupees which we meant to be given to general revenues are not being contributed now properly. Your interest is very small, your railways are such that a company even will never take over the railways in such conditions as you have got. As compared with Government-managed railways, the Company-managed railways are distributing good profits and dividends and they are in a very happy position, while you are in the worst position. This shows that the Railway Board are a hopeless body as far as managing a commercial concern is concerned. If you have to run a commercial concern on a commercial basis, why should you lose? If you have to lose, then you must reduce your own expenses. Your salaries are going up but your revenues are going down. The poor people are being retrenched; everywhere we find that the poor labourer is no longer there but the salaries of the higher officers are going up and up. What were the salaries in 1914 and what are the salaries now? We find some people getting at least double the salary that they used to get before. Surely, you can tell them that no longer can you pay them such high salaries. There will be thousands of people coming in on the same salaries that you have fixed now. The Government of India are fixing salaries for the new entrants into Government services in every branch and they are in accordance with the market conditions and with what they can really afford to pay but the Railways go on paying what they cannot afford to pay, and there is no limit, and no retrenchment has been effected since your revenues have been falling. Then, the natural result is what we are facing today. I know the Honourable Member will say that "I am hopeless, I cannot do anything", but if you don't care to hear us, what can we do? Now you should come up and seek our co-operation. Of course you might say that as a Government official, "I do not want to be in the bad books of my brother officers" but if you want to take any action, here is our help for you and then we will be quite willing to give it. I think that the suggestion which has been made by my friend, Mr. Muhammad Nauman, is a very sensible one, namely, that in such circumstances Government must take all sides of the House into their confidence and must seek their help. I support that suggestion of Mr. Muhammad Nauman.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : Sir, the Resolution does not satisfy me. This Resolution comes from the Communications Department, a Department which is not responsible to this House. Whether we support it or oppose it, they will carry things with a high hand and do what they like. The Railway Department is one of the richest departments in this country or it used to be the richest department. Towards 1923 after the great War, when it was decided that the Railway Department should be overhauled, a fabulous amount of 150 crores was sanctioned for the purpose of buying XB, XC and other varieties of engines and the rolling stock and this amount was placed at the disposal of the Railway Board. Now, the railways depend for their existence upon that pocket of the ordinary man in the street. Who is responsible to the masses? No one. You do what you like. You invest a very large amount of money for buying the necessary materials for the railways from England. Engines could have been built in India; workshops could have been increased but you reduced the number of workshops. You bought everything from England, you laid yourself open to

[Maulana Zafar Ali Khan.]

the charge of the worst nepotism. Then, as some of my friends have pointed out, although in principle you believe in Indianisation, in actual practice you do not believe in it. If retrenchment in the proper sense of the word is observed, there is no reason why this Department should today call upon us to accept the principle of repudiation of debts and moratorium. My friend, Sardar Sant Singh, was speaking about the principle of repudiation of debts. Of course, so far as the Railway Department is concerned, this principle of repudiation or writing-off of debts is bad, but he very probably referred to the Province of the Punjab where the Government of the Punjab introduced certain measures to give relief to the poor people who were suffering at the hands of the *Banya*, the *Mahajan* and the banker who were rolling in riches at the expense of the poor people. A man borrows Rs. 10.....

Mr. President (The Honourable Sir Abdur Rahim) : This Resolution has nothing to do with the Punjab.

Maulana Zafar Ali Khan : I was simply pointing out that a man who borrows Rs. 10 and pays Rs. 100, still owes Rs. 1,000.

Mr. President (The Honourable Sir Abdur Rahim) : That has nothing to do with the Resolution before the House.

Maulana Zafar Ali Khan : But in the case of these Railway people who are rolling in riches and who are playing ducks and drakes with public money, they have no business to appeal to the principle of repudiation and writing-off of debts. As I pointed out, our voice is a voice in the wilderness so far as the railway affairs are concerned. They will do what they like whether we support them or not. I agree that the suggestion of my friend, Mr. Muhammad Nauman, is very proper that a committee should be appointed to go into the whole question of the finances of the railways and advise Government as to the best course that ought to be adopted in the circumstances. Although it is a very proper recommendation, I do not think that the powers that be, the Railway Department, will see eye to eye with him. A very grave conflict is confronting us and, as the Honourable the Leader of the House pointed out, all the resources of India in men and money should go to help England in her trial. When such is the condition, he should consider for a moment whether our own condition in India is such in man and money that we are in a position to help the Government.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the Resolution before the House.

Maulana Zafar Ali Khan : Of course, railways can do a lot for the poor people and if this is done they will be in a position to help. With these words I support the suggestion made by Mr. Muhammad Nauman and call upon the Government to appoint a committee to go through all these matters and arrive at some reasonable solution of this complicated problem.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Sir, it had been my opinion, and now I can say that it is my considered opinion that the Government of India are really incapable of managing any big business. We had a convention of this House which was adopted by means of a Resolution on the 20th September, 1934, and the net result of that convention is that in 1939 the moratorium which was accepted

by the House provisionally is to be extended now to the year 1942 with the result that we cannot make any payment or that we should not be liable to pay the depreciation and that we should be exempted from our obligations to make the contribution to the general revenues. This is the net result. May I ask the Government this : don't you think that it is high time now for you to appoint a competent Committee to examine the whole question thoroughly and see what can be done for this problem which is now facing us ? Mr. Buss holds the view that it is no use carrying on this agony, and he would like to apply a surgical operation. Now, may I request the Government whether they would give us an undertaking now ? We cannot support this Resolution. I am unable to support the suggestion that the Government should be allowed to carry on as they propose to carry on, and I ask the Government to announce as early as possible the appointment of a competent Committee which will go into the whole question thoroughly and decide once for all what a responsible Government should do.

The Honourable Sir Jeremy Raisman : Sir, I hoped that I had made it clear that this did not seem to me to be the occasion for a review of railway finances. I pointed out that there were certain constitutional arrangements between the Central and the Provincial Governments which required us to calculate the amounts to be paid to the Provinces in a certain way, that we were bound to calculate them in the way in which they are now being calculated and that so long as we were under that constitutional compulsion, the only effect of endeavouring to reorganise the arrangements in regard to railway finances would be that the general taxpayer would be called upon to produce the contribution to the Provinces.

Mr. M. A. Jinnah : I have quite appreciated that. My answer has been, if you had followed me, that I am not prepared to agree to take the responsibility. Government might do what they think proper.

The Honourable Sir Jeremy Raisman : The position of the Honourable Member, the Leader of the Muslim League Party, as I understand it, is that whether or not this be inevitable constitutionally and practically, and even if we have in effect no option but to do this, he washes his hands of this business. In that case, we understand exactly where we are.

Most of the discussion, as I am afraid I expected, has ranged over the field of railway finance, on topics which I submit are more suitable for the occasion of the debate on the railway budget. I have no doubt that my Honourable colleague in charge of Railways will be prepared to deal with those criticisms on a suitable occasion. I would only draw attention to one or two salient facts. My Honourable friend, Sir Muhammad Yamin Khan, talked as though Indian railways were a concern which was in the last desperate throes of utter bankruptcy. It is a most amazing thing that this bankrupt tottering concern continues to produce the not unimpressive figure of 29 crores a year of interest on its debt, that it does not owe a single anna of interest on capital provided for it, that it is also at the present moment contributing 12½ crores a year towards the depreciation reserve.....

Mr. M. A. Jinnah : And it does not pay a single pie to the shareholders !

The Honourable Sir Jeremy Raisman : I would invite my Honourable friend's attention to the condition of railways throughout the world and whether they are expected to pay to the debenture holders something over four per cent. and in addition to distribute large dividends. I know the difference between debenture interest and equity interest.

Mr. M. A. Jinnah : Owner.

The Honourable Sir Jeremy Raisman : That is true. I was merely referring to the general basis on which railways are being administered throughout the world. I was merely asking my Honourable friend to point out whether any large system of railway administration in addition to paying a steady four and something per cent. to the debenture holders was also providing a glittering dividend to ordinary shareholders. I am not aware that there is any country in the world which agrees that the ordinary shareholders should receive these attractive dividends on a public utility concern of this kind.

Mr. M. A. Jinnah : What about Company-managed railways ?

The Honourable Sir Jeremy Raisman : If you want us to go back to Company-management, that is another matter. I was merely drawing attention to one or two important facts which do distinguish the case of Indian Railways from that of a complete bankrupt who ought to file his petition in the court tomorrow.

There is one other feature of Indian railways which my Honourable friend, Sir Muhammad Yamin Khan, seems to have forgotten. He suggested that whereas all departments of Government are now offering reduced salaries to new entrants, the Railway Department was going on according to its own sweet will and pleasure and according to its old bad habits. The position is—and I should have thought that the Honourable Member would have been aware of it—that the Railway Department like every other department of Government has introduced reduced rates of pay for new entrants and has for a period of nearly nine years been paying those reduced rates.

Sir Muhammad Yamin Khan : Only to smaller paid officers and not to higher paid officers.

The Honourable Sir Jeremy Raisman : As far as I am aware there is a reduction of nearer 40 per cent. than 30 per cent. I do not consider that this is the occasion on which I should range over the whole subject of railway finance and I would only say in reply to my Honourable friend, Sardar Sant Singh, that I do not admit the analogy of readjustment of finances between two departments of Government and the repudiation of debt contracted between two entirely unconnected persons. The position here is that we have a large Government department with which we made certain financial arrangements. As a result of the experience both on the civil side and railway side, we now agree that certain adjustments should be made and I cannot for the life of me see how the principle of repudiation of debt is involved in that. If there had been any question of repudiation by the Government of India or by any department of the Government of India of a sum of the order of 60 crores, I should not have expected to be able to borrow at three per cent. in the money market for 25 years.

Now, to turn to the point of view of the Muslim League Party, I regret that they are unable to accord their support to this Resolution which, as I say, appears to me to propose the only course which it is open to us to adopt. I regret also that I cannot see this is a suitable occasion for instituting a committee to go into the whole question of railway finance. Whether or not such a course of action would be desirable on any other occasion, I am not prepared to say or to discuss at the present moment. But what I am quite clear is that this Resolution is essentially one which regulates the relations of Central finances and Provincial finances. There is no call for a committee of any kind. This is essentially a simple issue.

Mr. M. A. Jinnah : Perhaps the Honourable Member has not understood me. I do not suggest that a committee should be appointed to consider this Resolution. I do not suggest that. What I suggested was that the Government should appoint a committee as early as possible to examine the whole question of railway finances in the light of the existing convention and what should be done.

The Honourable Sir Jeremy Raisman : I admit that I misunderstood the suggestion. I understood from the Honourable Member, Mr. Muhammad Nauman, that this question should be gone into now by a committee. In that case I will not deal with that point. I have nothing more to add except to commend the Resolution to the House.

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

“ That this Assembly recommends to the Governor General in Council that railway revenues be declared not liable, before the 1st April, 1942, or before the fixation under section 187 (1) of the Government of India Act, 1935, of the sum therein referred to, whichever is earlier, to repay to the Depreciation Reserve Fund maintained for Indian State-owned railways, the balance outstanding on the 1st April, 1937, of loans taken from the fund to meet railway deficits or to pay to general revenues any contributions or deficiency in contributions due under the Resolution of this Assembly of the 20th September, 1924, in respect of the period beginning on the 1st April, 1931, and ending on the 31st March, 1939.”

The Assembly divided :

AYES—43.

Abdul Hamid, Khan Bahadur Sir.	Hodson, Mr. D. C.
Ahmad Nawaz Khan, Major Nawab Sir.	Jawahar Singh, Sardar Bahadur Sardar Sir.
Aiyar, Mr. T. S. Sankara.	Joshi, Mr. N. M.
Bewoor, Sir Gurunath.	Kamatuddin Ahmed, Shams-ul-Ulema.
Bhagchand Soni, Rai Bahadur Seth	Khan, Mr. N. M.
Bhandarkar, Mr. K. Y.	Khurshaid Muhammad, Khan Bahadur Shaikh.
Boyle, Mr. J. D.	Kushalpal Singh, Raja Bahadur.
Buss, Mr. L. C.	Mackeown, Mr. J. A.
Campbell, Mr. D. C.	Menon, Mr. P. A.
Caroe, Mr. O. K.	Menon, Mr. P. M.
Clow, The Honourable Sir Andrew.	Miller, Mr. C. C.
Crofton, Mr. D. H.	Mudaliar, the Honourable Diwan Bahadur Sir A. Ramaswami.
Dalal, Dr. R. D.	Mukerji, Mr. Basanta Kumar.
Dalpat Singh, Sardar Bahadur Captain.	Nehru, Mr. B. K.
Gidney, Lieut.-Colonel Sir Henry.	Rahman, Lieut.-Colonel M. A.
Gorwala, Mr. A. D.	
Greer, Mr. B. R. T.	

Raisman, The Honourable Sir Jeremy.
 Roughton, Mr. N. J.
 Scott, Mr. J. Ramsay.
 Sheehy, Mr. J. F.
 Sher Muhammad Khan, Captain Sardar Sir.
 Sivaraaj, Rao Sahib N.

Spence, Sir George.
 Sukthankar, Mr. Y. N.
 Talukdar, Mr. J. N.
 Thorne, The Honourable Mr. J. A.
 Zafarullah Khan, The Honourable Sir Muhammad.

NOES—20.

Abdul Ghani, Maulvi Muhammad.
 Abdullah, Mr. H. M.
 Azhar Ali, Mr. Muhammad.
 Bhutto, Mr. Nabi Baksh Illahi Baksh.
 Datta, Mr. Akhil Chandra.
 Essak Sait, Mr. H. A. Sathar H.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Ghiasuddin, Mr. M.
 Ghulam Bhik Nairang, Syed.
 Habibur Rahman, Dr.

Jinnah, Mr. M. A.
 Maitra, Pundit Lakshmi Kanta.
 Murtuza Sahib Bahador, Maulvi Syed.
 Nauman, Mr. Muhammad.
 Raza Ali, Sir Syed.
 Siddique Ali Khan, Khan Bahadur Nawab.
 Sikandar Ali Choudhury, Maulvi.
 Umar Aly Shah, Mr.
 Yamin Khan, Sir Muhammad.
 Zafar Ali Khan, Maulana.

The motion was adopted.

THE INDIAN CENSUS BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I rise to move for consideration of the Bill to provide for certain matters in connection with the taking of the census.

I take it as a good omen that the first Bill that should come for the consideration of this House, after the declaration of war of yesterday, should be one that presupposes a state of peace and security in India and in fact throughout the world. May I express the hope that victory and peace will be achieved in time for us to complete the preparations necessary for the census of 1941.

Sir, no argument of mine is necessary to justify the practice of holding a decennial census. It is by now a practice almost, I think, universal throughout the civilized world, and in India, as elsewhere, I think, it is the practice to hold it in every year which ends with one. The Indian Census is a very big thing indeed. I think I may say that throughout the world among statisticians and others interested in various branches of science, the records and the material collected at the Indian Census are regarded as reaching a very high level indeed. The Census in fact is a remarkable achievement, and it is achieved at a remarkably low cost to the Government of India. I think I am right in saying that the Indian Census covers about one-fifth of the whole of the human race. The bill for that operation, the census of 1931, payable by the Central Government for British India excluding what was then a part of British India, namely Burma, was 45 lakhs. That, I think it will be agreed, is a remarkably small sum to be expended on an operation of that magnitude : and, in fact, the achievement at a cost as small as that was possible only through the closest collaboration and co-operation of the Provincial Governments with the Central Government and of a very great army of private persons with the officials of the Central Government and Provincial Governments. It was in fact a great national effort ; and we have been assured by correspondence with the Provincial Governments that for the census of 1941 we shall receive

from all Provincial Governments the same co-operation on the same terms as in 1931. I may say that but for that assurance we should have had grave doubts as to whether we could in present day circumstances face the task, and the expense of the task, of carrying out the next census. Well, Sir, although the census itself is a work of such magnitude, my Bill is a very little Bill, a very modest Bill, and not even a very new Bill. For the most part, it proceeds on the model of previous Census Acts, and it departs in very few particulars from the model on which the 1931 Census was taken, namely, Act X of 1929. The main objects now, as then, are, first, to give statutory basis to the whole census hierarchy,—in this Bill the hierarchy extends from the Census Commissioner of the Government of India to the census-officers who will visit each village and each house ; secondly, to declare all members of this hierarchy to be public servants, that is to say, to furnish them with the protection to which public servants are entitled in the execution of their duty, and to saddle them with the responsibilities which public servants may have to shoulder ; thirdly, to require the necessary co-operation from the public generally : provision for that will be found in clauses 4 and 5 of the Bill ; and, lastly, to prescribe penalties, which will be found in clause 9 of the Bill : and it will be observed that protection is given by the terms of clause 10 which, as in previous Acts, requires that no prosecution shall be instituted except with the previous sanction of the Provincial Government or by an authority named in that behalf by the Provincial Government. That is all I have to say on the principles of the Bill. If Members seek enlightenment as to the details in which we have introduced variations or additions as compared with the Bill of 1929, I shall be glad to explain them at the appropriate stage. Sir, I move.

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

“ That the Bill to provide for certain matters in connection with the taking of the census be taken into consideration.”

There are a number of amendments. Dr. Banerjee.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : I wish to move the second amendment which stands in my name, and not the first one. I beg to move :

“ That the Bill be referred to a Select Committee consisting of the Honourable Mr. J. A. Thorne, Mr. J. N. Talukdar, Mr. P. A. Menon, Mr. F. E. James, Dr. Habibur Rahman, Maulana Zafar Ali Khan, Khan Bahadur Nawab Siddique Ali Khan, Bhai Parma Nand, Sardar Sant Singh, Mr. N. M. Joshi and the Mover, with instructions to report on or before the 19th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir, this is a very important Bill, and it should receive our most earnest attention. In every country the Census Report is regarded as the most valuable source of information regarding the life of its people, and every attempt is made to supply not only the most accurate data, but also to present these data in a form which may prove most useful to everybody. Unfortunately, here in India conditions are different. The census report is admittedly very incomplete in India and is full of inaccuracies. My Honourable friend, the Home Member, said a few minutes ago that the census report in India reaches a very high level and he also said that this is a great national effort. Now, I am sorry I cannot see eye to eye with him on either of these questions. As regards the census

[Dr. P. N. Banerjea.]

report reaching a high level, may I invite his attention to the fact that great inaccuracies crept into the last report? If you will refer to an article by Mr. Dutta contributed to the *Indian Statistical Journal*, a journal which is regarded as authoritative in this country and for whose publication the Central Government makes a large grant.

An Honourable Member : What date?

Dr. P. N. Banerjea : I will give you everything. In that Journal, the *Indian Journal of Statistics*, Volume 3, Part 2, 1 P.M. September, 1937, there appeared an article headed, "Inaccuracies in the Bengal Census Report, 1931". There the whole subject is dealt with from a very scientific standpoint and many inaccuracies are pointed out. Time will not permit my going into these in detail, but I shall give you one striking instance. In the Kishorgunge Sub-division of Bengal it is recorded that there is not a single literate in English. We all know that this is a sub-division. There are two English High Schools in that sub-division. There is a sub-divisional magistrate, there are executive and judicial officers, there is a Chairman of the municipality, and there are members of the Municipality. And it is surprising to note that there is not a single literate in English in that sub-division! Are more instances needed to show that the Census Report of 1931 was inaccurate?

As regards a great national effort, I wish it were a national effort. Let us try and make the next census a great national effort. Unfortunately, the past censuses have been only bureaucratic efforts and they have been successful only to a very limited extent.

The census report has now acquired an added importance from the fact that representation in the various legislatures of the country is now on a communal basis. Therefore, the numerical strength of a community is an important factor which has to be taken into consideration. And suspicions have arisen in different parts of the country with regard to the enumeration of the population. I find that a representation has been sent to the Government of India, Home Department, with regard to the census by the Working Committee of the Bengal Hindu Mahasabha. It is in these words, I shall not quote the whole of it, but only a few sentences :

"There is a feeling that due to certain reasons, which need not be mentioned here, the last Census Record did not correctly represent the real numerical strength of the Hindu population in the province of Bengal.

It is, therefore, desirable, that adequate steps should be taken and safeguards provided to ensure correct enumeration so that the next census may truly represent the actual strength of the Hindu population in Bengal.

We, as representatives of Hindu opinion in Bengal, deem it eminently desirable that in every case, where primary figures are to be collected in connection with the Census operations, it should be done jointly by two officers or enumerators, one a Hindu and the other a Muhammadan."

What I suggest is that the census operations should be on a strictly scientific basis, and for that purpose you should invite the assistance of all statistical institutions in the country, particularly, the Indian Statistical Institute. In the matter of appointment of officers you should take special care to see that the officers enjoy the full confidence of all the communities concerned.

Sir, one of the clauses of the Bill provides that the Central Government will appoint some of the officers and the Provincial Governments will appoint some others. Now, this dual control which is contemplated here will be unsatisfactory and will lead to trouble. (Interruption.) All the officers should be appointed by the Central Government—that will be one solution.

It is a very unfortunate fact that there is a considerable amount of communal feeling in the Provinces and the Provincial Governments may be charged, rightly or wrongly, with a desire to influence the census operations. The collection and presentation of data relating to census are very difficult and it is only experts who can do the work properly. Therefore, I suggest that there should be provisions in the Bill which will ensure that object, namely, an accurate collection and proper presentation of data relating to the numerical strength of the population. In this connection I may point out that at previous censuses the facts relating to the occupations of the people were very meagrely dealt with. Now, if you look at the census of every advanced country, you will find a great deal of accurate information with regard to the occupations of the people.

If you have to deal properly with a subject, there must be proper provisions in this Bill. There are various other matters in this Bill which should be gone into a Select Committee and, therefore, I suggest that we should not allow this Bill to be hurried through this House but that we should refer it to a Select Committee where all the different matters suggested by me and others may be fully threshed out.

Sir, I move my amendment.

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

"That the Bill be referred to a Select Committee consisting of the Honourable Mr. J. A. Thorne, Mr. J. N. Talukdar, Mr. P. A. Menon, Mr. F. E. James, Dr. Habibur Rahman, Maulana Zafar Ali Khan, Khan Bahadur Nawab Siddique Ali Khan, Bhai Parmu Nand, Sardar Sant Singh, Mr. N. M. Joshi and the Mover, with instructions to report on or before the 19th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. J. D. Boyle (Bombay : European) : May I just ask a question? I do not want to make a speech on this. I understand that the burden of Dr. Banerjea's remarks is that the census is inaccurate and it was not run on scientific lines. Is it the contention of the Honourable Member that the appointment of the Select Committee will alter that state of affairs and produce it on more scientific lines?

An Honourable Member : The Select Committee can make suggestions.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) : I have very few remarks to make on this matter, but I do so to substantiate what my Honourable friend just now said. If one carefully examines the last Census report, one is convinced that it scintillates with errors, and of a very glaring nature, and to say that it is a creditable performance is to misuse the word. Errors have crept in everywhere. Let us refer to the figures regarding my community. I know that the Census report of the community I represent is hopelessly inaccurate. I also appreciate the great difficulties that arise in connection with the taking of our census figures, owing to the migratory nature of the community, especially in regard to children—who go from school

[Lieut.-Colonel Sir Henry Gidney.]

to school at the time the census is taken when most schools are closed down. I know the difficulties are very very great. I think myself the advice that the Mover of the amendment has given to Government is a very sound one and should be accepted. I think that Government should issue instructions to the Provincial Governments or to those who take the census that there should be a more adequate number of enumerators and these enumerators should be members of the community whose census they are taking. The Mover rightly pointed out that a great deal depends on the correct recording of the census, as political representation of the future will largely depend on the population of a community. I do submit that, as far as my small community is concerned, unless a more careful census is taken, the error will still remain and the strength of my community will be underestimated. This is the point which I wish strongly to bring to the notice of the Government.

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

The Assembly reassembled after lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, I want to make very clear the proposition of our Party that we do not really, in any way, want to be in the way of my Honourable friend if he wants to move his motion for a Select Committee but we do not think that we can agree that this should be at all necessary. We do not think that it is really necessary to postpone this Bill for a Select Committee or that anything would be gained by a further postponement. If the Government think that they are willing to accommodate them, then of course we do not want to say that it should not be postponed or no Select Committee should be accepted. We have given our Party's name only on this understanding that if it goes to a Select Committee, then they will be willing to work on that, but I do not think there is any great necessity for it to go because I do not think that the points which have been made by Dr. Banerjea can be embodied in this Bill or any improvement can be made in the shape as he desired. I would like to say that my friend has got a complaint that the last census was not correctly recorded, and so has Colonel Sir Henry Gidney said that the census for his community was not properly taken. My friend, Dr. Banerjea, suggests that there should be always two persons going together, a Muslim and a Hindu, when they go out to record and find out whether persons are properly recorded or not, but what I understand is that Colonel Sir Henry Gidney will then come up and say, "why not also add an Anglo-Indian", and then we may have somebody else coming up and saying, "why not an Indian Christian", and in some other cases we will find other interests also saying this, and we will thus have a team of all interests going about and walking into every house to find out whether people are properly recorded or not. I do not think that this proposition is really sound or can be seriously taken, that we can send out about six people for a mohalla in Calcutta. Then we will require to have about half a dozen people in Bombay for half a dozen other interests, then special arrangements will be demanded for towns and villages in the Punjab, and then someone will say, "why not a depressed class man". Then,

some will say, "there must be a Sikh, there must be a Hindu, there must be some Anglo-Indian or an Indian Christian", and it will then mean that in every village, practically in every locality we will have a team of five or six persons going round. I do not think that this proposition is seriously meant; but, in any case, if that is the sort of safeguard demanded, then we want to make it perfectly clear that as the circumstances are that in nine Provinces out of eleven there is a Congress ministry, and since it is they who will appoint the people, so it is we really who have a grievance, who may think that our interests may not be properly safeguarded, and we should feel quite happy if in those Provinces where the Congress are ruling at least there should be two persons so as to see that one does not commit any mischief, a possibility that my friend has in view. My friend has got in view only those Provinces where the ministry is non-Congress. His grievance may be in respect of two Provinces but we have got a grievance in nine Provinces. So we shall be quite happy to see that but I do not think that this provision we can make or put down in the Bill. If this provision cannot be made in the Bill, if there are suspicions and the work is not entrusted to Provincial Governments, we have got no quarrel with Dr. Banerjea and the Government of India that in order to get a proper record of the census they may take all the precautions, but I can assure Dr. Banerjea that at least one thing is settled; whether the census is fictitiously or rightly altered, the question which he has got in view is not going to be affected at all. Supposing the Mussalmans are found now to be 60 per cent., for instance, well, they will not get anything more, and in the Punjab also in that case they will not get anything more, so if the Hindus gain something more in numbers, nothing is going to be altered. These things are all old things. So my friend should not bother himself about this narrow-minded thing: the idea must be not this political idea but really an administrative idea that we should have proper records and we should see that there should be no spoiling of the proper records which may be useful. But if my friend fears that it may give an incentive to some people who may not be possessing the high ideas of my friend and make them tempted, if not in the past, but in the future to make false records in their zeal to gain something more for their community, then I would deplore that day if it comes, but I do not think that the Bengal Government will employ Mussalmans only, they will employ both Hindus and Mussalmans, and so should the other Governments do and they will do it and they have done so in the past, and then there should be no such kind of feeling entertained. There is no reason to assume that if a Mussalman will be employed, then he will be a dishonest man, nor can anyone say that if a Hindu is employed, he will be dishonest. This is the insinuation which lies behind my friend's proposition that every Mussalman who will be employed will tamper with the records and will seek falsely to give a preponderance to his community, and we should reject this insinuation. If, however, my friend wants to have security and wants to draw the attention of the Government of India that they must see that a proper census is taken, then we shall be very glad, for the sake of our community which may suffer if things happen such as he believes to be possible, if precautions are taken but we do not think that anything will be gained by this Bill going to a Select Committee.

Dr. R. D. Dalal (Nominated Non-Official) : Mr. Deputy President, I cordially welcome the Census Bill ; and I oppose the amendment moved by my Honourable friend, Dr. Banerjea. I am strongly of opinion that no useful purpose will be served by referring the Bill to a Select Committee.

Now, Sir, with your permission I shall refer to one or two important points. Sir, the taking of an accurate census depends upon the goodwill of those to be enumerated ; and resentful, evasive, careless, or inaccurate replies on any large scale to the schedule questions would vitiate the statistics. In rural areas, the census is still regarded by the ignorant masses as associated with something unpleasant, and there still lingers the suspicion that Government do not spend time and money on such a large scale just to get figures, and that some ulterior sinister motive such as military service, taxation, etc., is associated with the taking of a census. In urban areas the growing standard of education is helping to brush that suspicion away. So every available agency should be used to bring home to the public the importance of the counting, and to inform the public that the census is used as the basis for electoral calculations, for estimating the demand for public services, for throwing light on housing and overcrowding conditions and so on ; and because the willing co-operation of the public is required, the questions to be answered should be made as simple as possible, provision should be made for enabling the credentials of census enumerators to be verified, and every effort should be made to overcome what lingering prejudices and suspicions there may be against the census.

Now, Sir, I come to a very important point on which I should like to say a brief word. The point to which I refer is that a decade is in my opinion too extended an interval between each census. It is obvious that additional facts and figures are required as the habits and conditions of the people change. There is also a limit to the capacity for answering census questions which can be developed only by more frequent experience. Students of demographic statistics and social affairs have for over 50 years been pressing for a quinquennial census, and the arguments for it have gained in strength during that period. The actual population of a community is known only by census enumeration. For intercensal periods only estimates of the population are made. The growth of the population of a community is determined by excess of births over deaths, i.e., natural increase, and by the balance between immigration and emigration. But the method of estimating the intercensal population is very unsatisfactory. In India registration of vital statistics is extremely defective, and migration returns are not available. As an illustration let us consider the population of Delhi Province according to the census of 1921 and the census of 1931. The difference between the variation according to the census and the variation according to vital statistics comes to 94,662 persons for a small province like Delhi. Under the Roman system the enumerations of the population were made every five years. In Canada, Australia, South Africa, France, Germany and the United States of America, the census is quinquennial. In Great Britain the census Act of 1920 enables a quinquennial census to be taken. So, Sir, reliance upon a decennial census is now too expensive an economy. It is of vital and signal sociological importance to have an accurate picture of distributions in occupations,

age-groups, and areas. Knowledge of occupational changes is now specially pressing as a business and industrial necessity. The changes in ten years are so great, so much that they significantly affect all our outlook upon the policy of social services, provision for transport, water-supply, drainage, housing, in fact every collectivised social activity. Sir, it is urged that a quinquennial census is an expensive and laborious undertaking. In this connection, I would inform this Honourable House that the progressive expenditure up to 31st March, 1936, on the decennial census held in 1931 was Rs. 48,92,361 ; so the census expenditure works out at about ten lakhs a year. This expenditure may be derided in some quarters as an unprofitable business. But, Sir, I submit that this expenditure is not an extravagance—it is a sheer necessity, and that exact social knowledge will yield a handsome return upon the cost.

Sardar Sant Singh (West Punjab : Sikh) : Sir, I will place before the House a few facts regarding the need for sending this measure to a Select Committee. As has been observed by the Honourable the Home Member, this is primarily a peace measure. Therefore, in the present state of affairs, it cannot be said to be an emergent measure. There is no emergency about it. Therefore, if you can improve upon this Bill, I should welcome the suggestion for reference to a Select Committee. This will go to improve the value of the labours which the Census Commissioner will have to bring to bear upon the operations of such a magnitude as are required in this country.

Let me begin by saying that whether we agree with it or not, there exists evil in enumeration. You have heard representations made from responsible quarters, and you have heard my Honourable friend, Sir Henry Gidney, making a complaint of enumerators during the last census. I do not think Sir Muhammad Yamin Khan was justified in minimising the effect of this evil. If he is not convinced as to the existence of this evil, I may inform him that similar complaints were heard amongst the members of all communities. As a matter of fact, at the time of enumeration, there was a race between the enumerator to show exaggerated figures of the community to which they happened to belong. Not only this that it was an evil then, Sir Muhammad Yamin Khan said that it might have been due to the changes in the constitution which were contemplated at that time.

Sir Muhammad Yamin Khan : I never said that.

Sardar Sant Singh : You said that in the communal award there is going to be no change in the representation of the communities from which I inferred that you were referring that this evil was due to.....

Sir Muhammad Yamin Khan : But the Honourable Member cannot say that I meant that.

Sardar Sant Singh : I am only saying that I inferred from the Honourable Member's speech that he was referring to this. I think it will be interesting to the House if I were to inform them that, before this Bill was introduced in the House, activities had begun among several communities to find out the ways and means to show increased numbers in their respective communities. The most apt illustration which I can give is a move amongst the depressed classes in the Punjab. I happened

[Sardar Sant Singh.]

to be invited in a conference of theirs. They were Sikh members of the depressed classes, and actually I found two factions attending that conference. One faction was maintaining that though they were Sikhs, they would go with the Hindus, because the depressed classes have got greater representation among the Hindus than among the Sikhs. When I asked them whether they would cease to be Sikhs, they said no. But, they said, that they would like to adopt this policy. What the word "policy" meant under the circumstances, I failed to understand. But I am telling you this as a fact. On inquiry I was told that a Hindu organisation, a respectable body, I do not want to name it, had actually paid the workers there to go and instigate such a movement so that the Hindu population may be considered to be more than what it is. Now, the very fact that this feeling is there proves that the evil does exist. There is no doubt about it.

Now, the question is, how to remedy it? I do not think my friends of the Muslim League Party will disagree with me that the evil must be put down. If this evil exists, it deteriorates considerably the value of the statistics compiled as a result of the census, and we are out to compile right statistics and not the wrong ones. If it is so the question is, how to combat this evil? One remedy has been suggested by Dr. Banerjee, and it has been challenged by Sir Muhammad Yamin Khan and probably has been accepted by Sir Henry Gidney. I, as a matter of fact, am prone to agree with Sir Muhammad Yamin Khan rather than with Dr. Banerjee. I do not think it is practicable or administratively possible to have a panchayat enumerator to go about in several places and do the work of an enumerator. What I suggest for the consideration of this House—and this is a matter which can be very well threshed out in the Select Committee—is that the provisions as embodied in clauses 10 and 11 of the Bill should be thoroughly overhauled. Clause 9 (b) says :

"Any census officer, who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of, a census return."

Then comes the penalty clause. Now, this is quite a healthy check; there is no doubt about it. I am not dealing with the amount of penalty, but the check is there. But this check is entirely done away with by what follows in clause 10. Clause 10 says :

"No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government."

That is to say, the offence has been created, but the trial of that offence has been circumscribed on account of considerations which I may call administrative considerations. In fear that the prosecution may not become too general, the executive wants to have the control of initiation of prosecutions in their own hands. That has been the policy followed in the Code of Criminal Procedure too. But the question is that when the evil has become so rampant, the circumscribing of these prosecutions does away practically with the existence of the pri-

vileged class. Further, in clause 13, another provision has been made in the Bill which runs thus :

"No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 8, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act."

This clause has two parts. I have nothing to do with the second part, which relates to the admissibility of the return in evidence excepting in the prosecution cases. That is all right. But what about the first part? Supposing I suspect an enumerator to have given a false return knowingly of the number of persons or their religion or any other matter with which he was entrusted. I have no access to the return made by him. That being the case, how can I be sure whether he has given a right return or a wrong return? This has practically the effect of doing away with the safeguard which is embodied in clause 8 of the Bill. This will have to be looked into. My own suggestion is that in the Select Committee we should make this provision stringent, and we should suggest that there should be a host of enumerators, so that no injustice can be done to any community. It is in our power that a very stringent provision can be made by which any false return given by any person knowingly shall be punished promptly as well as effectively, so that the enumerators must know that they have nothing to fall back upon and no protection has been afforded to them. With this knowledge, there can be a probability that things would come out correctly instead of leaving it entirely in the hands of the executive to launch a prosecution or not. We have to consider, therefore, that in the Select Committee we can look to the statistics of 1931 census, and we can find out from those records what sort of complaints were made by various people during the operations of the census. By looking deeply into these matters, we may be able to discover certain ways and means by which the value of the census reports may be enhanced. Therefore, I plead very strongly with the Honourable the Home Member not to disregard this problem. After all, we are spending a lot of money, and we are going to disturb the ordinary business of people in order to compile a scientifically true record, a record from which we can draw scientific conclusions, and that is a big thing, and not a small thing.

With these few words, I submit that the Bill should be referred to a Select Committee. After all, the Committee is to report by the 19th instant which is not a very long time. This Bill is almost entirely a copy of the old Bill. It has been found that, during the last census, there were certain evils, and we should, therefore, try to improve the Bill by removing those evils and make it most useful to the society.

Sir, I support the motion for referring the Bill to a Select Committee.

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : Sir, I am sure the House is beholden to my

3 P.M.

Honourable friend, Dr. Dalal, for raising the debate to a higher level from the plane of mere controversy. With regard to the present Bill I do not think we have any serious fault to find with it in view of the Acts which have governed the census taken in India every

[Sir Syed Raza Ali.]

ten years. I can, however, say that in those countries where greater attention is paid to the social welfare of the people and larger sums are spent on them than unfortunate India can spend, very great care is taken to have elaborate information with reference to the economic position of the people. I know something about the manner in which the census is conducted in South Africa. Being a very rich country, in addition to the usual census they have another census taken, the foundations of which were laid by a commission appointed by Government known as the Fact Finding Commission which made it its business to gather elaborate information with reference to the economic position of the people and the occupations which certain important classes of the people were carrying on in that country. I know that the Government of India and its officials will be very busy in the future on account of the conflict that is raging in Europe, but I would venture to make a suggestion. At present only a man's occupation is taken down in the census records on reference to which you can find out whether a man is an agriculturist or an industrialist or a landlord or a Government servant. This information, however, is too scanty to be useful on important occasions. I would suggest that, if possible, two or three columns should be added to the classes in which information is divided by the enumerators which would throw light on the real economic position of the people. India's problems, as far as I can see, are more economic than mere political. Our real hardship is that the population of the country is too large to be maintained by its present resources which are mainly confined to agricultural pursuits. If valuable information on economic questions is obtained I am sure that would be very helpful not only to the Central Government as it may be constituted in the future or to the Provincial Governments but to the people themselves, and specially to those philanthropic and social organisations which are devoting themselves to promoting the economic good of the people.

I will now deal with the amendment moved by my Honourable friend, Dr. Banerjee. He adduced three main arguments in support of his amendment. One is that the past records of the census show that the information collected and recorded by the enumerators is far from satisfactory and he gave a particular instance of an inaccuracy having crept into the census record. Now, the amendment requires the Select Committee to make its report by the 19th September. I am led to make these observations on account of the remarks made by my Honourable friend, Sardar Sant Singh. The Select Committee will have not more than two weeks to improve the scope of the Bill; but I do not think any question of improving such scope arises at all. If the sole grievance is that inaccuracies occur in the census records I do not see how the Select Committee can provide against these errors occurring in 1941.

Sardar Sant Singh : I do not refer to errors but to false returns being made, knowing them to be false.

Sir Syed Raza Ali : That is provided for in the Bill itself and I expect every Honourable Member to read the Bill before discussing it.

Mr. M. S. Aney (Berar : Non-Muhammadan) : The difficulty is that that is a provision for cure and not for prevention. He wants to prevent the evil and not simply to cure it.

Sir Syed Raza Ali : He has given no indication as to how he wants to bring about that prevention. And if 14 days are required to consider a minor point like this then even two years will not be long enough for consideration of the entire Bill. Dr. Banerjee's point was that the Select Committee will try to devise means to prevent inaccurate records being made in the census. With regard to that I say that it is impossible for any Select Committee or for any human agency, as a matter of fact, to provide against inaccuracies of that character.

The second ground on which Dr. Banerjee moved his amendment was that intentional mistakes are committed by enumerators guided by racial considerations. To provide against it he submitted that instead of one there should be two enumerators at least to do any work in connection with census operations. Rather weighty and serious objections were raised to that course by my Honourable friend, Sir Muhammad Yamin Khan. May I supplement those objections by one more? What is to happen, assuming that there are two enumerators, one a Hindu and the other a Muslim, if there is a difference of opinion between the enumerators themselves? You must have an arbitrator.....

Mr. M. S. Aney : The superintendent is there.

Sir Syed Raza Ali : I am thankful for the interruption, but does Mr. Aney know what the duties of a superintendent are?

Mr. M. S. Aney : May I inform my Honourable friend that I have myself worked as a census supervisor in the census operations of the year 1910-11? He can check the work of the enumerators all right.

Sir Syed Raza Ali : I understand a superintendent is the officer in charge of census operations in a Province. May I ask Mr. Aney what he would do if, being the superintendent for a certain area, one hundred cases of differences between enumerators were brought before him every day? I am sure he would resign the moment a thing like that happened. After all let us see whether anything we are suggesting has any real practical aspect or not. I do not want to repeat the arguments very clearly and cogently stated by my friend, Sir Muhammad Yamin Khan.

I will now come to the last ground which was given out by my friend, Dr. Banerjee, as a ground for his amendment. It would take away the breath of every patriotic Indian. He is so distrustful of Provincial Governments that he would rather like to give powers to District Magistrates but he is keen on taking away the powers from the Provincial Governments.....

Dr. P. N. Banerjee : I never said anything about District Magistrates.

Sir Syed Raza Ali : You did not. That is the basis of my argument. My Honourable friend did suggest in most clear and definite terms that these powers should be taken away from the Provincial Governments and should be handed over to the Central Government. He did not say anything about the District Magistrate, from which I am perfectly right in inferring that he does not propose to take away the powers that the Bill proposes to give to the District Magistrate.....

Dr. P. N. Banerjee : That does not arise at all.

Sir Syed Raza Ali : My argument is there, as clear as anything. Since I have had the privilege of coming to this House about eight months ago, I have been a sad witness of many an unfortunate spectacle ; but I do not think I have seen anything so miserably short-sighted as the implications of the proposal made by my friend, Dr. Banerjea. If we are not to trust our Provincial Governments, which is the body of public servants whom we can trust ? Is there any body of officials in whom we can place reliance at all ? Dr. Banerjea disavowed any intention of attacking District Magistrates. I am glad he did so, but if we are not prepared to trust our Provincial Governments, would we be justified in trusting our District Magistrates ?

Dr. P. N. Banerjea : You may change that in the Select Committee.

Sir Syed Raza Ali : Would we be justified in saying that we must not trust those who decide cases, criminal, civil and revenue, in the law courts every day ? If I may for a moment revert to the suggestion to have two enumerators, I say that it would be establishing a most dangerous precedent, in that it would be open to the people of any Province where the Muslims form a fairly large proportion of the population to demand that every case should be tried by two judges, one a Hindu and the other a Muslim. Does my friend realise what a dangerous precedent his proposal is going to establish ? For these reasons I oppose, and strongly oppose, the reference of the Bill to a Select Committee.

Before I sit down let me come to the point raised by my Honourable friend, Sardar Sant Singh, with reference to clause 13 of the Bill. I think there is something worth consideration in the suggestion he has made. As we know, the last census was taken in 1931. Political consciousness has developed since then—whether on right or unfortunately on wrong lines—very fast indeed ; and though I cannot claim that the thing has come to my notice, it may be that certain enumerators guided by wrong and hopelessly mistaken communal zeal might be inclined to give an exaggerated number of the people belonging to their own community. It is a possibility. How are we to guard against that possibility ? I realise that clause 13 does not meet the requirements of the case. Suppose an enumerator records me as an Arya Samajist and I want to know whether I have been described as a Muslim and a Syed or as an Arya Samajist. If the information is withheld from me, it would be impossible for me to take any step in the direction of having the record corrected. I quite realise that this danger is greater today than it was ten or twenty or thirty years ago. Personally, I think that in the case of a *bona fide* seeker of the information entered by an enumerator with regard to himself it should be open to him to demand an inspection of the register, subject to certain safeguards. I know that it can give rise to a certain amount of inconvenience, but it is most important that facts should be correctly recorded specially when feelings are unfortunately running so high in certain Provinces.

As to clause 10, I do not think I agree with Sardar Sant Singh because unless there is an authority to give sanction before a prosecution is launched, it would be impossible for any enumerator to carry out his duties. In the absence of sanctioning authority there may be one dozen prosecutions against an enumerator in one day by 12 unscrupulous people. They may all combine to charge him with making wrong entries. Now,

is your enumerator to be faced with so many prosecutions without anybody satisfying himself whether the allegations made against him are *prima facie* correct. Therefore, Sir, while I do not agree with my friend, Sardar Sant Singh, that there is necessity to amend clause 10, I think for the considerations urged by him, to which I have added others, there is every need to amend clause 13 in such a manner as to provide a proper check on the activities of unscrupulous enumerators. However, this is a matter which can be gone into while we are going through the Bill clause by clause. I am waiting to see what the Honourable the Home Member has got to say, and I am sure that if he agrees with us, it will be possible for us, without referring the Bill to a Select Committee, to amend clause 13 in such a manner as to prevent the apprehended evil to which reference has been made.

Mr. M. S. Aney : Sir, before I came to this House, I was not quite sure whether a motion for reference to a Select Committee was justified or not. After having heard the speeches on the floor of the House, I found very good and strong material to support the motion of my friend, Dr. Banerjea. The very fact that the motion for reference to a Select Committee has evoked contrary expressions of opinion with a good deal of feeling behind it, is, in my opinion, sufficient justification for sending the Bill to the Select Committee and getting the matter threshed out coolly and dispassionately across the table. We all know how matters are discussed in Select Committees, and most of us have experience of Select Committee work for the last so many years. If a wrong point of view is urged here, the same person is more easily inclined to give in on that point in a Select Committee than here. I, therefore, think that there are at least certain points which require to be explained to those very gentlemen who take exception to the provisions of the Bill here.

Now, the main objection urged here is that in certain parts of India there is a strong suspicion amongst certain communities that the work of the enumerators is not done with the fairness with which it should be done. To say it is impossible to check mistakes committed by them is to admit that it is impossible to have a correct census at all in this country. Those who want to propound that proposition should clearly tell the Government of India that there should be no census at all in this country, because of all the documents that are being prepared in this country, the document relating to the census is the most important. It is important from various points of view, because that is the one document which is relied upon for statistical information of various kinds. It is in fact a review of all sorts of things in this country for a period of ten years. When such an important document has to be prepared, no amount of care that can be given by the Government to secure accuracy in the preparation of that work can be said to be too much. Therefore, the argument that has been urged by my friend, Sir Raza Ali, who, I am sorry to say, is not in his seat now—.....

An Honourable Member : he has just gone out and will return presently.

Mr. M. S. Aney :probably he has gone out on some urgent business, is not quite correct. My point is this. If this document is of such importance,—leaving aside any communal or political considerations,—then for the sake of securing accuracy, we ought to exercise as much care

[Mr. M. S. Aney.]

as we can bestow on it to see that the census returns are correctly prepared. It was admitted by some Honourable Members who preceded me, including my friend, Dr. Banerjea,—his speech was not free from that suspicion either,—that we should all endeavour to get at accuracy, and, therefore, all of us should think of finding out some way by which the defects pointed out here may be obviated or removed. It was stated by some it would not be possible to find out a way by which we could remove such mistakes, and the method suggested by Dr. Banerjea that there should be two men instead of one man may not be a feasible one. At the same time to suggest that it will not be possible for five or six Members of this House in the Select Committee with their long experience,—men of the type of my friend, Mr. Joshi, will be there, and we can rely upon their resourcefulness,—and find out a way to prevent inaccuracies of that kind finding their way in the census record, is indeed a poor compliment to this House. To say that there are penalties provided in the Bill against men committing deliberate mistakes is no answer to the suggestion that steps should be taken to prevent entry of those mistakes in the record itself. The record will remain uncorrected. We are concerned more with the accuracy of the record than with the punishment of the men. If a man goes unpunished, I would not feel it, but if the record is incorrect, it will do injustice to the nation. Therefore, the suggestion that this Bill should be referred to a Select Committee should be very carefully considered by the Government. Then again, Sir, the suggestion is not for taking off this Bill from this Session to another Session. There is no proposal to delay the progress of the Bill at all, but I believe it is the general desire that this measure should be discussed in the Select Committee where Members who have raised some suspicions may have a free discussion and clear their doubts in the presence of people who have had experience of census work, explain their different viewpoints and find out some *via media* so that the Bill may be free from the objections which were urged against it.

One point was referred to,—in fact Sir Raza Ali himself admitted this,—that the last clause of the Bill contained a defect which required to be remedied, namely, the provision which prevents anybody from having any access to the census records to find out whether any particular enumerator has made a correct entry or not. Now, my friend concedes that there is a possibility of incorrect entries being made, and yet there is no way of getting those incorrect entries corrected while the record is under preparation, and unless somebody has access to those records to ascertain whether the suspicions he has got are well-founded or not,—there is no way to bring such matters to the notice of the proper officers. My learned friend said that it would be impossible for the Superintendent to do anything in this matter. I do not know,—my friend may have his own experience of census work,—but, generally, a number of enumerators are kept under one non-official supervisor as well as an official supervisor. That is the procedure observed by the District Magistrate in preparing the organization for census work.

The question is the thing must be brought to the notice of the officer in one form or another and how could that be brought about? Those who suspect must have access to the register, and there must be some pro-

vision for that. What is the proper way of altering that clause I am sure even Sir Raza Ali has not thought of. He only thinks that some change is necessary, but he has not thought over the matter. If the Bill is taken into consideration now the clause will be put without any amendment being moved. That is the danger of allowing the Bill to be discussed now on the floor of the House and be considered clause by clause. If any amendment is moved now, my Honourable friend, the Home Member, will take objection on the ground that there is no notice, and I am not sure whether the Deputy President sitting there will be pleased to suspend the Standing Orders for the convenience of particular Members. If objection is taken, I am sure he will not be able to do that. So, why should you put yourself voluntarily in difficulties of this nature? You find one clause defective, and when you think over the matter in a Committee you may find some other clauses defective also.

So for all these reasons, and particularly owing to the statistical importance of the document to be prepared, I think the motion that has been moved by my Honourable friend, Dr. Banerjea, should be accepted by the Government and should be carried by this House.

Mr. N. M. Joshi (Nominated Non-Official): Sir, during the discussion of this motion, I would like to make one or two remarks. I have not ferretted out any irregularities in the figures given in the census reports, but whenever I consult the census report I find that the figures given could be improved. I am interested generally in occupational figures. I am also interested in figures regarding education and some other subjects. I cannot state now all the places where I find that the figures could be improved, but I can give one general illustration. To take occupational figures, I am interested in getting figures of wage earners, people who work as employees of other persons. Unfortunately, I cannot get them. You take agriculture, you take industry, you take commerce, you do not get figures of people who work as labourers or as wage earners.

Take agriculture. It says, actual earners. Actual earners may be proprietors, may be tenants, may be wage earners. Similarly, in industry, people work as their own masters, as artisans in a village or even in small towns. There are others who work as employees of other people. These figures are very important, but unfortunately the census report does not give them. It is very difficult to deal with the various subjects on which one could suggest improvements. Moreover, I am not really prepared with that subject today, but I can say that I have found in many places necessary figures are not given. What I would suggest to the Government of India is this, that before every decennial period they should appoint a committee of statisticians and ask that committee to suggest improvements in the figures given. It may be that the Government of India write to the Provincial Governments asking for their suggestions to improve upon the information given and the figures supplied, and the Provincial Governments may be consulting some people. But a consideration by a committee of statisticians and people who are interested in the figures will be of greater use. The Provincial Governments generally consult their officers who, I think, hate figures instead of wanting them. They cannot give the necessary suggestions; you can get necessary sugges-

[Mr. N. M. Joshi.]

tions from people who are interested in collecting figures. I would, therefore, suggest to the Government of India that every ten years before the census operations begin they should appoint a committee of statisticians and people who are interested in studying statistics and get from them suggestions for improving the figures.

As regards the controversies that have been raised about the risk of false figures being given, I feel one cannot suggest a remedy very easily. The root of the evil lies in political representation and power being based and given upon religious considerations. So long as that system remains, there is some risk always that communities who get power according to their numbers may use this opportunity to strengthen their own community. In the first place, what we can do under these circumstances is, in spite of this system, to try to trust our people. That is the best remedy. After all, every one, whether he be a Hindu, a Muslim, a Parsi or a depressed class man—generally speaking, he is an honest man, and if he is really religious, he will not falsify records.

An Honourable Member : Not in these days.

Mr. N. M. Joshi : I do not know, but if a man is really religious, he is not likely to falsify the reports. I quite agree that some suspicion will remain, but it is because of the system on which political power is based in this country. One cannot really find a remedy. Dr. Banerjea has suggested that two people should be sent, and somebody said that if they differ among themselves their work will be supervised by the superintendents. There must be two superintendents; otherwise, some people will say, one superintendent is a Hindu, and, therefore, he has done an injustice to the Muhammadans, and if the superintendent is a Muslim, the Hindus will say that he has done an injustice to the Hindus. Then you will require two commissioners.

An Honourable Member : It is not like that.

Mr. N. M. Joshi : I think it will come to that. Therefore, you will see that the remedy does not lie there. It lies in trusting each other.

An Honourable Member : Not trusting, but making the provision more stringent.

Mr. N. M. Joshi : The Magistrate will have to give punishment. If he happens to be a Hindu, he will not punish a Hindu! If you once have suspicion and mistrust, then there is no getting out of it. If one community has a very great suspicion that the other community is falsifying the records, the former community is not going to sit quiet. It will also falsify the records, with the result that a time will come when both of them will get tired and say, let us be honest now. If there is suspicion, both the parties will try the game for some time, and then they will get tired and say, let us be honest. The remedy lies in trusting, and if some people misuse the opportunity and the evil grows, then the people will come to their senses and will be honest. I feel that the Government of India should take steps to secure improved statistics, and, as regards the Select Committee motion, I feel that in a Bill of this kind there should be a Select Com-

mittee. The Select Committee may meet tomorrow or the day after, but if some people want a Select Committee, it is wrong on the part of the Government to refuse it.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : Sir, whether the Government accept the recommendation of the Mover of the amendment or not, it is my duty to point out that the charge of certain enumerators making false entries is not only based on suspicion, but also on actual knowledge. From bitter experience in the Punjab and after having toured various Provinces where I gathered information on this question, I have come to the conclusion that unfortunately in our country where political power rests on communal representation, there are a number of enumerators calling themselves nationalists who make false entries on racial considerations. The question whether in India there is one nation or there are two nations is exercising various sections of thinkers in this country. Our old friend, Dr. Moonje, only the other day contributed a very funny article to one of the papers. He said that a nation in order to be a nation must have common blood, common language and common religion, and he was kind enough to refer to the Mussalmans and said that the right of proselytisation should be taken away from the Mussalmans. In other words, he meant that the number of Mussalmans should be reduced as much as possible. Now, in this country, there are 30 crores of Hindus and ten crores of Mussalmans, and the Hindu is interested in keeping down the number of Mussalmans. Here comes the difficulty so far as the census is concerned. I cannot lay too much stress on the point that the Honourable the Home Member who is in charge of this Bill will find out some means of curbing this evil, some means of seeing to it that wrong entries are not made in the census report. Dr. Banerjea is perfectly right when he suggests that the Government should thrash out the whole question and he was followed by Sardar Sant Singh who said that stringent measures should be adopted against any enumerator who makes false entries. So legal action should be taken. Also moral action should be taken, if it could be taken. What is that moral action? Moral action according to my friend, Mr. Joshi, is that the enumerators should be religious—a thing in which he does not believe himself. Where is the sanction if the Honourable the Home Member wants to provide for it? That is all I have got to say on this subject.

The Honourable Mr. J. A. Thorne : This is an age of "records", and I must congratulate my friend, Dr. Banerjea, on creating a fresh one. When I read the account of the legislative debates of ten years ago, I found that the Home Department spokesman in one of the Houses, I think the Council of State, congratulated an Honourable Member on his unique performance in having moved an amendment to a clause in the Census Bill. That in those days, only ten years ago, was unique. Now, I have a handful of amendments to clauses, many of which I have not yet had time to read. Dr. Banerjea's achievement in moving a dilatory motion to a Census Bill is, as I say, a fresh "record".

Dr. P. N. Banerjea : It is not a dilatory motion.

The Honourable Mr. J. A. Thorne : I was not using the word 'dilatory' in any sense which would reflect discredit on my friend. I was using it simply as a term meaning that it puts off the consideration

[Mr. J. A. Thorne.]

of the Bill. There was, if I may say so, one point in his speech with which I cordially agree, and that is the need for more expert consultation and consideration in the preparation of the census. We, who have studied past censuses on paper—I admit I have never myself taken part in one—do know and feel that censuses in the past have been rather amateur performances. Very often the preparations for them have been taken up too late and they have been rushed through. The staff has been collected in a hurry and very often we have not used the benefit of previous experience. I do not claim that our census of 1941 will avoid a certain amateurishness: the real expert census costs a sum of money which the Government of India could certainly not afford to produce: but we do hope that more attention will be paid to the most modern methods of statisticians, and—not only that—the most modern methods of dealing with statistics, which is another matter—mechanical devices for dealing with statistics. We are very fortunate in that we have obtained for our Census Commissioner an officer who was Superintendent of the Census in one of the largest provinces of India during the last census; and also in that by a fortunate accident we had an offer or enquiry recently as to whether we could avail ourselves of facilities provided, I forget by what millionaire of the United States, for enquirers to visit various countries where statistical methods are most studied and make acquaintance with them. Our Census Commissioner designate was, as it happened, just going on leave and he has spent a busman's holiday, at I may say no expense to the Government of India at all, in investigating the latest methods in several European countries and in the United States and Canada. So that I do hope we may be able to get results in this census which will more closely correspond with the rising standards of statisticians than has sometimes been the case in the past.

Well, Sir, I have listened carefully for adequate grounds to be shown in support of my friend's motion for reference to a Select Committee and I think that without exaggeration I can claim that the grounds have not been adequate. The fact that the last census and previous censuses contained errors—errors both absurd and accidental such as the one that my friend, Dr. Banerjea, quoted—and other errors the causes of which may be deliberate and deceitful, that fact is one which does not help us in deciding whether this Bill should go to a Select Committee. I think it was the Honourable gentleman who spoke last who seemed to despair of the Select Committee finding a solution for deliberate falsification and he appealed to the Home Member to do it. Well, certainly I shall give my thought to it but I despair of finding a remedy myself or of a Select Committee devising one in the few days which it would have to consider the matter.

My friend, Sardar Sant Singh, rather surprised me by finding fault with clause 10. Now, clause 10 says that “no prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.” This, so far as I could follow him, was supposed to be a cloak for the knavery of enumerators and census-officers who would commit offences punishable under clause 9 (b) of the Bill. I must say that I am rather astonished at that imputation. This is an old provision,—clause 10; it corresponds with section 11, sub-section (3)

of the existing Act, the Act of 1929, and is found in previous census enactments; no one, so far as I know, found fault with it in the past, and it seems to me a quite obvious measure for the protection of the subject—not just the enumerator, the census-officer or any official—but the protection of the ordinary subject, whatever he be, against capricious complaints. Now, there is a clause which attracted fire from several critics—clause 13. My friend, Sardar Sant Singh, Sir Raza Ali and I think Mr. Aney also, objected to clause 13. Well, I was quite prepared to defend clause 13, but the part of which I was going to defend was the concluding few words where we have introduced an innovation as compared with the Act of 1929. However, no one referred to that, but the objection is that the clause as it stands will prevent—so far as I understand the objection—a person who may suspect that the information given by him has been wrongly recorded from verifying his suspicions and getting the record corrected. Well, I do not for one minute make light of the possibility of that happening. We have heard so much about communal devices for falsifying the census that it would be absurd for me to say that that suspicion is baseless, but I do think that as regards the terms of this clause it is a rather academic objection. The clause was discussed by Dr. Hutton after the last census, and he said that the defect of it as it then read was this, that advantage was taken of it to get hold of records of the census for purposes which they were not by any means intended to fulfil. For instance, there were many applications ten years ago, or rather later, for the records of the census in order to prove or disprove complaints made under the Sarda Act: and again a number of ingenious people attempted.....

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

.....to get these records produced in courts in order to support or rebut alibis for criminal offences. To prevent that sort of dodge we have made an amendment in the last few words of it which the eagle eye of any critic has not attracted: but I mention that to show that the only difficulties found with this clause as it existed in the 1929 Act—I am pretty sure that it existed in much the same terms in the previous Acts—were those that I have mentioned. If there had been numerous cases of people who wanted to inspect the records in order to verify whether the entries had been correctly made, for communal reasons or otherwise, I think we should have heard about it; but even if there had been many such applications, I very much doubt whether we should be right in providing a machinery for acceding to the requests. After all, the information obtained by our enumerators is and should be confidential. You may say, “why should not A who gives the information have access to the record where it is put down?” Well, if you are going to allow A to have access to that record, how can you prevent B and C from also having access? I fear that any measure such as that which Sir Raza Ali suggested would destroy the value, the confidential nature, of our record and induce more suspicion of the enumeration. I might point out that no one has, so far as I have seen, given notice of any amendment of this clause, so that these fears and suspicions seem to have been generated within the last few hours.

Now, Sir, Sir Raza Ali and Mr. Joshi were anxious that we should obtain more economic information in the course of our 1941 census. Now,

[Mr. J. A. Thorne.]

I think I am right—I have not before me the schedule, as we call it, of the 1931 census—but I think I am right that in the schedule as we have drafted it tentatively for the criticism of Provincial Governments, we have provided for a little more—I do not say much more—but for a little more information as regards the occupational statistics. Whether we could provide much more I very much doubt, because every item added to the schedule means an addition, and it may be a very large addition, to the cost of the census; it adds to the cost of the enumeration, the enumeration takes longer, and of course the subsequent compilation and tabulation may be very largely increased; and if we are to keep within what the Finance Member is prepared to give us for our 1941 census, I very much doubt whether we can get a great deal more information on occupations. One point my friend, Mr. Joshi, mentioned was that the census should show much more information, for instance, about wage-earners. Well, that is subject to the criticism I have just made. But I understand from my Honourable Colleague on my left that that is a subject which is coming up for consideration at a Conference of Provincial Labour Ministers in November next. They will specifically consider how it is possible to obtain a great deal more information about wage-earners of the kind which, I think, Mr. Joshi would desire. It is, I think, recognised that it is very difficult to combine inquiries of that sort with the decennial or periodical census of population, because the capabilities of the inquirers have to be considerably more specialised than the capabilities of the people we have to rely on as enumerators for mere population.

Well, Sir, I think I have covered most of the ground which previous speakers have traversed. To return to the need for a

4 P.M.

Select Committee, I have not heard anything that would induce me to suppose that we should get a more satisfactory Bill by referring it back to a Select Committee and I must, therefore, oppose that motion.

Now, there is one point which I would like to mention before I sit down and that was brought up, I think, by my friend, Mr. Dalal, in a speech which has already been remarked on as discussing this subject on a high level. If I understood him aright, he pressed for a quinquennial census. That, of course, is not a new suggestion; he would not claim any novelty for it. He mentioned countries where quinquennial censuses are held; and we have had it put before us in India by two statisticians, Messrs. Bowley and Robertson, who came out a few years ago to make suggestions for improving our statistics. It was considered then and I think the conclusion was reached that the quinquennial census—which means also the maintenance of a permanent census staff—was very desirable but it was one of the many luxuries that India cannot afford.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I wish to speak on this motion.

Mr. President (The Honourable Sir Abdur Rahim) : But the Honourable Member in charge of the Bill has already replied to the debate.

Mr. Lalchand Navalrai : I got up before the reply but I could not catch the eye of the Chair.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot speak now.

Mr. Lalchand Navalrai : It is open to you, Sir, to allow me to speak even now. Even if a Member wishes to put some grounds which have not yet been mentioned before the House, he cannot be given an opportunity to speak?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had plenty of time, and if he did not rise in time or failed to catch the eye of the Chair, the Chair cannot help him.

The question is :

“That the Bill be referred to a Select Committee consisting of the Honourable Mr. J. A. Thorne, Mr. J. N. Tahukdar, Mr. P. A. Menon, Mr. F. E. James, Dr. Habibur Rahman, Maulana Zafar Ali Khan, Khan Bahadur Nawab Siddique Ali Khan, Bhai Parma Nand, Sardar Sant Singh, Mr. N. M. Joshi and the Mover, with instructions to report on or before the 19th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was negatived.

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

“That the Bill to provide for certain matters in connection with the taking of the census be taken into consideration.”

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

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

“That clause 9 stand part of the Bill.”

Maulvi Muhammad Abdul Ghani : Sir, I beg to move :

“That in sub-clause (b) of clause 9 of the Bill, after the word ‘return’, occurring in the third line the words ‘makes incorrect record of nationality or religion of a person’ be inserted.”

In sub-clause (b) of clause 9 it is mentioned that the person who makes a false return will be punished. A false return, in my opinion, does not include a return about the proper nationality or the religion of a person. Sometimes it happens that a common name is given to a person. For instance, a Muslim is named ‘Buddhu’ and a Muslim woman is named ‘Itwarya’. An enumerator, say a Hindu, while writing these names, can easily say that they are Hindus by religion. There can be no check on this sort of thing. But if it is found and brought to the notice of the census-officer by any person, provided the word ‘nationality’ or ‘religion’ is there, then the person who makes an incorrect record of the religion or nationality can be punished. I, therefore, thought it proper to move this amendment and I hope that the Home Member will see that it is not injurious or inconsistent.

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

“That in sub-clause (b) of clause 9 of the Bill, after the word ‘return’, occurring in the third line the words ‘makes incorrect record of nationality or religion of a person’ be inserted.”

The Honourable Mr. J. A. Thorne : Sir, I am not sure that I have understood the purpose of this amendment. I thought perhaps the Honourable Member was making some distinction between a false return

[Mr. J. A. Thorne.]

and an incorrect record. But apparently he does not mean by incorrect, inadvertently incorrect, but merely means false : so that that distinction is not intended. Then I again thought he meant some distinction between "return" which is the term used in this sub-clause and "record" which is the term used in his amendment. But that again I think is a misconception. I think his "record" is actually the same as what in our Bill we call "return". So that the only purpose of his amendment that I can see is that instead of having a fully comprehensive term "any false return", he would add to it a special case of an incorrect record, or shall we say "false record" or return, of nationality or religion of a person. My objection to that is that it is quite unnecessary to elaborate a comprehensive term by adding special instances which any court will regard as included within the general expression.

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

"That in sub-clause (b) of clause 9 of the Bill, after the word 'return', occurring in the third line the words 'makes incorrect record of nationality or religion of a person' be inserted."

The motion was negatived.

Mr. Lalchand Navalrai : Sir, before you put the clause, may I point out that I sent notice of some amendments to this clause at 9 this morning. I wish to know whether I can move them.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member did not give notice within the period of time required.

The question is :

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10, 11 and 12 were added to the Bill.

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

"That clause 13 stand part of the Bill."

Sir Syed Raza Ali : Sir, I rise to make a few observations on this clause. The points raised by clause 13 of the Bill are rather important. The Honourable the Home Member in replying to the criticisms that have been offered in the course of general discussion on clause 13 referred to the difficulty with which census officers and the administration in fact would be confronted if entries made in connection with census operations were to be admissible in evidence in courts of law. In fact Honourable Members will find on reference to clause 13 that the clause divides itself into two clear parts, first "that no person shall have a right to inspect any book, register or record made by a census officer in the discharge of his duty as such or any schedule delivered under section 8". The second part of the clause protects these records from being sent for by any party to a case in a court of law in spite of the provisions of the Indian Evidence Act. Now, Sir, I do not know how far the Honourable the Home Member is prepared to meet the wishes

of this House. It seems to me that this clause can clearly be redrafted in such a manner as to allow a man to inspect an entry concerning himself made by the census officer in the course of census operations. It ought not to be open to him to inspect the records generally with reference to other persons. But with regard to himself, it should be open to him to examine the entry.

Mr. M. S. Aney : What about his minor son ?

Sir Syed Raza Ali : I do not know whether the question of a minor son should be provided for or not. But I think my Honourable friend, Mr. Aney, is perfectly justified in raising this point. I think most of the objections will be met if the clause were amended in the manner I have suggested. If I find that the Honourable the Home Member is prepared to meet the wishes of the House, I would formally move. I will try to make as little change as possible in the wording.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move any amendment now.

Sir Syed Raza Ali : What I propose to do is this. If the Honourable the Home Member agrees, I shall move, otherwise not.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move any amendment now. He should have given previous notice.

Sir Syed Raza Ali : In that case I shall move that the further debate be adjourned till tomorrow. It is already 20 minutes past four o'clock.

Mr. President (The Honourable Sir Abdur Rahim) : He cannot do that now.

Sir Syed Raza Ali : If there is any substance in the point I raised with regard to this clause—and I do think there is—I am quite prepared to move a formal motion and ask your permission to move it.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move that now. That is the practice of the House.

Sir Syed Raza Ali : May I at least move that the consideration of this clause be deferred till tomorrow ?

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow that.

The question is :

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14, 15, 16 and 17 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. J. A. Thorne : Sir, I move :

"That the Bill be passed."

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

"That the Bill be passed."

Mr. Muhammad Azhar Ali : Sir, I wish to say a few words on this third reading. On principles of equity, I do not think it is a proper Bill, because, while Government have considered it in its proper perspective in certain places, they have not done so in other places. For instance, in clause 9 (f), they have inserted the words "knowingly and without sufficient cause" in the interest of Government officials, whereas they have not put these words in other places where they should have been inserted. In all legislation on criminal matters the intention is taken into account and Government have yielded on such matters, but here somehow we feel that Government have not inserted these words. For instance, in clause 9 (a) these words are absent.

Mr. President (The Honourable Sir Abdur Rahim) : All these clauses have been discussed and accepted by the House.

Mr. Muhammad Azhar Ali : Yes, but I want Government to consider these suggestions. These are defects in the Bill and Government should take steps to correct the mistakes—I sent in amendments, but I was late ; still I hope Government will take note of these defects and correct the Bill accordingly.

Mr. Lalchand Navalrai : Sir, I feel that greater consideration should have been given to the Bill than is being given now. The point on which there was great discussion was in respect of errors in the registers that were prepared but there are several legal points which a Select Committee should have considered. My first reason for urging that this Bill should be thrown out is that this Bill has not been properly drafted as is usually done. My Honourable friend the Home Member said that this is more or less a reproduction of the old Bill with a few alterations ; but he has given no reasons for the clauses or for the alterations. When an important Bill is presented we generally find some notes on clauses but we do not find them in this Bill. The Statement of Objects and Reasons consists only of two lines as follows.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not read all that.

Mr. Lalchand Navalrai : It is very small and I want to strengthen my argument. It says :

"The object of the Bill is to provide for the taking of a census in 1941. It reproduces with certain alterations the provisions of the Indian Census Act, 1929 (Act X of 1929)."

Not a word is said about the reasons for the alterations made. I say that this should have been made clear and instead of hurrying the Bill through it should have been sent to Select Committee. The Honourable Member said that hitherto things have been done in an amateur manner and more attention will be paid now. Therefore, he would have been well advised in sending it to a Select Committee.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, the Honourable Member is questioning the decision which has been recorded by the House.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not in order in discussing this.

Mr. Lalchand Navalrai : The Honourable Member said the alterations are very formal and so the Bill should be passed but there are many important points to be considered. First of all there is a legal point in clause 11 which should have been considered.

Mr. President (The Honourable Sir Abdur Rahim) : All that has been considered and the Honourable Member cannot discuss that.

Mr. Lalchand Navalrai : I am submitting generally.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot discuss the clauses on the third reading.

Mr. Lalchand Navalrai : I am not discussing the clauses at all. I say the Bill should be thrown out, I am giving the reasons. The law question has not been properly considered and, therefore, the Bill should be thrown out.....

The Honourable Sir Muhammad Zafrullah Khan : That is a reflection on the decision of the House. The House has considered it and passed it.

Mr. Lalchand Navalrai : Then why should we speak on the third reading at all ? I say that there should be one enactment under which punishment should be meted out, if it is a special Bill. Here, it is provided that punishment will be given under this Act as well as under any other law that may be pertinent to this Act. I say that on this ground also the Bill should be thrown out. Then there is the question of punishment. The figure of 50 rupees has been raised to 200 rupees all at once. This is an additional ground why the Bill should be thrown out.

Maulvi Muhammad Abdul Ghani : Sir, the Bill is going to be passed and sooner or later Government will have power under the Act to frame rules. This is the proper time when I should draw the attention of the Government while framing rules to the fact that in the last census we found that the only caste system among the Muslims which has been recorded is Momin and Non-momin. In the previous censuses of 1921, and before, all castes among the Muslims were mentioned. In the last census of 1931, no caste was mentioned except that of Momin. The words Momin and Non-momin are resented very much by the Muslim community. There is no caste among Muslims, and I would, therefore, ask that instructions be issued that the word "Momin" should not be used against any particular class of Muslims. All Muslims should be written as Muslims—the caste system of Syed, Sheik, etc., has already been abolished, and the word Momin also should be abolished.

The Honourable Mr. J. A. Thorne : Sir, I will not refer to the details that have been mentioned in the third reading, but I should like to say this to my Honourable friend, Mr. Lalchand Navalrai. I should be very sorry indeed if he left this Chamber with any sense of grievance and more sorry if the sense of grievance was against me. I think one of his grievances is that I by rising to reply just now shut him out from the debate. I can assure him that that was not my intention.....

Mr. Lalchand Navalrai : I did not say that that was your intention at all.

The Honourable Mr. J. A. Thorne : If by inadvertence I trod on his toes I hasten to make my apologies. The second point is his criticism of the form of this Bill, for which of course I am responsible—the Statement of Objects and Reasons and all. I thought my statement of objects and reasons was rather neat and terse and as such would obviate any unnecessary reading. For the purposes of this debate I had myself to get Act X of 1929 and to compare it very carefully with the Bill which I have introduced, and I can only suggest that if my friend had adopted the same course, his grievance would vanish into thin air.

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

“ That the Bill be passed.”

The motion was adopted.

THE INDIAN SALT (AMENDMENT) BILL.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I move :

“ That the Bill further to amend the Indian Salt Act, 1882, for certain purposes, be taken into consideration.”

This Bill is a very simple measure. It arises from the fact that we have found it administratively convenient to combine the administration of salt in certain areas with the administration of central excises—in Northern India in fact. This has considerably increased the duties and functions of the officer in charge of the department and it has, therefore, been necessary to split the charge into two and to provide for two officers to do the combined work, one in each of the separate jurisdictions. We found, however, that the Indian Salt Act of 1882 had a provision which required us to have a single officer at the head of the department. We have, therefore, brought this Bill to amend the Salt Act in order to enable us to have two charges and to make certain small consequential amendments arising from that change. Sir, I move.

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

“ That the Bill further to amend the Indian Salt Act, 1882, for certain purposes, be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I would like to know whether this appointment will be a new appointment created or it would be from the cadre.

The Honourable Sir Jeremy Raisman : It will be from the cadre.

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

“ That the Bill further to amend the Indian Salt Act, 1882, for certain purposes, be taken into consideration.”

The motion was adopted.

Clauses 2, 3, 4, 5 and 6 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, Mr. Bozman is ill, and the motion* standing in his name will be made tomorrow.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B), be referred to a Select Committee consisting of Mr. T. S. Sankara Aiyar, Sardar Bahadur Captain Dalpat Singh, Mr. J. Ramsay Scott, Sardar Sant Singh, Khan Bahadur Shaikh Fazl-i-Haq Piracha, Shaikh Rafuddin Ahmad Siddiquee and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.”

I would venture with your permission to substitute four for five, as the committee is not a large one.

Honourable Members are in possession of the opinions which were received on this Bill in consequence of its circulation some time ago and I do not propose to deal with them in detail. I would note only that the critics of the Bill have two main objections. First, that the Bill is unnecessary, and second, that it sets up or assists in setting up the Federal Railway Authority.

As regards the first, I admit frankly that I apprehend no immediate rates competition from any railways. But I think the House will agree that it is wiser to take those precautions before you are involved in a rate war or in danger, before you have incurred losses and before you are likely to have opposition from any railway which was trying to undercut the rates or fix unsuitable rates.

As regards the second point, there has been, I think, a good deal of misapprehension. This Bill does not bring the Federal Railway Authority a day nearer, or for that matter a day further away. It is perfectly true that in form it purports to confer certain powers on the Federal Railway Authority, but until any Federal Railway Authority is set up, those powers vest in the Government of India. After any Federal Railway Authority were set up, they could no longer vest in the Government of India, because under the provisions of the Government of India Act the executive powers of the Federation vest in the Federal Railway Authority. I do not think, therefore, that those Members who feel doubts as to the wisdom of setting up the Federal Railway Authority need have any hesitation in accepting this particular measure, for, as I have said, until such an authority is set up, it does nothing but confer powers—powers which, I hope, most Members will realise, are necessary—on the Central Government.

“ That the Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935, be taken into consideration.”

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

" That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B), be referred to a Select Committee consisting of Mr. T. S. Sankara Aiyar, Sardar Bahadur Captain Dalpat Singh, Mr. J. Ramsay Scott, Sardar Sant Singh, Khan Bahadur Shaikh Fazl-i-Haq Piracha, Shaikh Rafiuddin Ahmad Siddiquee and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, this very Bill was once rejected by this House, and I am sorry to say that taking advantage of the thin House, this measure has again been introduced here. I submit, Sir, it is premature on the part of Government to bring forward such a measure as this. The Government of India should have a little patience and they should see that Federation is first introduced. The Government of India are making every effort to introduce Federation at an early date, and, therefore, I fail to understand why they or the Railway Board should be keen on introducing such a measure as this. Sir, I oppose the reference of this Bill to a Select Committee.

The Honourable Sir Andrew Clow : Sir, I would just like to correct a misapprehension. This Bill was not rejected by this House. It was introduced in 1937 and it was circulated in 1938. We now have the opinions, and it is only fitting that they should be considered by the Select Committee.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I support the motion for reference of this Bill to a Select Committee. I find that very solid reasons have been given in the Statement of Objects and Reasons, and those reasons induce me to support this motion. Now, Sir, it has been stated that the Government of India have got no powers to fix maximum, and minimum rates, and, therefore, it is all the more necessary why the Legislature should arm the Government with the necessary powers to fix maximum and minimum rates. The Select Committee will be able to go into the question exhaustively and find out how it was that for the last so many years the Government of India had been carrying on without these powers, and whether now they should be armed with fresh powers in this behalf or not.

Then, Sir, it was asked why it was necessary to bring forward this measure at this moment. I think the reasons advanced by the Honourable the Railway Member are very cogent. We all know that people take advantage of the rates and often rate wars are started, as it is often the case with steamship companies, and, therefore, to avoid all these rate wars it is very necessary that the Government of India should have power to fix maximum and minimum rates. So far there is no statutory power vested in the Central Government for this purpose, and the Select Committee will, after going into all these matters carefully, be able to come to the conclusion whether or not the Central Government should be given all these powers to control the rates charged by private companies or by Railways running through Indian States and so on. All these are points which should be carefully considered by the Select Committee, and, therefore, I strongly support the motion for reference of this Bill to the Select Committee.

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

" That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B), be referred to a Select Committee consisting of Mr. T. S. Sankara Aiyar, Sardar Bahadur Captain Dalpat Singh, Mr. J. Ramsay Scott, Sardar Sant Singh, Khan Bahadur Shaikh Fazl-i-Haq Piracha, Shaikh Rafiuddin Ahmad Siddiquee and the Mover and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The motion was adopted.

THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I move :

" That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, be taken into consideration."

The purpose of this Bill is to enable full effect to be given to Rule 48 of Order XXI in the First Schedule of the Code of Civil Procedure. That Rule lays down the procedure for the attachment, under order of a Civil Court, of the salary or allowances of a public officer or servant of a railway company or of a local authority. When that officer or servant is in India, there is no difficulty. The difficulty arises only when he is outside India, and the typical case is of an officer on leave in the United Kingdom. When such attachment is issued it is not open to the Government or the railway company or the local authority to say that the officer is out of India and, therefore, the sum cannot be recovered. The employing authority itself is liable in such a case and has to make good the amount. Therefore, it is necessary to ensure that the amount can be recovered even if the judgment-debtor is outside India. We have found that the law as it stands does not ensure this. In sub-rule (1) of rule 48 as it stands, this obligation is placed in all cases on the officer or other person whose duty it is to disburse such salary or allowance. For officers on leave in the United Kingdom the disbursing authority is the High Commissioner for India ; and we are now up against the position that no attachment order passed in India or direction made in India in connection with it can bind the High Commissioner. Thus, there is no obligation on the High Commissioner to deduct from the salaries and allowances payable to officers on leave in England the amount due under an Indian attachment order, and in fact, it would be held I think illegal for him to do so. This is no imaginary case. The procedure we have adopted hitherto has been challenged and we can no longer rely on it. We have, therefore, to find a different method, and this is provided by sub-clause (b) of clause 2 of this Bill—sub-clause (a) is not new. If the Bill is passed, the procedure will be that the accounts officer in India, on whom the attachment order is served in respect of an officer on leave in England, will issue a fresh pay certificate to the High Commissioner in London making a deduction from the officer's leave salary, and the accounts officer will then remit to the Court the amount so deducted. Sir, I move.

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

" That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, be taken into consideration."

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Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I support this motion also. It has been made clear that there is no provision in law, when an officer who has to pay a debt here in India goes out of India to the United Kingdom, whereby his pay can be attached. However, the practice seems to have gone on and this question did not arise. But now that it has arisen and the High Commissioner refuses to accept the attachment and comply with the order, it is necessary that the power should be given, and so a very salutary provision is made in clause (b) of the Bill by which salaries will not be paid unless the deduction is made. For that purpose the procedure that is going to be adopted is absolutely legal. The Accountant General will instruct the High Commissioner who also belongs to the Government of India to make that deduction and honour the attachment and pay up the money due to the creditors. I submit that this is a very good enactment and it has my support.

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

“ That the Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. J. A. Thorne : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

The motion was adopted.

THE INDIAN TEA CESS (AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move :

“ That the Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose, be taken into consideration.”

Under section 4 (2) (d) of the Indian Tea Cess Act, 1903, one member on the Indian Tea Market Expansion Board to represent the Indian Tea Planters in North Bengal is appointed on the recommendation of the Government of Bengal. The tea planters of North Bengal have since organised themselves into an association, and according to the promise that was held out by my colleague, Sir Muhammad Zafrullah Khan, I now bring forward before the House this Bill which enacts that the representation shall be given to the organised Tea Planters' Association of Terai.

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

“ That the Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

The motion was adopted.

STATEMENT OF BUSINESS.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : The Legislative business for tomorrow will be items 5 and 6 out of the List of Business which has already been circulated, that is, the motion standing in Mr. Bozman's name, and there will also be a motion by me to refer the Arbitration Bill to a Select Committee.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 5th September, 1939.

LEGISLATIVE ASSEMBLY.

Tuesday, 5th September, 1939.

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

MEMBER SWORN.

Mr. Samuel Harrison Yardley Oulsnam, C.I.E., M.L.A. (Government of India : Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

†101*—105*.

SCHEME OF COTTON SUBSIDY INTRODUCED IN THE UNITED STATES OF AMERICA.

†106. *Mr. M. S. Aney : Will the Education Secretary please state :

- (a) whether Government are aware of the scheme of cotton subsidy announced by Mr. Wallace, Secretary of the Agricultural Department of the Government of the United States of America on the 22nd of July last ;
- (b) whether the attention of Government has been drawn to the speech delivered by Mr. P. M. Kharegat, President of the Indian Central Cotton Committee, at the 40th meeting of that Committee held on Thursday, the 3rd August, 1939, and published in the *Times of India* of Friday, the 4th of August, 1939, at page 10, in which he has generally discussed the possible repercussions in India of the subsidy on Indian cotton, and particularly to the following observations :
 - (i) " I think it is generally realised that the effect of the subsidy will be to lower the price of Indian cotton, though perhaps not to the full extent of the subsidy, and to this extent it is the Indian cotton grower who will suffer " ;
 - (ii) " Be that as it may, every one will agree that anything that may be found possible and practicable should be done to prevent loss to the cotton grower and to the industry as a whole " ;

†These questions were withdrawn by the questioner.

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

- (c) whether the Government of India agree with the above views of Mr. Kharegat generally and propose to take any steps to prevent the loss to the cotton grower ;
- (d) whether Government propose to appoint immediately a mixed committee consisting of official and non-official members representing the interests of the cotton growers and cotton industry, the Indian Central Cotton Committee and the Board of Agricultural Experts serving in the cotton growing provinces, to enquire into and find out the methods to fix, if possible, a minimum price for each variety of Indian cotton, with directions to submit its report to the Government of India, before the middle of October ; if not, why not ; and
- (e) what other remedies the Government of India have in view to make up the loss which the cotton growers are bound to suffer as a consequence of the recently introduced cotton subsidy by the Government of the United States of America ?

Mr. S. H. Y. Oulsnam : (a) and (b). Yes.

(c) and (e). The first part of (c) calls for an expression of opinion. As for the second part of (c) and part (e) the matter is under examination.

(d) I would refer the Honourable Member to the reply given to part (a) of Sardar Sant Singh's question No. 1629 on the 30th November 1938.

(COLLECTION OF STATISTICS OF LABOUR.)

107. *Mr. N. M. Joshi : Will the Honourable Member for Labour be pleased to state :

- (a) whether the Government of India propose to introduce legislation to make the providing of certain statistics compulsory on employers of labour ;
- (b) whether a convention has been adopted recently by the International Labour Office on the subject ; and
- (c) what action the Government of India propose to take on that convention ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : (a) The Government of India have decided to place the question of collection of statistics concerning Labour and Industry before the Conference of Labour Ministers which is to meet in New Delhi on 15th November, 1939. The attitude of the Government of India regarding the introduction of legislation to make the providing of certain statistics compulsory on employers of labour will depend upon the conclusions which will be arrived at by the Conference.

(b) Yes.

(c) I would invite attention of the Honourable Member to the statement laid on the table of this House on the 12th April, 1939. Replies to the letter addressed to the Provincial Governments are still due from two Provincial Governments.

Mr. N. M. Joshi : May I ask whether it is the intention of Government to call a conference of Provincial Ministers in order to delay these urgent reforms ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Not at all. It is just the other way, to expedite, if possible.

Mr. N. M. Joshi : May I ask how long this question of collection of statistics has been pending before the Government of India ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I do not know how long it has been before the Government of India, but the draft convention referred to in the question was as recent as February of this year.

Mr. N. M. Joshi : May I ask whether the Honourable Member is aware that the Royal Commission on Indian Labour had reported in 1930 and it made a proposal that there should be a law for the provision of certain statistics being made compulsory on employers of labour ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : My Honourable friend is also aware of a great mass of literature around that recommendation and the series of committees and investigators that have been examining this question.

UTILISATION OF INDIGENOUS SYSTEMS OF MEDICINES IN INDIA.

108. *Sardar Sant Singh : Will the Secretary for Education, Health and Lands please state :

- (a) the steps taken by the Government of India directly or indirectly to promote the utilization of indigenous systems of medicines in India after the adoption by the Legislative Assembly on the 12th January, 1922, of the resolution on the subject moved by Rai Sahib Lakshmi Narayan Lal ;
- (b) what grants-in-aid were given by the Government of India or other bodies to the different colleges for training in the *Ayurvedic* and *Unani* systems in India, e.g., Tibbia College, Delhi, and other similar institutions in India, since 1922 ; if none, why not ; if so, how much amount was paid each year in each case ;
- (c) whether Government have opened since 1922 any *Ayurvedic* or *Unani* dispensary of their own for the benefit of their staff, which consists mostly of Indians ; and
- (d) if the reply to part (c) above be in the negative, whether Government now propose to open an *Ayurvedic* and *Unani* hospital on a large scale under learned and capable *Vaids* and *Hakims* at New Delhi, and make it a central institution in India for the benefit of both Government employees and the public at large ; if not, what the difficulties are ?

Mr. S. H. Y. Oulsnam : (a)—(d). I invite the Honourable Member's attention to the replies given by Sir Girja Shankar Bajpai to his starred questions Nos. 585 and 1209 on the 19th February, 1936, and the 6th April, 1938, respectively. Since the last reply was given, over Rs. 28,000 has been given in the form of grants for investigations in relation to indigenous drugs.

Mr. Lalchand Navalrai : May I know if the Provincial Governments have power to make legislation with regard to *Vaids* and *Hakims*, and whether any Provincial Government has taken up that question ?

Mr. S. H. Y. Oulsnam : I require notice.

PURCHASE OF MEDICINES FOR THE NEW DELHI AYURVEDIC AND UNANI DISPENSARIES.

109. *Sardar Sant Singh : Will the Secretary for Education, Health and Lands please state :

- (a) what the budget grant for the purchase of medicines for the New Delhi *Ayurvedic* and *Unani* Dispensaries was separately during each year since 1934 ;
- (b) what portion of this amount was utilized by each of the *Vaid* and *Hakim-in-charge* for preparing the medicines themselves and how much amount was spent in purchasing the ready-made medicines locally ;
- (c) whether it is a fact that almost the whole of the supply of allopathic dispensaries is obtained either through official indents on reliable firms of good repute, or, if purchased locally, the medicines are all of one and the same quality or standard ;
- (d) whether Government propose to state what check or control the New Delhi Municipal Committee has got over each of the *Vaid-in-charge* in regard to the medicines prepared by him ;
- (e) whether Government are aware that there are many reliable *Ayurvedic* and *Unani* firms in India of good repute which prepare all sorts of *Ayurvedic* and *Unani* medicines on a large scale ; and if orders for the supply of wholesale medicines, by the New Delhi Municipal Committee Dispensaries are placed with any of them, they can satisfy the general public in regard to the use of genuine and standard medicines by the *Vaids* and *Hakims* of such dispensaries ; and
- (f) whether Government propose to recommend to the New Delhi Municipal Committee that it should purchase directly the whole of its supply of medicines for the *Ayurvedic* and *Unani* Dispensaries from one of the firms of old standing ; if not, what the reasons are ?

Mr. S. H. Y. Oulsnam : Certain information has been called for and a reply will be furnished to the House as soon as it is received.

PROTECTION TO THE INDIGENOUS STARCH INDUSTRY.

†110. *Sir Abdul Halim Ghuznavi : Will the Honourable the Commerce Member be pleased to state :

- (a) whether Government have received any representation from the Indian Chamber of Commerce, Calcutta, and other commercial bodies regarding protection to the indigenous starch industry against uneconomic competition by the suppliers of foreign starch ; and
- (b) if so, whether the Government of India have taken any steps so far in this direction ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :

(a) Yes, Sir.

(b) The matter is under consideration.

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

PROTECTION TO THE INDIGENOUS STARCH INDUSTRY.

†111. *Sir Abdul Halim Ghuznavi : Will the Honourable the Commerce Member be pleased to state :

- (a) whether it is a fact that an Indian starch factory situated in the Punjab has had to suspend operations recently due to dumping of foreign starch at prices at which the local factory could not compete ; and
- (b) if so, what action the Government of India have taken or propose to take to prevent such unfair competition of foreign starch manufactures ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :

(a) One firm manufacturing starch in the Punjab has stated that due to the low price of starch it had to cease manufacturing entirely from the 24th of July, 1939.

(b) The Honourable Member is referred to the answer to part (b) of his previous question.

FALL IN THE PRICE OF FOREIGN STARCH.

†112. *Sir Abdul Halim Ghuznavi : Will the Honourable the Commerce Member be pleased to state whether it is a fact that the prices of foreign starch in the Indian market have recently come down to a very low level as compared to prices ruling in the last three years ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Government have received conflicting reports on the price movement of starch imported into India and are making further enquiries into the matter.

FALL IN THE PRICE OF FOREIGN STARCH.

†113. *Sir Abdul Halim Ghuznavi : Will the Honourable the Commerce Member be pleased to state :

- (a) whether the major proportion of starch imported into India is through one large foreign combine ; and
- (b) whether the prices of foreign starch have recently come down to a level at which indigenous manufacturers are finding it difficult to compete ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :

(a) Yes, Sir.

(b) I would refer the Honourable Member to the answer to his previous question.

PRICE OF IMPORTED STARCH.

†114. *Sir Abdul Halim Ghuznavi : Will the Honourable the Commerce Member be pleased to state what the average price of imported starch in the port markets during the years 1937 and 1938, and the first six months of the year 1939 was ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Information is being collected and will be laid on the table when its collection is completed.

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

SCHEME FOR THE REGISTRATION OF DOCK LABOUR.

2. Mr. N. M. Joshi : With reference to the reply given by the Honourable the Commerce Member on the 8th February, 1939, to my starred question No. 192, will the Honourable the Commerce Member be pleased to state whether Government have completed the consideration of the scheme for the Registration of Dock labour and if so, what their decision is ?

The Honourable Diwan Bahadur Sir A. Ramaswamy Mudaliar : At the instance of Government the Conciliation Officer (Railways) has collected information on the subject. He has now been asked to submit a scheme for Government's consideration.

REPORTS OF THE SHIPPING MASTERS IN INDIAN PORTS.

3. Mr. N. M. Joshi : With reference to the reply given to my starred question No. 311 on the 13th February, 1939 by the Honourable the Commerce Member, will the Honourable the Commerce Member be pleased to state whether the consideration of the question of the publication of the reports made by the Shipping Masters is completed and what the decision of Government on the subject is ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The matter is still under consideration.

UTILISATION OF CERTAIN CONTRIBUTIONS FOR THE BENEFIT OF INDIAN SEAMEN.

4. Mr. N. M. Joshi : With reference to the reply given to my starred question No. 313 on the 13th February, 1939, by the Honourable the Commerce Member, will the Honourable the Commerce Member be pleased to state whether Government have completed the consideration of the question that contributions made by British Shipowners in connection with National Health Insurance to seamen, who are neither domiciled nor resident in Great Britain, be spent for the benefit of the non-resident seamen ; and if so, what is the result ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The question is still under consideration.

SICKNESS INSURANCE SCHEME FOR INDIAN SEAMEN.

5. Mr. N. M. Joshi : With reference to the reply given to my starred question No. 312 on the 13th February, 1939, by the Honourable the Commerce Member, will the Honourable the Commerce Member be pleased to state whether Government have completed the consideration of the question of the establishment of a scheme for Sickness Insurance ; and if so, what is the result ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Government have consulted the interests concerned whose views are now under examination.

DISCRIMINATION IN THE PAYMENT OF COMPENSATIONS TO INDIAN *LASCARS* AND EUROPEAN SEAMEN.

6. Mr. N. M. Joshi : With reference to the reply given to my starred question No. 315 on the 13th February, 1939, by the Honourable the Commerce Member, will the Honourable the Commerce Member be pleased to state whether Government have completed the consideration of the question of removing the racial discrimination contained in section 8 (D-1) of the Indian Merchant Shipping Act of 1923 ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The interests concerned have been consulted in the matter and the views of some of them are still awaited.

MOTION FOR ADJOURNMENT.

GOVERNMENT OF INDIA'S DECISION ON QUESTIONS OF INDIAN DEFENCE.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair has received notice of a motion for adjournment from the Honourable Member, Sir Syed Raza Ali. He wishes to move for the adjournment of the business of the Assembly in order to discuss the failure of the Government of India to consult this House or at least the Leaders of Political Parties in this House with reference to the decision taken by the Government of India on questions of Indian defence contained in the Press *communiqué* published this morning.

Is there any objection to this motion being allowed ?

(No Honourable Member raised any objection.)

The motion will be taken up at four o'clock this afternoon.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : This may be taken up at the end of the business today. If the business on the agenda is finished before four o'clock, this motion may be taken up immediately thereafter.

Mr. President (The Honourable Sir Abdur Rahim) : Quite so ; if the business is finished before four o'clock, in that case the motion will be taken up earlier.

THE INDIAN TARIFF (FOURTH AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934, for a certain purpose and to validate the levy and collection of certain duty under that Act.

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

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934, for a certain purpose and to validate the levy and collection of certain duty under that Act."

The motion was adopted.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I introduce the Bill.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I beg to move for leave to introduce a Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

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

“ That leave be granted to introduce a Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I introduce the Bill.

THE MEDICAL DIPLOMAS BILL.

Mr. S. H. Y. Oulsnam (Government of India : Nominated Official) : Sir, I beg to move :

“ That the Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935, be taken into consideration.”

Sir, the language of this Bill, which follows that of section 120 of the Government of India Act, 1935, may appear somewhat complicated, but I think that a brief explanation will show that actually it is a simple and non-controversial measure. The burden of section 120 of the Government of India Act, 1935, which is referred to in the Statement of Objects and Reasons, is that the conditions which apply to the recognition of Indian medical diplomas in the United Kingdom should also apply to the recognition in India of diplomas granted in the United Kingdom.

Now, under the law of the United Kingdom, the General Medical Council has power to refuse to recognise an Indian diploma on the ground that it does not furnish a sufficient guarantee of the requisite skill and knowledge for the exercise of the medical profession. If, however, recognition of an Indian diploma is refused, application can, under the law of the United Kingdom, be made to the Privy Council and the Privy Council may direct that the diploma shall be recognised. Now, Indian law does not at present make any provision for an application to the Privy Council in the event of recognition being refused to a diploma granted in the United Kingdom.....

Mr. President (The Honourable Sir Abdur Rahim) : Will the Honourable Member speak up a little.

Mr. S. H. Y. Oulsnam :and the effect of section 120 of the Government of India Act is that until such provision is made,—that is, a provision for an application to the Privy Council—a person holding a United Kingdom diploma cannot be prevented from practising, and cannot be refused registration in India, even though the diploma which he possesses may not be considered to give a sufficient guarantee of skill. By this Bill, therefore, it is proposed to make this provision for an application to the Privy Council against any refusal to recognise a diploma granted in the United Kingdom. A similar provision has been made in

the Bill in regard to medical diplomas granted in Burma. Under section 120 of the Government of India Act, a British subject domiciled in Burma holding a diploma granted in Burma cannot be refused registration in British India unless there is a provision in the Indian law for an application against such refusal to the Privy Council. This provision is made by the Bill. I may add that in the Government of Burma Act there is a section similar to section 120 of the Government of India Act and an Indian medical diploma cannot be refused recognition in Burma unless the law of Burma provides for an application to the Privy Council against such refusal.

Briefly, then, the scope of this Bill is limited to the making of a legal provision the terms of which are set out in section 120 of the Government of India Act. In accordance with the requirements of section 120, it gives the right of application to the Privy Council. This right of application to the Privy Council is a right which is already enjoyed by persons who may be aggrieved at a refusal to recognise, in the United Kingdom, an Indian medical diploma. Similarly in Burma, an Indian diploma must be recognised unless there is a provision in the law of Burma for similar applications to the Privy Council. On the main object of the Bill, which is to make it possible to refuse to recognise medical diplomas which are not a sufficient guarantee of skill, I think there is hardly room for disagreement, and finally I would draw the attention of the House to the fact that this legislation has been undertaken at the instance of the Indian Medical Council, whose resolution is reproduced in the Statement of Objects and Reasons. With this explanation, I hope the House will have no difficulty in accepting the motion. Sir, I move.

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

“ That the Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

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

“ That clause 3 stand part of the Bill.”

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I have got an amendment to clause 3.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, the amendment is out of order, because sufficient notice was not given.

Mr. President (The Honourable Sir Abdur Rahim) : Why did not the Honourable Member give notice in time ?

Mr. Muhammad Azhar Ali : There were two days' holidays, that was the reason.

Mr. President (The Honourable Sir Abdur Rahim) : But the office receives notices of amendments during holidays too ?

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, I think the Government should not stick to these technicalities and they should not simply ask the Opposition Members, although they may be few in number, to proceed with these clauses of the Bill and they should not refuse to accept amendments simply for these technical grounds. If they do so, then I shall move that this Bill be thrown out on the third reading; if they raise these technical objections, then that will be the net result.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not speaking on clause 3 of the Bill. Unless there is a good excuse, the Chair cannot allow the amendment to be moved. The question is :

“ That clause 3 stand part of the Bill.”

Mr. Muhammad Azhar Ali : Sir, my amendment is on the agenda ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member did not give notice of two days, as the Standing Order requires.

Mr. Muhammad Azhar Ali : How could I give notice during the holidays ?

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

“ That clause 3 stand part of the Bill.”

(Division was asked for by the Members of the Muslim League Party.)

Those Honourable Members who are against the clause standing part of the Bill will rise in their places.

(Count was taken.)

Those Honourable Members who are in favour of the clause will rise in their places.

(Count was taken.)

The motion was adopted.

Clause 3 was added to the Bill.

Sir Muhammad Yamin Khan : Sir, in view of the fact that we showed all consideration and said that we would carry on the business and give help to the Government and we shall carry on the business of the House in the spirit.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not in order in making that speech now.

Sir Muhammad Yamin Khan : Sir, I must make a statement on behalf of my Party.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot make it at this stage. Let the Chair first put the next clause of the Bill and then the Honourable Member can speak on that clause if he likes.

Sir Muhammad Yamin Khan : I want to show what attitude we are going to take.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not in order to do that now.

Sir Muhammad Yamin Khan : Then, we are walking out because we do not want to take part in the debate on this Bill.

(The Members of the Muslim League Party then walked out of the Chamber.)

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. S. H. Y. Oulsnam : Sir, I beg to move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

Mr. N. M. Joshi (Nominated Non-Official) : Sir, I would like to oppose this Bill, because it does not establish perfect equality between India and Great Britain. So far as India is concerned, we have to recognise the British degrees and diplomas. We have no choice. But so far as Great Britain is concerned, the British Medical Council can refuse to recognise Indian diplomas and degrees. What this Bill provides is that India can send an application to the Privy Council. You will easily see that there is no perfect equality between the position of India and that of Great Britain. We are helpless. We have recognised the British diploma and the British degree. We do not know whether the British diploma and the British degree are bogus or not.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) : There are no bogus degrees in England.

Mr. N. M. Joshi : Whether they are bogus degrees or not is not my consideration. I am interested in the establishment of perfect equality between Great Britain and India and my complaint is that this Bill does not do that. I, therefore, feel that the Government of India should bring in some Bill by which perfect equality will be established. I am not suggesting that this Bill is of no advantage at all, but I do not want a Bill which does not establish perfect equality. I, therefore, suggest to the Government of India that this Bill be dropped and they should either persuade the British Parliament to change the Government of India Act or their own Act and establish perfect equality between the two countries. I, therefore, oppose this Bill.

Lieut.-Colonel Sir Henry Gidney : Sir, I support what Mr. Joshi has said in substance. If it be true that there is this inequality of recognition, I think the time is long past when we should establish equality. Personally, I know that there are no bogus degrees given in England. It is impossible to obtain a bogus degree there. You may be able to get a bogus degree in other parts of the world, but you cannot get one in England. I know that anyone possessing a British qualification is recognised and can practice as a surgeon or a physician in any part of the British Empire and in India according to the Bill such recognition is com-

[Sir Henry Gidney.]

pulsory. I also know that the General Medical Council recognises certain degrees and qualifications obtained in India. I do not know that it can refuse to recognise any degree or diploma which it considers is not up to its required standard and training. But if an Indian qualified man with a degree is subject to a refusal of recognition by the General Medical Council in England, India is certainly placed in a state of inequality, and I think it is the obvious duty of the Government to rectify this one-sided power of assessment. I, therefore, support what Mr. Joshi has said but this does not mean that I do not support the Bill as it is presented to the House. The objection raised by Mr. Joshi is a very substantial one and I think it needs an immediate rectification if the facts are as he has stated them to be.

Mr. S. H. Y. Oulsnam : Sir, I am afraid that the objections which have been taken are based on a complete misapprehension both of the provisions of the Government of India Act and of the provisions of this Bill. It has been stated that there is inequality in the position of the Government of India and the position of the Government of the United Kingdom. It has been alleged that the British diplomas must be recognised and that the Bill only provides that an application may be made to the Privy Council for the recognition of a diploma by the Government of India. That is not at all the position. The position is that at present under section 120 of the Government of India Act British diplomas must be recognised because there is no provision in the Indian law which allows an appeal against a refusal to recognise.

Mr. N. M. Joshi : Make that provision.

Mr. S. H. Y. Oulsnam : That provision is being made by this Bill. After this Bill has been passed, it will be possible to refuse to recognise in India a British medical diploma on the ground that it does not furnish a sufficient guarantee of skill. Any person aggrieved will then under the provisions of this Bill will be able to appeal to the Privy Council and the Privy Council will decide whether the diploma is, in fact, a sufficient guarantee of skill.

Mr. N. M. Joshi : May I ask one question, Sir ? Why is an appeal, then, provided to the Privy Council instead of to the Federal Court in India ?

Mr. S. H. Y. Oulsnam : Provision for an appeal to the Privy Council is made in this Bill because section 120 of the Government of India Act requires that such a provision of law shall be made by a Federal or Provincial law.

Lieut.-Colonel Sir Henry Gidney : May I ask a question of the Honourable Member as it has an important bearing on this Bill ? If the Honourable Member says that this Bill provides equal rights and gives the opportunity for India to object to accepting British diplomas in India. I ask, has India got any power to appoint a committee of examiners to visit England and examine the standard of medical education in the same way as the British Medical Council exercises such rights over our medical institutions in India, rights which it has exercised for years ? If it has, then an equilibrium exists and is established. If not, what is the actual position ?

Mr. S. H. Y. Oulsnam : I would point out to the Honourable Member that the Indian Medical Council has examiners and it can negotiate with the General Medical Council in England if it so desires and, if the General Medical Council agrees, it can send examiners to the United Kingdom in order to make such examination as it may think necessary. I have nothing further to say.

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

“ That the Bill be passed ”.

The motion was adopted.

THE INDIAN ARBITRATION BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir,

I move :

“ That the Bill to consolidate and amend the law relating to Arbitration be referred to a Select Committee consisting of the Honourable Sir Ramaswami Mudaliar, Sir George Spence, Rai Bahadur Seth Bhagchand Soni, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. C. C. Miller, Sardar Sant Singh 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, Honourable Members are aware that the present state of the law of Arbitration in India is that it is contained in two enactments—the Indian Arbitration Act of 1889 and the Second Schedule to the Civil Procedure Code. The Arbitration Act applies only to the Presidency-towns and to certain other big commercial towns to which it has been extended, and it deals with arbitrations by agreement without the intervention of the Court. The Second Schedule to the Civil Procedure Code applies to the rest of India and deals with three kinds of arbitrations : (1) a reference to arbitration during the pendency of a suit by order of the court before which the suit is pending ; (2) a private arbitration which has taken place out of court and in respect of which an application is made to the court to file the award of the arbitrator or arbitrators ; and (3) a procedure by which an agreement to refer to arbitration can be filed and thereupon the court makes an order to refer the matter to arbitration. It is proposed by this Bill to consolidate the law of arbitration in India so as to have one enactment and one procedure applying to different kinds of arbitration. Advantage has also been taken of this opportunity to make several improvements in the law of arbitration which the working of the Arbitration Act and the Second Schedule to the Civil Procedure Code have shown to be necessary. The Statement of Objects and Reasons fully explains the scope of the Bill and there is a wealth of information given in the notes on clauses which will delight the heart of Mr. Lalchand Navalrai. The Bill was circulated for eliciting public opinion by executive order on the 22nd July last. Opinions have been asked for by the 23rd October and it is proposed that the Select Committee should not meet earlier than the middle of November, so that by that time the opinions will have been received and classified and the members of the Select Committee will have the whole of that material before them when they begin to consider the Bill. This, as Honourable Members will appreciate, has been done in order to save time. This is a technical kind of Bill and it was absolutely essential to obtain opinions upon it from the commercial community as well as from legal circles. It would have been possible to move for circulation here to begin with but that, I am afraid, would have meant

[Sir Muhammad Zafrullah Khan.]

that the Bill would have remained pending for over a year and the law of arbitration has been in need of consolidation and amendment for many years now. The Civil Justice Committee recommended such an amendment several years ago and it was considered that it would save time if, as soon as the Bill was ready, it was circulated for eliciting public opinion, so that we could proceed direct to a reference to Select Committee. Sir, I move.

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

"That the Bill to consolidate and amend the law relating to Arbitration be referred to a Select Committee consisting of the Honourable Sir Ramaswami Mudaliar, Sir George Spence, Rai Bahadur Seth Bhagchand Soni, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. C. C. Miller, Sardar Sant Singh and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sardar Sant Singh (West Punjab : Sikh) : May I make one suggestion. The Select Committee is too small for such a big subject. Will the Honourable Member consider the desirability, in the absence of the Congress Party, of including some more names from other Parties in order to make it sufficiently representative.

The Honourable Sir Muhammad Zafrullah Khan : I realise that the Committee, as proposed, is rather small for a Bill of this kind. Why Government have proposed to keep the numbers as they are is that in case the Party that is absent chooses to attend before the end of the Session it will be possible to include their representatives in the Select Committee but if that contingency does not arise, it may be possible later on in the Session to make a motion to add to the Select Committee.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : My thanks are due to the Honourable the Leader of the House for giving full notes on clauses in this Bill and I hope that other Members of the Government would also take a clue and always give us full notes on clauses and not as it was done yesterday.

Now, Sir, there can be no voice raised against this Bill. I should think this Bill was overdue. In 1927, a demand was made that the arbitration law should be consolidated. My predecessor, Mr. Harchandrai Vishindas, actually brought forward a Bill suggesting certain amendments in the law. When I came to the House in 1928, I put in my own Bill in the terms in which it was introduced by my predecessor. I continued it till 1930 and as you know and the House knows, there was very little chance for private Bills being passed in this House. But Government at last promised to bring forward a consolidated Bill and so I had to slacken my efforts. I am glad, Sir, that such a Bill is now brought forward. It cannot be denied that it is a very important Bill not only from the point of view of practising lawyers who find difficulties in the arbitration law but also from the point of view of commercial people who also meet these difficulties. A great case law has been made and on several points divergent views have been taken by different High Courts. It is, therefore, necessary that all these should be considered and the law consolidated once for all in such a manner as to be self-sufficient and self-contained and the difficulties encountered so far should be put an end to. I would have liked that a Bill of this nature where the courts have differed on several points and the decision of the Privy Council invoked in many cases should have been circulated for public opinion in the usual manner so that working lawyers who

have dealt with this law might give the proper help. The Honourable the Leader of the House said that it had been circulated and opinions called for departmentally, but that is not enough. The circulation should have been ordered by the House and the opinions placed before us for our consideration now, so that we could give greater help than we can do at present and our views could have been considered by the Select Committee. As it is these opinions will not see the light of day until after the Select Committee has considered them. In a Bill of this character I do not think it is the right course to adopt. I would myself have moved a motion for circulation but I did not like to do it because that would have been taken to be a dilatory motion and secondly, in the case of such a Bill which has been so long overdue we should take the earliest opportunity to get it enacted. I would, therefore, like to make certain observations and I hope there will be some lawyers on the Select Committee who will consider the points that I will make. I will also draw the attention particularly of the Leader of the House who is himself a Barrister and will appreciate my points.

My first point is with regard to clause 6 which says that in the case of the death of any party an arbitration agreement shall be "enforceable by or against the personal representative of the deceased". The Select Committee should consider whether the phrase "personal representative" is proper. The proper phrase used in such cases is "legal representative" and the words "personal representative" might create difficulties. I should, therefore, like this to be considered.

The same difficulty will arise with regard to clause 9 and even justice requires the provision to be changed. The purport of clause 9 (b) is that if two arbitrators are to be appointed by two parties and one of the arbitrators appointed by one party refuses or neglects to arbitrate, the other party will ask this party to substitute another arbitrator. It is right that he should substitute, but if not, what is provided here is mysterious : power is given to one party to have a decision made by one of the arbitrators, that is, the person selected by him. That means that there will be a decision practically by one party's arbitrator. This is not justice. Therefore, I would suggest to the Select Committee to see that this is amended in such a way that in case of default of one of the parties a second arbitrator is appointed by the court. I do not see why the same power should not be given to the court as is given under other clauses. This is a serious point for consideration.

Coming to clause 11, it says that the court may, on the application of any party to a reference, remove an arbitrator or umpire who fails to use all reasonable despatch in entering on and proceeding with the reference and making an award. I would draw attention to this matter as I find that a clause must be added to this clause and that is, that the court may come to the relief of the parties if any of the arbitrators is subsequently found to be an interested person, because such things do happen. We find that after a reference has been made to arbitrators, one of the arbitrators has been appointed to no knowledge of the other party who is an interested person : and when we go to the court, the court says : "I have got no power to interfere at this stage". Therefore, I say, that if any arbitrator is subsequently found to be interested, the court should have power during the pendency of the arbitration to remove him and appoint another.

[Mr. Lalchand Navalrai.]

Coming to clause 14, I find there is a gap here. This clause relates to the manner in which the award is to be signed and filed. It is said that at the request of any of the parties the arbitrators have to send the award along with the documents to the court; but no provision is made for any remedy if they do not send it or refuse to do it. A remedy should be provided for this, that the court should call for it, and enforce that the award be sent to the court. This clause requires amendment in this direction.

As for clause 15, there are practical difficulties. When it is asked that an award should be sent for modification or correction, then we are always given to understand that it can be done under a clause like this in the Civil Procedure Code or the Arbitration Act. Now we find that it has been provided here that where a part can be separated from the rest and does not affect the decision on the matter referred it can be so modified; but if it is not separable then the award can be thrown out. The question of what is beyond the reference has always troubled parties and we have different kinds of decisions from different courts. Therefore, this point should be considered by the Select Committee. I shall give an illustration. Suppose a question has been referred to arbitration—whether a certain person is entitled to certain property, and the arbitrators hold that he is entitled only to a life interest and make an award accordingly; take the case *vice versa* where a question of life interest is referred to arbitration and the arbitrators decide that he is entitled to absolute interest; in the case of divergence of opinion some courts have given an opinion one way and some in another. This difficulty should be removed.

Clause 20 says that subject to the provisions of this Act an award may be filed in any court having jurisdiction in the matter to which the reference relates. Other clauses supplement this, but there is one difficulty. There may be references concerning both immovable and movable property. Small cause courts have no jurisdiction in cases of immovable property but only over movable property.....

The Honourable Sir Muhammad Zafrullah Khan : Small cause courts are specially provided for.

Mr. Lalchand Navalrai : I have seen that—clause 40. That is why I am saying that if there is a joint award, will they separate it? Supposing an arbitrator decides a matter within the jurisdiction of a small cause court then that comes under clause 40. My difficulty is in respects to joint reliefs of immovable and movable property given by an award. This point must be considered.

Then, I come to clause 38. This is also a matter which has been very

much criticised in the courts as well as by the public.

12 NOON.

It relates to the fees given to arbitrators. Though I am a lawyer myself, I have to say this, that there is usually a tug of war when the question of fees of the arbitrators comes to be decided by the Court. Generally parties select lawyers on either side to act as arbitrators, and when the matter comes before the Judge for deciding what fees should be given to these arbitrators, we all know there is not always impartiality in the award of costs. If a lawyer puts say a thousand rupees as his arbitration fees, I think he will get about Rs. 500 or Rs. 700. In this manner

people are suffering, because the question of deciding the fees to arbitrators is left to the decision of the Judge, and if there is any favoritism, the Judge can award any amount of fees he likes, and such cases do occur, and there is often bitterness and bickering over the question of fees. Therefore, I submit that this question of fees to arbitrators should also be carefully considered by the Select Committee, and it is very necessary that a limit or restriction should be imposed on the amount of costs or fees to arbitrators. I am sure my friends of the mercantile community may have some other suggestions to make in regard to this enactment, and I trust the opinions received on this measure on circulation and placed before the Select Committee will throw some more light on the subject.

Then, Sir, there is clause 43, which creates a new provision. It refers to proceedings before the arbitrator. The object of this clause is that when the arbitrator is deciding a case, he should have certain powers to carry on the proceedings legally and in a decent manner. For instance, if the parties or witnesses do not allow any evidence to join or refuse to answer questions, he must have sufficient power to deal with such people. But here I should like to say one word. Here power is also given to the arbitrator to deal with any person if he is guilty of the contempt of the arbitrator. If a person commits a contempt when the arbitrator is deciding a case, then the matter can be referred to a court,—I have no objection to it, but I think that the word 'contempt' should be defined in some manner. If you do not define this word 'contempt', then there is likely that trouble will always arise. Some arbitrators may be cool headed or wise men, but others lacking in coolness and consideration may accuse the parties without justification 'and say they have committed the contempt of the court'. Sir, I have seen some third class young magistrates hauling up unjustly some parties or persons on the slightest pretext. Therefore, I say that if you don't define this word 'contempt' while giving power to the arbitrators, there will be many such complaints for the courts to decide. Therefore, what I say is that as you are consolidating the whole law of arbitration, you should make the law such as to leave no loopholes for any wrong interpretation and doings.

Sir, I do not think I need detain the House much longer, though if the opinions received had been before me, I would have said something more. After all, we were given to understand only yesterday that this Bill would come up for discussion today, and, therefore, within the short time at my disposal I have studied it as much as I could and have made some suggestions. I hope the Select Committee will consider all these suggestions carefully. I may say here that the Honourable the Leader of the House has gained a name by introducing this important legislation, because none of his predecessors attended to this matter from 1927 onwards, I understand. Therefore, if my Honourable friend, Sir Muhammad Zafrullah Khan, makes this Bill a useful measure, it will avoid so many difficulties which are experienced almost every day in courts and he will thereby earn great credit for his work.

Mr. C. C. Miller (Bengal : European) : Sir, I rise to support the motion to refer this Bill to a Select Committee, because we believe that it represents excellent and helpful legislation. Like my Honourable friend, Mr. Lalchand Navalrai, we also think that there are in it a number of clauses which are susceptible to alteration and improvement, but I do not

[Mr. C. C. Miller.]

think it is necessary at this very early stage to discuss detail and to take up the time of the House. I will, therefore, confine myself to supporting the motion that the Bill be referred to a Select Committee.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Mr. President, I must congratulate the Honourable the Leader of the House for having brought in a measure which was long overdue and was anxiously awaited in this country. Sir, among the commercial community most of commercial disputes generally in India are settled by means of arbitration. It was very popular in olden days, and probably with the advent of small causes courts, arbitrations began to lose their popularity which they had enjoyed in times past. All the same, we have often noticed that sometimes the decisions of arbitrators have been violated by the parties, because there were no adequate laws to regulate and enforce the decisions of arbitrators, in the manner in which the Bill now proposes. Sir, arbitration in the commercial world is still very popular, and most disputes in regard to commercial matters of contracts are settled by arbitration. There are certain commercial associations or Chambers who have framed their own laws to regulate disputes relating to certain kinds of transactions, and it is very necessary that those laws should be regulated on an all-India basis and on the basis of equity and justice. When I say this, I wish to refer particularly to the peculiar practice of arbitration which is existing in the Bengal Chamber of Commerce, Calcutta. My friends of the European Group will be able to testify how unsatisfactorily the arbitration laws are operating there. The Members of Bengal Chamber of Commerce have peculiar regulations of their own make, by which they can deal with a case in any manner they like. They do not sometimes allow any party to choose their arbitrators and in many cases the arbitrators appointed are competitors or even parties' friends, enemies or rivals. Then they do not allow the parties to be represented by lawyers, which amounts to this that only the director or proprietor or any authorised manager of the firm can represent the case, and in the case of Indian firms where it is not very unusual that the proprietor or director is not conversant with the English language, you can realise what position it makes. This happened with me as my own firm happened to be a member of the Jute Fabric Shippers Association of Calcutta and in that capacity we had some differences with a Jute fabric importing firm in Australia and we were compelled to go to arbitration on a certain matter. I wanted to be represented by a lawyer which was refused by the Bengal Chamber of Commerce. I wanted their permission to choose one of the arbitrators from amongst their members and also that the same facility might be given to the Australian Company. That also was refused and the award was practically made at our back and without any adherence to those legal and equitable principles of law and justice which should have been the chief consideration. I do not want to dilate on the different clauses of this Bill at the moment but I hope that the Select Committee will take note of these facts and try to regulate the arbitration laws in a manner which would be equitable and just and based on principles which would give them the sanction of conscience based on principles of equity and justice. I only referred to this particular case of Bengal Chambers of Calcutta in order to impress upon the House that in spite of the fact that there were no adequate arbitration laws to that effect, yet arbitrations have been going on

and on very important matters, and in some cases the parties have been put to great losses by this European Chamber. I will not try to criticise or comment on the different clauses of the Bill as my Honourable friend, Mr. Lalchand Navalrai, has done, because I do not like to waste the time of the House at this stage and with these few remarks, I support the motion for Select Committee.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I do not want to go at length into the law of arbitration at present, but I would like to make one or two remarks. I find that in clause 5 the words used are :

"The authority of an appointed arbitrator or umpire shall not be revocable except with the leave of the Court, unless a contrary intention is expressed in the arbitration agreement."

I do not see the necessity for putting in this proviso. If you say, "unless a contrary intention is expressed in the arbitration agreement", then in every arbitration agreement this condition will be put in. On the other hand, if the parties have no confidence in any arbitrator, why should the Court insist on having a man in whom the parties have no confidence? So, I hope that, when the Bill goes before the Select Committee, this point will be remembered. Whenever parties nominate an arbitrator to settle their differences, it is always a matter for the parties to consider whether they have confidence in the man or not. Why should the Court have any power of any kind to say that so and so should not be appointed as an arbitrator?

The next thing is as regards clause 15. That clause says : "The Court may by order modify or correct an award....". I would submit that in such cases the Court shall by order modify or correct an award. Why? Because it should be imperative on the Court to modify or correct an award, because it is said in sub-clause (b) of the clause ; "when the award is imperfect in form,....". If there is any mistake or a small error, or the form is not complete,—I submit that there should be no special form, because, in arbitration cases, we find that even illiterate people are appointed as arbitrators. If they are asked to conform to some form, I submit that that cannot be worked. I submit that there should be no form at all. Arbitrations are not meant to be on any specified form or on any specified rules. Sometimes, people give their arbitration in two lines, in three lines, and why should there be any question of form? And if there is to be a form, then the Court should modify or correct the award, and not merely *may*. Same is the case when there is a clerical mistake. We should not make the proceedings of the arbitration arbitrary or complicated; they should be very simple and people should not be made to spend too much upon them. With these words, I support the motion.

The Honourable Sir Muhammad Zafrullah Khan : Sir, it is not necessary to make a lengthy reply to the observations that have been made by Honourable Members on this motion. I will assure Mr. Lalchand Navalrai that the opinions that are received on circulation will be available not only to the Select Committee but also to the House when the matter comes on again after the Bill has emerged from Select Committee, and I have no doubt that the Select Committee will pay full attention to all the observations that have fallen from him and other Honour-

[Sir Muhammad Zafrullah Khan.]

able Members with regard to certain matters in the clauses. I will not say that there may not be something in some of the suggestions that have been made.

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

“ That the Bill to consolidate and amend the law relating to Arbitration be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, Sir George Spence, Rai Bahadur Seth Bhagchand Soni, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. C. C. Miller, Sardar Sant Singh and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : That finishes the agenda. As regards the motion for adjournment, the Chair finds that if the House takes it up now, according to a ruling the debate will not terminate automatically until 6 p.m. The Chair does not know whether that is the desire of the House.

Some Honourable Members : No.

Mr. President (The Honourable Sir Abdur Rahim) : Then the House must agree to terminate the debate at a particular hour. Otherwise the proper course will be to take it up at 4 o'clock.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : It may be terminated at half past one. It will give us more than one hour.

Mr. President (The Honourable Sir Abdur Rahim) : If the House wants to discuss it till 6 o'clock, the Chair has no objection. The Chair would like to know whether the House wishes to proceed with the debate now, or wait till 4 o'clock.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : We shall go on from now to half past one.

Mr. President (The Honourable Sir Abdur Rahim) : If that is the desire of the House, the debate can begin now.

MOTION FOR ADJOURNMENT.

GOVERNMENT OF INDIA'S DECISION ON QUESTIONS OF INDIA'S DEFENCE.

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : Sir, I move :

“ That the House do now adjourn.”

My object in moving this motion is to discuss the failure of the Government of India to consult this House or at least Leaders of political parties in this House with reference to important decisions taken by the Government of India on questions of Indian defence contained in the Press communiqué published this morning.

Sir, with reference to the world situation and having regard to the fact that almost all the countries within the British Commonwealth of Nations are today at War with Germany, I will take care, while moving this motion, not to say anything which is likely to cause embarrassment in Government circles. My object in moving this motion is simply to draw the attention of this House to the manner in which the defence policy

has been settled by the Government of India on a very important occasion, indeed. Sir, as I pointed out, we are in the midst of war. India, unfortunately, is an unarmed country. She is not in a position, therefore, to render that help, if she wanted to do so, which could be expected from her having regard to her vast population and resources. I believe, Sir, it was only in the year 1918 or 1919 that a few limited King's Commissions were granted to Indians. Before that, the best Indians and Indians belonging to distinguished martial families whose forefathers had been practising the art of war for 200 or 300 years had to be contented with retiring as Jemadars or Risaldars or may be, Risaldar Majors. The new policy was started about 20 years ago but, unfortunately, having regard to the slow pace of Indianisation in the officers' ranks, India finds herself very considerably handicapped in her ability to defend herself. Sir, I invite the attention of this House to the position of this country with regard to defence matters. What is the position of India ? It is within the recollection of this House what part India, in spite of her tremendous handicaps, played during the last war. I remember a large number of soldiers were sent by India.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair takes it that what the Honourable Member is saying has some reference to the decisions of the Government.

Sir Syed Raza Ali : I am discussing the position of India in the matter of defence generally and then I want to show that the recommendations of the Chatfield Committee, as accepted by the Government of India, do not, in fact, meet at all the requirements of the case.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not know, what the decisions of the Government of India are. The Chair assumes that the Honourable Member's remarks have some reference to those decisions.

Sir Syed Raza Ali : That is exactly my object. What I was submitting was to show the background.

Mr. President (The Honourable Sir Abdur Rahim) : The report is a long one, and the time at the disposal of the Honourable Member is 15 minutes.

Sir Syed Raza Ali : I know that. The position is that India is not in a position to defend herself and her need is that she should be self-contained in the matter of defence. Now, the Chatfield Committee dealt with the question of the defence of India with special reference to the Indian Army, the Indian Navy and the Air Force. Let me point out at once that no member of the Chatfield Committee was an Indian. Let me also point out that in the Defence Department which deals with these matters and which acted in close co-operation with the Chatfield Committee there is no Indian occupying such a position as to enable him to influence the defence policy of the Government of India from the point of view of the Indian people. Sir, it appears that the decisions that have been arrived at by the Chatfield Committee and which have been accepted by the Government of India were arrived at without consultation with any section of the Members of this House. The utmost that the Chatfield Committee's Report claims at page 3 is :

“ At the same time the Committee took steps to ascertain the views of all sections of opinion, un-official as well as official, with which they were able to establish contact, and they included in their survey of the problems various considerations that were put before them as a result of this procedure.”

[Sir Syed Raza Ali.]

Whether any Members of this House appeared as witnesses before the Chatfield Committee is more than I can say. I certainly know this that this House was not consulted in a representative capacity by the Chatfield Committee. Sir, my main objection to the recommendations of the Chatfield Committee is that they were arrived at behind the back of the Indian people and without any opportunity being given to Members of this House to press the Indian viewpoint. The Members of this House are acquainted with the criticism offered by certain critics on the name of "the holy Roman Empire": the criticism is that the Empire was neither holy, nor Roman. Such is exactly the case with the "Indian Army". The Indian Army is an army in the recruitment or the control of the policy of which Indians have no voice. That is my main criticism.

It is not necessary really to analyse in detail the character of the recommendations made by the Chatfield Committee for the simple reason that the decision of that Committee was arrived at *ex parte*. What was there to prevent the Chatfield Committee from recommending that the Indian Navy in its officers' ranks should mainly consist of Indian officers? What was there to prevent the Committee from making a similar recommendation with reference to the Indian Air Force? Now, I would very much like to know how many officers there are in the Indian Air Force, and what steps the Government have taken to increase their number. The Chatfield Committee's Report does not throw any light on that question. Take the case of the Indian Army itself. What is the pace of Indianization in the Indian Army? Sir, that pace is the pace of a snail. The time certainly has come—and I do not want to refer to the present position too often, for every Honourable Member knows the circumstances with which we are surrounded and in the midst of which we are living—the time has certainly come when something substantial should be done. When will the time come if the Chatfield Committee's report, which as I submitted is an *ex parte* report, is accepted by the Government in its main recommendations and no steps are taken by the Government to see that the Indian Army, the Indian Navy and the Indian Air Force should have at least like fifty per cent. Indian officers? Can the Government reasonably say that they are doing all that they should have done to meet the Indian demand? Sir, this report and especially its acceptance by the Government will cause, so far as I can see, very grave discontent in India from end to end. On this occasion we are asked to do all we can to help the Government on the battlefield. Sir, what is our position? Have Government enabled us to help them on the battlefield? What have they done really to prepare us to defend ourselves and, when occasion arises, to help them in other quarters of the globe in a world-war? These are the main considerations. The recommendations of the Chatfield Committee are hesitating and halting. No doubt they make a gift of Rs. 33 crores, which after all is not a very large sum, having regard to the duties which the Indian Army is called upon to perform in times of emergency. What is thirty-three crores of rupees in a world-war like the present in which the daily expenditure of the British Government will be, I believe, something like £5 million a day? Sir, I welcome that the Government have had the courage to publish this report. I must, along with it, say that in view of the character of the recommendations, it is an extremely disappointing report. I would at the same time

point out without hesitation that having regard to the world crisis in the grip of which we find ourselves, it is the clearest duty of the Government to take the earliest steps to man the officers' ranks of the Indian Army, the Indian Navy and the Indian Air Force by Indians, of whom I am sure there will be no lack. Sir, I move.

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

"That the House do now adjourn."

Mr. F. E. James (Madras : European) : Sir, I am opposed to this motion and I must say that I am disappointed with the speech made by my Honourable friend, Sir Raza Ali, for he does not appear to have gone into the reason for the appointment of the Chatfield Commission, the terms of reference of that Commission or the actual recommendations that have been made. In the first place, he must be aware that this Commission consisted of eminent persons who were expert in military and naval affairs and it is necessary, not with any disrespect to this country, to state what is a fact, namely, that there is at present no outstanding Indian military officers with the requisite knowledge of these matters.....

Sir Syed Raza Ali : Does it matter?

Mr. F. E. James : If it is an expert committee, it must be confined to experts.

Sir Syed Raza Ali : Mr. Hore-Belisha is a civilian.

Mr. F. E. James : Sir, the terms of this Committee are in the following terms :

"Having regard to the increased cost of modern armaments, to the desirability of organizing, equipping and maintaining the forces in India in accordance with modern requirements, and to the limited resources available in India for defence expenditure, to examine and report, in the light of experience gained in executing the British rearmament programme, how these resources can be used to the best advantage and to make recommendations."

Is there any Indian military officer in this country who has had any experience of the British re-armament programme? I must ask my Honourable friend, Sir Raza Ali, in applying his mind to these questions to use a certain amount of common sense. Then, he went on to say that this Committee produced a report behind the backs of the Indian people. I do not know exactly what he meant by that, but he is undoubtedly aware that this Committee invited all who had views to give to place those views before it. I am glad to say that that invitation was responded to by a large number of those in this country who do take a realistic view of the problems of defence of India, though I regret that there were certain parties who refused to give the Committee the benefit of their advice. Therefore, my Honourable friend cannot say that this report was produced behind the back of the Indian people. They were asked for their co-operation and those who take the realistic view gave it and they used their co-operation in the production of this report. Then, he went on to say that this Committee failed in its duty because it made no reference to Indianisation. Indianisation was not included in the terms of reference and it is usual, at least in my country, for a Committee which is appointed by His Majesty's Government to confine its activities to the terms of reference laid down for it. Therefore, there can be no particular complaint on these grounds.

[Mr. F. E. James.]

My Honourable friend suggested that this Committee's report would cause an outburst of discontent in this country from end to end. May I repeat one of the recommendations made by this particular Committee for the benefit of my Honourable friend which appears to have escaped his attention :

" His Majesty's Government have accepted in the main the recommendation of the Committee and they have taken full account of the heavy capital cost involved in the proposals made and they reckon that the total net capital cost of their proposals would come to 45 crores of rupees or £34½ million. His Majesty's Government also accepted the conclusion of the Committee that the funds required to meet this capital expenditure could not be found out of the resources available in India."

Therefore, what happened ? While they have accepted that conclusion, they are no less anxious about the urgent need of the modernization of the existing forces of this country. Therefore, they proposed to seek the authority of the British Parliament, which speaks for the British tax-payers and not the Indian tax-payers, to provide the sum of £34½ million from the Home exchequer. In other words, 45 crores of rupees are being provided for the modernisation of the defence of this country at the expense, not of the Indian tax-payer, but of the British tax-payer. That is a gift the publication of which, my Honourable friend, Sir Raza Ali, indicates, will cause in this country a wave of discontent. I do not believe it and he does not believe it himself.

Sir Syed Raza Ali : I said a grave wave of discontent.

Mr. F. E. James : It is not the first time my Honourable friend has provided a "grave" for himself. I venture to say that those, to use the words of the Committee's report, who take a realistic view of the problems of defence in this country will feel immense gratitude to His Majesty's Government that at a time like this they should shoulder this cost of modernisation of India's defence.

Now, my Honourable friend also suggested that before this report had been presented to Parliament or rather to His Majesty's Government this House should have been taken into consultation or this House should have had an opportunity of discussing the matter.

Sir Syed Raza Ali : This House or the political Leaders.

Mr. F. E. James : He is doubtless aware that we are living at the present moment in a time of emergency. He is also doubtless aware that in military matters there is such a thing as need for secrecy, and it would have been the height of folly for His Majesty's Government to have agreed that the detailed recommendations of this Committee should have been made the sport of party politics in this country. Moreover, although the Committee made a recommendation involving a cost of £34½ million to the British exchequer and although the Committee's report has been accepted by His Majesty's Government, yet Parliament has not yet been consulted. Who is paying for this ? In the main, the British people and yet His Majesty's Government felt that the need for the modernisation of the Army, the Navy and the Air Force in this country was so great, in view of the present emergency, that they came to their conclusion before actually placing the matter before Parliament. I would appeal to my Honourable friends in this House to take a realistic view not only of India's immediate and urgent demands but of the times within which we are living. I

would beg of them for the sake of their own country to cease sniping at their friends. If they want to use their powers in that connection, there are others who deserve their attack more than their best friends.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, I rise to intervene in this debate to attempt to meet the one short point which was sought to be raised in the notice of the motion given by Sir Syed Raza Ali though there was scarcely anything in his speech referring to that particular point. The speech did raise the question of King's commissions for Indians, lack of any recommendation with regard to Indianisation and several other matters. Though the Honourable Member went on repeating that the report was an *ex parte* report and he did say once or twice that this House or Party Leaders had not been consulted, there was not one word of argument in his speech in support of the contention that this House should have been consulted. That is to say, he did not give any reason why on a matter of this kind it was obligatory upon the Government to consult either the House or Party Leaders. That in itself is the best refutation of the point sought to be taken by him in the notice given by him of his motion, that he himself was not conscious of any ground upon which in a matter of this kind the House should have been consulted. If by the mere use of expression *ex parte* report he desires to condemn the report, he is very much mistaken. I should very much like that whenever I am a party to any controversy there may be an *ex-parte* decree in my favour of the kind that has been given by His Majesty's Government in favour of India.

Coming to the main point of the motion, my Honourable friend, Mr. James, has very ably met that. I take the general point that there are many matters which arise on which the Government have to take executive decisions and on which it is absolutely out of question either to consult the Legislature or Party Leaders. Those matters are of a kind where the responsibility is and must remain with the executive government, though, of course, they would be prepared to take that responsibility before the Legislature when the matter is raised. What is the character of the matter that we are discussing this afternoon ? This Committee was set up with the terms of reference which have been read out by my Honourable friend, Mr. James, and which I need not repeat. The terms of reference related to certain technical matters. The Committee was set up by His Majesty's Government having regard to the world situation which had arisen and which was rapidly deteriorating. That Committee made a report to His Majesty's Government. It found for the purpose that we are discussing this afternoon that Indian resources were not equal to the demand that must be made upon them if the Indian Army is to be placed on a footing to deal with the crisis that might arise.

Sir Syed Raza Ali : Who is responsible for that ?

The Honourable Sir Muhammad Zafrullah Khan : If I were to go into that, it would raise a much bigger question and it could not be debated within the period of time at our disposal just now. That being the position they found that in the present condition of the world, the Indian Army must be brought up to a certain level of mechanisation and modernisation, and that India was unable to put up the funds for that purpose. Consequently they recommended that His Majesty's Govern-

[Sir Muhammad Zafrullah Khan.]

ment must come to the aid of India and provide those funds, and the recommendation was that three-fourths of the amount required should be advanced as a grant by His Majesty's Government and that one-fourth should be advanced as a loan free of interest for the first five years. They have also permanently increased the grant under the Garra Award from 1½ millions to two millions £ a year.

Now, the grievance of Sir Syed Raza Ali is that before this was accepted the House should have been consulted or at least Party Leaders should have been consulted. What was the position? Surely while the negotiations were going on with His Majesty's Government, His Majesty's Government could not possibly have tolerated, even if the Government of India had been foolish enough to make the suggestion, that the matter should be brought before the House and that we should obtain the advice of the House as to what claim we should put forward against His Majesty's Government. After the matter had been settled and it was settled very recently, there was no point in consultation, as the negotiations between the two Governments had been brought to a very satisfactory issue so far as India is concerned. But look at it another way. Did His Majesty's Government consult Parliament? After all India has received something from His Majesty's Government. India may have a grievance, I do not know on what ground it could have that grievance, but the only grievance it could have would be that the gift is inadequate.

Sir Syed Raza Ali : I do not want to interrupt the Honourable Member. But do the Government of India claim to represent the people of India in the same sense in which His Majesty's Government represents the British people?

The Honourable Sir Muhammad Zafrullah Khan : If we are to go into constitutional questions, then am I to understand that Sir Syed Raza Ali claims that the Government of this country should be conducted in accordance with the wishes of the Opposition rather than in accordance with its own views?

Sir Syed Raza Ali : Is it government of the people, by the people, for the people?

The Honourable Sir Muhammad Zafrullah Khan : It is the Government as constituted by law. If that is the grievance, it is no use moving adjournment motions every day over such matters. The constitutional position is well understood and if people co-operate with the present system of government they co-operate on the understanding that there are those limitations in the constitution. However, Sir, His Majesty's Government took upon themselves this burden of nearly £35 millions capital and an extra half a million a year and they arrived at that decision on their own responsibility without reference to Parliament. After all the constitutional difference is only this: that His Majesty's Government in putting forward a proposal of that kind before the House would have been certain that they could carry it through the House, but even then they did not put it before the House, for this reason, as I have said to begin with, these are matters of a kind with regard to which the executive government must take responsibility themselves and must come to a decision upon by themselves. These are not matters

which can be placed before the Legislature before a final decision is arrived at nor could Government undertake to act upon the advice either of the Legislature or of the Leaders of Parties in such matters. I would submit to the House that in the day to day administration of the Government of the country many matters must arise in regard to which decisions must be taken and responsibility accepted by Government without making a reference either to Leaders of Parties or to the Legislature. I do not desire to go into the merits of the recommendations of the Chatfield Committee or of the decision which has been arrived at. Strictly speaking they are not relevant to this motion, but I have no doubt that my Honourable friend, Mr. Ogilvie, will deal with them very adequately when his turn comes.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, there seems to be some misconception as to the scope of this motion. All the previous speakers including the Honourable the Leader of the House have dealt with the merits, more or less, of the recommendations of the Committee and the decisions of the Government of India. As I understand the motion, it has a very limited scope. The subject matter of complaint in the motion is about the failure of the Government of India to consult this House or at least the Party Leaders with reference to the important decisions taken by the Government of India on questions of India's defence. There is nothing here on the merits of those recommendations and decisions.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member means that it would be irrelevant altogether, the Chair has to point out that there must be some reason why the Legislature or the Leaders of Parties should be consulted, and if the decisions were not important enough to justify such consultation, then the motion will have no significance.

Mr. Akhil Chandra Datta : There is no doubt that the decisions are very important.

Mr. President (The Honourable Sir Abdur Rahim) : Does he mean that the decisions are not of such a nature which require consultation with Leaders of Parties?

Mr. Akhil Chandra Datta : Admittedly the decisions are very important. But my contention is that the scope of the motion is very limited. If we want to discuss the merits of all the recommendations of the Committee or of the decision of the Government of India, it would be impossible for us to do justice in an adjournment motion within the space of 15 minutes allotted to each Member. The communiqué has been issued only this morning, and I do not know how many of us are in a position to effectively discuss those decisions.

The Honourable Sir Muhammad Zafrullah Khan : Government have
1 P.M. not raised this discussion.

Mr. Akhil Chandra Datta : The question is not, as I understand it, whether these decisions are right or wrong, but that they have been taken behind the back of this House and even behind the back of the Leaders of Parties. However, if these decisions are to be discussed, that can only be done on a more suitable occasion when we have more time

[Mr. Akhil Chandra Datta.]

to study and discuss them. The Honourable the Mover of the motion has referred to the merits, and my Honourable friend, Mr. James, dealt almost exclusively with the merits.

The Honourable Sir Muhammad Zafrullah Khan : Is it meant that the Mover rushed in where angels fear to tread ?

Mr. Akhil Chandra Datta : I would not put it like that. But I think he was treading upon more ground than is actually covered by the adjournment motion. With regard to this motion, the whole question is whether the House should have been consulted or not. The view that has been propounded by the Leader of the House comes to this that on this question of Indian defence India should not be consulted at all.

The Honourable Sir Muhammad Zafrullah Khan : I never said that.

Mr. Akhil Chandra Datta : It comes to that. The question is of Indian defence and, according to the theory propounded, India is to be no party to that decision and is not even asked to give her advice or suggestions. In fact, it will be no exaggeration to say that India has been kept religiously and scrupulously out of any knowledge of the decisions that were intended to be taken and have been taken.

The Honourable Sir Muhammad Zafrullah Khan : Only to the extent to which Great Britain has been kept out of it.

Mr. Akhil Chandra Datta : The Leader of the House says that all the recommendations are for the benefit of India and the House should gladly accept them. If that is the position and Government are so sure of their case, why not consult the House so that the seal of the House may be put upon it and their position strengthened ? My grievance is this. There is war now and it has been said in this morning's *Statesman* that India is legally at war, because Great Britain is at war. This war is admittedly to vindicate the principles of democracy and self-determination. Is it democracy not to consult India about her own defence, or is it a mockery of democracy ? I say it is Fascism and Nazism to destroy which this war is being fought. The time when these decisions are taken is very significant. There is war and all the countries of the world are giving their best and most anxious thought as to how to defend their countries, and here in India we have not been taken into confidence as to the methods that are proposed to be taken with regard to the defence of this country. So I support this motion on the simple ground that India has not been consulted.

Sardar Sant Singh (West Punjab : Sikh) : Sir, I agree with what my Honourable friend, Mr. James, said.....

Mr. President (The Honourable Sir Abdur Rahim) : The Chair would remind Honourable Members that it is the desire of the House that this debate should be concluded at 1-30 P.M.

Sardar Sant Singh : I will be very brief, Sir.

I quite agree with the observations of Mr. James that there is a critical situation in the world today, and we must keep that before us when we are discussing a subject of this importance. But, at the same

time, I must observe that the real principle underlying this motion has been entirely overlooked by those who are taking an adverse view of this motion. It has been a constant complaint against the Defence Department that it does not take the Legislature into its confidence in the matter of defence ; and this motion is a protest against the continuation of that same policy of distrust of this House. The present emergent situation should have opened the eyes of those who are responsible for the defence of this country and should have persuaded them to realise the changed circumstances and take the House into their confidence in the matter of defence. In this report, apart from the question of contribution for the modernisation of the Indian army,—and I am glad the report takes into consideration the inadequacy of the revenues of India for meeting the new equipment for modernisation of the army,—there are certain matters on which this House could have been profitably consulted. For instance, there is the question of reduction of Indian troops which is called absolute reduction, and there is a qualifying phrase that Indian troops would be employed overseas not at the cost of Indian revenues. What that expression means is yet to be made clear. We are certainly not in a position to grasp the implications of this expression in the Chatfield report, because the report as a whole has not been made available to us. However, without reading that report, we cannot come to the conclusion whether it is in the public interest or not to disclose the discussions embodied in that report. Yet it is in our primary interest to see how our troops are going to be employed beyond the borders of India.

There are two conditions laid down. One is that when Indian troops are employed outside India for the purpose of the defence of India, India would bear the ordinary cost of those troops. The second is, as I pointed out before, that when troops are employed outside India, it would not be at the cost of Indian revenues. May I ask the Honourable the Defence Secretary, when he gets up to make a reply, what he means by this expression ? Does he mean that Indian troops shall be employed as mercenaries to take away the liberties of other people or to enhance the boundaries of this already vast empire ? It is this House which has to decide whether our men will be employed as mercenaries abroad or not. Apart from these considerations, the second point which I will stress is about the employment of these 45 crores in India itself. This House would certainly like to know how this money—34 crores of absolute gift and 11 crores without interest for five years—is to be employed. Are we going to import from British factories all this equipment, or are our industries going to be subsidised and encouraged in order to manufacture modern equipment in India in order to make India self-sufficient, as said in the report ? I want to make myself very clear. I would certainly object if this apparent gift of 34 crores were to take the form of the supply of second-hand and almost obsolete material to the Indian army. It might be a mere book-transfer. The utilisation of this money should be in the hands of the Government of India as said in the report : but not of the Government of India in the irresponsible Defence Department, but of Defence Department acting with the advice of some sort of a committee of this House as to how this money should be utilised. These are the two matters which require consideration. Our thanks to His Majesty's Government do not depend

[Sardar Sant Singh.]

on whether this 34 crores goes to reduce unemployment in their own country and in their own factories. If this money comes to us, then we should have a voice how this money should be utilised. This policy of distrust should cease particularly in these emergent times. If the Government of India really desire—particularly the Defence Department—our co-operation in the real sense of the term, I would appeal to them that they should have as much regard for the critical situation through which we are passing as they want us to have. If so, they should immediately proceed to constitute some sort of a liaison committee of this House which should be advisory in character, to advise in the matter of defence and particularly in the matter of the utilisation of this 34 crores ; and so long as this assurance is not forthcoming, our sense of grievance will certainly continue and we will be forced to give expression to our grievance.

An Honourable Member : Give the money back.

Sardar Sant Singh : It is not for me : I was not consulted before it was given, and I will not be consulted when it is taken away. Neither did I take it, nor can I give it. But if it is to be taken by the irresponsible Defence Department, I will certainly plead that we should be consulted as to how this money should be utilised : there should be a definite assurance given to us that both our Government factories and our private enterprise would be encouraged to manufacture these requirements in this country. Unless this assurance is forthcoming, Government will deserve censure. I will not take up the time of this House any longer, and I will support this motion till the Defence Department gives the necessary assurances.

Mr. C. M. G. Ogilvie (Defence Secretary) : Sir, until the last speaker rose there was not really very much for me to say from my side of this case ; as the Honourable the Leader of the House and others have stated the merits of the conclusions now arrived at by the two Governments were either passed over in silence or accepted with a moderate degree of acclamation. It is indeed rather difficult to criticise a gift of this nature, and to that extent I sympathise with those who have supported this adjournment motion in the difficulties which they have obviously found. I cannot, any more than anybody else, attempt to forecast in any way what the course of affairs now will be ; but as Sir Raza Ali said, we are now at war ; and in order to assist us to play whatever part we may have to play—and nobody can yet tell what that will be—we have received this large measure of help. Sardar Sant Singh said that he was puzzled by the fact that in some cases Indian troops sent overseas would continue to be paid by the revenues of India. The explanation is very simple. In accordance with the decision on this report, India's liabilities for external defence have been limited to the smallest extent possible. As you will see from the report, the amount of troops she may be called upon to provide for the external defence of India, that is to say, to assist in the manning of those strategic positions, those bastions of India's outer defences, which if they fell into the hands of an enemy would mean that the coasts, harbours, and cities and peoples of this country would be in danger, is very small. Her commitments have been limited at present to

approximately one-tenth of the forces she maintains. If forces in excess of that number were required to be used for external defence, as at present arranged, it is considered that she should not bear even their maintenance expenses. For example, an Indian battalion is now stationed at Aden. Nobody can possibly say that Aden is not one of the outer bulwarks of India and that if it fell into enemy hands, the consequences to India might indeed be serious. But that battalion happens at the moment to be outside the number of troops allotted for India's external defence purposes and, therefore, it is being paid for by England.

The next question which Sardar Sant Singh asked us was how this money was to be expended. It is rather difficult to say exactly how it will be spent. Much of the material must of course be bought from England. Tanks and aeroplanes and certain types of artillery are not produced in India and, therefore, they will have to be obtained from the United Kingdom. I can assure him, however, that second-hand or inferior material will neither be offered by England or accepted by India. The very finest material in the world will be provided, but the maximum amount possible of that money will be expended in India. I should say that my Honourable friend, Sardar Sant Singh, and other Honourable Members in his Party, and on the other side of the House are fully aware that it would not be a sensible thing to issue tenders in India for the purchase of light tanks. On the other hand everything that can be provided in India will be made here and our existing ordnance factories will be extended to the utmost for the manufacture in India of whatever India can reasonably produce. If at some subsequent stage, possibly partly as a result of the great degree of mechanisation and modernisation now to be introduced into the army, there is a fillip to a national industry of this kind, well, so much the better, and then everything can be purchased. At present everything that can be purchased will be purchased here, and every possible encouragement will be given to enable India to produce more.

Then, the last point the Sardar Sahib made was, that even though it is a magnificent gift which has been offered to this country, he would not be satisfied, unless the spending of it were controlled in some way by a Committee of gentlemen of this House. Well, I ask him and others,—what Members, either of this House or of any other House in the world,—are there who can decide which type of light machine gun, tank or aeroplane is to be bought ? Any idea of that kind must obviously be impossible, and in this class of matter, we must be content to take the advice which our professional experts give us. Neither Sardar Sant Singh, nor myself, nor any one else is competent to advise in the least in matters of this kind.....

Sardar Sant Singh : I never made such a suggestion. What I meant was an Advisory Committee of this House should be appointed to help the Defence Department and the Defence Department should take that Committee into confidence in matters which are not strictly military, but in other matters. I am prepared to give a list of matters to the Defence Department in which they can consult an Advisory Committee of the kind that I have suggested.

Mr. C. M. G. Ogilvie : That, I submit, Sir, is an entirely different matter which is not in debate at present, though the advice of my

Mr. President (The Honourable Sir Abdur Rahim) : The Chair pointed out that the debate would go on till half past one. If the Honourable Member does not want the motion to be put to the House

Sir Muhammad Yamin Khan : The procedure is the same as if any motion is taken and is not closed up to the time when the time for finishing comes, that is, up to 6 o'clock. In this case as the House found that it would not be desirable to go on till 6 o'clock, we fixed it at 1-30.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member's point. The Chair understood that the desire of the House was that the debate should close at 1-30, but if it was the intention of the House that it should automatically close and there should be no division after 1-30.....

Some Honourable Members : Yes.

Mr. President (The Honourable Sir Abdur Rahim) :then the Chair need not take the vote of the House. What does the Honourable the Mover of the motion say ?

Sir Syed Raza Ali : I submit that was my intention and the intention of the House.

Mr. President (The Honourable Sir Abdur Rahim) : In that case the Chair will not take the vote of the House.

The Assembly then adjourned till Eleven of the Clock on Friday, the 8th September, 1939.

LEGISLATIVE ASSEMBLY.

Friday, 8th September, 1939.

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

MEMBER SWORN.

Mr. Leonard John Dean Wakely, M.L.A. (Government of India : Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

WILSON COMMITTEE ON INDIANISATION OF ARMY.

115. *Mr. Lalchand Navalrai : (a) Will the Defence Secretary be pleased to state if it is a fact that the Wilson Army Indianisation Committee was boycotted by Indian public opinion ? If so, why public opinion was not respected ?

(b) Were any objections raised by the public and the press as to the composition of the Committee ? If so, how were they met ?

(c) Is the Wilson Committee sitting in " Camera ", excluding the press ? If so, why ?

(d) Is it a fact that in the Skeen Committee the late Mr. Motilal Nehru and Mr. M. A. Jinnah asserted themselves and the Committee was left open to the press ?

(e) Did any of the members of the Wilson Committee urge for the press being allowed to be present during the proceedings ? If so, for what reasons their protests were not heeded ?

(f) Was the Muddiman Committee on Reforms thrown open to the press and the public ?

(g) Has the attention of Government been drawn to the article on page 1 of *Roy's Weekly*, dated the 25th June, 1939, illustrating by two examples that the *communiqué* issued by the Defence Department gives no news but some hazy impressions ? If so, what steps Government have taken in that direction ?

(h) Is it a fact that the Defence Secretary has placed before the Committee a cut and dried scheme suggesting an offer of 54 seats to the sons of the Viceroy's Commissioned Officers particularly from so called martial provinces and six to gentlemen cadets ? If so, what are the reasons for it ? If not, will Government be pleased to lay the Defence Secretary's scheme on the table of the House ? If not, why not ?

Mr. C. M. G. Ogilvie : (a) No.

(b) The answer to the first part is in the affirmative. For the answer to the second, I refer the Honourable Member to my speech of the 14th March, 1939, on the constitution and terms of reference of the Indianisation Committee.

(c) The meetings of the Committee were not open to the Press or the public. It was necessary to keep the proceedings strictly private in order that witnesses might be able to state their views freely, and in order that confidential information might not be divulged.

(d) I have no information as to the first part of the question, as regards the latter I am informed that only some of the evidence was taken in public with the press present.

(e) No. The second part of the question does not, therefore, arise.

(f) Yes, when evidence was being taken.

(g) Yes. I refer the Honourable Member to the Press Communiqués published on the 7th, 18th and 21st July, 1939.

(h) No. An outline of the scheme is laid on the table.

The main features of the scheme are as follows :

- (1) The main channel of entry to the Indian Military Academy should be the Prince of Wales' Royal Indian Military College, which should be enlarged accordingly.
- (2) Candidates would be chosen by a Selection Board at the age of thirteen.
- (3) There would be no separate allotment to the sons of soldiers or to the enlisted classes, but the claims of the latter classes would be met by so improving the King George's Royal Indian Military Schools as to ensure that candidates from these institutions would be able to compete with boys from other schools.
- (4) The fees should be reduced.
- (5) Half fees would be payable by sons of soldiers.
- (6) Serving military officers would be posted to the Royal Indian Military College and would be responsible for games and instruction in military matters.
- (7) Students at the Royal Indian Military College would pass direct into the Indian Military Academy after a qualifying examination.
- (8) Provision was also made for direct recruitment to the Indian Military Academy of a limited number of candidates from the ranks of the Regular Army, from the Auxiliary Force (India), Indian Territorial Force and University Training Corps. This recruitment would be by selection from army candidates possessing the required educational qualification.

Mr. Lalchand Navalrai : With regard to (f), why was it that formerly the Committee was open to the Press and it has been stopped. Was it not as confidential as before ?

Mr. C. M. G. Ogilvie : I would refer the Honourable Member to part (c) of my reply.

Mr. Lalchand Navalrai : May I know why there was nothing to keep secret on the former occasion.

Mr. C. M. G. Ogilvie : I was not a member of the former Committees. I have no direct knowledge of what happened there, but it may be taken by the Honourable Member as certain that if the proceedings were to have been treated as confidential, they would not have been open to the public.

Mr. Lalchand Navalrai : May I know from the Honourable Member, with regard to (h), whether any instructions were given to this Committee as to the number of cadets that will be accepted in the Academy ?

Mr. C. M. G. Ogilvie : No such instructions were given.

SPECIAL CONCESSIONS GIVEN TO ANGLO-INDIANS IN THE RAILWAY, POSTS AND TELEGRAPHS AND CUSTOMS DEPARTMENT.

116. *Mr. Lalchand Navalrai : (a) Will the Honourable the Home Member state if the attention of Government has been drawn to the Home Department Resolution No. 14/5/38-Ests., dated the 1st May, 1939, with regard to giving special concessions to the Anglo-Indians in Railway, Posts and Telegraphs and Customs Departments ? If so, will the Honourable Member be pleased to state if the word " Anglo-Indian " has been defined anywhere ; if not, what is the meaning attached to it ?

(b) Will Government be pleased to state in full what past association of Anglo-Indian community is alluded to in the said Resolution to entitle them to special concessions at the hands of Government ?

(c) Will Government be pleased to state if other communities in India have also such past association ? If the reply be in the affirmative, where lies the difference ?

(d) Are Government aware of the widespread discontent over this distinction in public service and do Government propose to remove this distinction with regard to all public services ? If not, why not ?

(e) Have the Government of India passed the Resolution in the capacity of a Federal Railway Authority or it has been passed by the Governor General or Governor General in Council ?

(f) Has the Federal Public Service Commission been consulted in passing the aforesaid Resolution ? If not, why not ?

(g) Will the Honourable Member be pleased to state how such a preference to the Anglo-Indian community, as is contained in the aforesaid Resolution, is consistent with the provisions of section 242 (ii) by which a fair representation in the Services of Federation has to be given to each community in India ?

(h) What steps do Government propose to take to allay the general dissatisfaction caused by the aforesaid Resolution ?

The Honourable Mr. J. A. Thorne : (a) Yes. The term " Anglo-Indian " is defined in paragraph 26 (1) of Part I of the First Schedule to the Government of India Act, 1935.

(b) and (c). Certain branches of the Railways, Posts and Telegraphs and Customs Departments have been largely manned by Anglo-Indians in the past. No other community has been associated to a similar extent with those branches.

(d) and (h). Government are not aware of any such widespread discontent.

(e) The Resolution was passed by the Governor General in Council.

(f) No. Such consultation was not necessary.

(g) The action which has been taken is in accordance with the express provisions of sub-section (2) of section 242 of the Government of India Act, 1935, and there is, therefore, no inconsistency.

Mr. Lalchand Navalrai : If there has not been widespread discontent, has any discontent come to the notice of the Government ?

The Honourable Mr. J. A. Thorne : I do not know how it is possible to make an analysis of the discontent. There have been one or two articles in the newspapers—not very many and not very emphatic ; and there was a notice of an adjournment motion in this House which was not moved.

Mr. Lalchand Navalrai : May I know from Government what were the reasons for considering this concessional representation as a fair representation according to the Government of India Act.

The Honourable Mr. J. A. Thorne : Well, Sir, the fair representation, from my recollection of sub-section (2) of section 242, is not mentioned with specific reference to the Anglo-Indian community. What is mentioned with specific reference to the Anglo-Indian community is due consideration of their past association with certain branches of certain services.

Mr. Lalchand Navalrai : Is the Honourable Member aware that section 242 (2) says that fair representation is to be given to each community. That would mean without any preference. Will the Honourable Member say whether it is fair representation ?

The Honourable Mr. J. A. Thorne : Yes, Sir. The duty before the Government of India was to carry out the duties imposed by the whole of sub-section (2) of section 242, the first part as well as the second part.

Maulvi Muhammad Abdul Ghani : What is the percentage of the Anglo-Indian population in India ?

The Honourable Mr. J. A. Thorne : I must have notice of that question.

Maulvi Muhammad Abdul Ghani : May I know from the Honourable Member whether Anglo-Indian children inherit past associations by birth ?

The Honourable Mr. J. A. Thorne : I am not an expert on questions of inheritance of that kind.

EXISTENCE OF THE MIDDLE EAST COMMAND OF THE ARMY.

117. *Maulvi Abdur Rasheed Chaudhury : Will the Defence Secretary please state :

- (a) whether Middle East Command is already in existence ;
- (b) what part of this Command will be manned by the Indian Army and what the contribution of India will be for the maintenance of this Command ; and
- (c) whether any part of the Indian Army has already been transferred there ?

Mr. C. M. G. Ogilvie : (a) Government have no more information than has appeared in the Press.

(b) No arrangement has been made by which any part of the Indian Army will be permanently stationed in the Middle East Command. The second part of the question does not therefore arise.

(c) Yes.

Maulvi Abdur Rasheed Chaudhury : May I know what is the strength of the army that has been sent already ?

Mr. C. M. G. Ogilvie : I can add no details to the information which has already appeared in the Press. Detailed information of the type sought by the Honourable Member is definitely contrary to public interest at this time.

Maulvi Abdur Rasheed Chaudhury : Who is paying for the army which has been transferred ?

Mr. C. M. G. Ogilvie : I would ask the Honourable Member to refer to Military Despatch No. 5, a copy of which will be in his possession.

CASTES OF SIKHS SUPPLYING SOLDIERS FOR THE INDIAN ARMY.

118. *Sardar Sant Singh : Will the Defence Secretary please state :

- (a) the names of the castes of Sikhs (non-Jats) which till recently used to supply recruits (soldiers, etc.), for the Indian Army ;
- (b) what are the names of the Regiments, Infantry and Cavalry separately, in which recruits from such castes of Sikhs used to be taken ;
- (c) when the recruitment of such castes of Sikhs in the ranks was stopped in each of these regiments and under whose orders ;
- (d) what the circumstances were which led to the stoppage of the recruitment of these classes to the Indian Army ;
- (e) whether Government propose to place a statement on the table of the House showing the number of soldiers and officers belonging to such Sikh castes which fought during the Great War and on other occasions ;
- (f) whether Government are aware that many of them had won distinctions in the Great and other Wars and many of such officers and soldiers have since retired and others are yet serving the Government ;
- (g) whether Government are aware that in good old days the Kshatriyas or Khatri, which included Khatri Sikhs also, was the sect which used to be classed as warrior or martial race ;
- (h) whether Government propose to take steps to open the recruitment to the members of Khatri Sikhs and other such castes which used to enlist previously ; if not, why not ; and
- (i) whether Government propose to raise separate regiments for Khatri Sikhs and other such castes and to give them befitting names also ; if not, why not ?

Mr. C. M. G. Ogilvie : (a), (b) and (c). The recruitment of non-Jat Sikhs has not been stopped. I lay on the table a statement showing the sub-classes of non-Jat Sikhs recruited in the Indian army and the units in which they are taken.

(d) Does not arise.

(e) This information is not readily available, and the time and labour involved in collecting it would not be commensurate with the value of the results achieved.

(f) and (g). Yes.

(h) In view of the reply to parts (a), (b) and (c), the question, does not arise.

(i) No. It is not practicable.

Sub-classes of non-Jat Sikhs serving in the Indian army.

Khatris.
Lobanas.
Mehtons (Rajputs).
Kambohs.
Sainis.
Mazbhis.
Ramdasias.
Brahmans.
Tarkhans.

Besides these there are a few other castes who are not classified separately but shown as "Other Sikhs".

Units of the Indian army which take non-Jat Sikhs.

1st, 5th and 25th Field Regiments, R. A., 6th Medium Regiment, R. A.
11th, 16th, 18th, 20th, 22nd and 25th Mountain Batteries, R. A.
K. G. O. Bengal Sappers and Miners.
Royal Bombay Sappers and Miners (Mazbhi and Ramdasias Sikhs only).
2nd Punjab Regiment.
R. I. A. S. C. (M. T.).
Nos. 13, 26 and 27 Animal Transport Companies (Mule).
Indian Hospital Corps.

BRITISH TROOPS SENT TO EGYPT AND SINGAPORE.

†119. *Sir Abdul Halim Ghuznavi : Will the Defence Secretary be pleased to state :

(a) whether British troops recently sent out of India to Egypt and Singapore are still paid by the Indian Government ; and

(b) if the answer to part (a) above be in the affirmative, why Indian tradesmen attached to the British troops were not allowed to proceed with the troops ?

Mr. C. M. G. Ogilvie : (a) If the question refers to those still on the Indian Establishment, the answer is in the affirmative.

(b) It is not clear what the Honourable Member means by tradesmen.

NON-ALLOWING OF INDIAN TRADESMEN TO TRADE WITH BRITISH TROOPS IN SUDAN.

†120. *Sir Abdul Halim Ghuznavi : Will the Defence Secretary be pleased to state if it is a fact that Indian tradesmen are not allowed to trade with the British troops in Sudan on the ground that trade in Sudan is the exclusive right of the Sudanese ?

Mr. C. M. G. Ogilvie : Not as far as Government are aware.

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

CONSTITUTION OF A RESERVE IN THE AIR FORCE.

†121. *Sir Abdul Halim Ghuznavi : Will the Defence Secretary be pleased to state whether Government contemplate constituting a reserve in the Air Force as they have done in the Indian Navy ; and if not, why not ?

Mr. C. M. G. Ogilvie : This has now been done.

APPEALS AGAINST PENALTIES IMPOSED ON INCOME-TAX OFFICERS IN THE UNITED PROVINCES.

122. *Mr. Muhammad Azhar Ali : Will the Honourable the Finance Member be pleased to state :

(a) in how many cases Commissioners of Income-tax have exercised their powers under C. S. (C. C. A.) rule 49 during the past five years in the United Provinces and the Central Provinces and what were the penalties imposed on the officers concerned ;

(b) how many appeals by the Income-tax Officers against orders under C. S. (C. C. A.) rule 49 have been preferred to them during the past five years in the United Provinces and the Central Provinces and in how many of them Government passed orders themselves and in how many they acted on the advice of the Federal Public Service Commission ;

(c) how many of such appeals were accepted and how many rejected ;

(d) whether Government or the Federal Public Service Commission give an opportunity to the officer concerned to make a defence or representation or hear him if he wants to be heard ; whether any such thing was allowed in the appeals mentioned in part (a) above ; if so, in how many of them ;

(e) in how many of the appeals mentioned in part (a) above, the officers concerned were supplied with copies of the confidential records under C. S. (C. C. A.) rule 49, or of other documents and of the opinions of the officers imposing penalties on them, and their explanations asked in respect of them ;

(f) if the procedure mentioned in part (e) above is not being followed here, whether Government considered the advisability of allowing an officer to acquaint himself with the charges against him and to submit his explanation in respect of them before final orders are passed ;

(g) to whom Government have delegated the power of imposing penalties on gazetted officers of the Income-tax Department under C. S. (C. C. A.) rule 49 ; and

(h) whether Government have considered the advisability of framing rules governing the procedure in all matters relating to penalties under C. S. (C. C. A.) rule 49, and specially of laying down that no penalty should be imposed without giving timely warning and an adequate opportunity of representation or defence to the officer to be penalised ?

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

The Honourable Sir Jeremy Raisman : The information is being obtained and will be laid on the table of the House in due course.

COMPETITION OF THE IMPERIAL BANK OF INDIA WITH LOCAL BANKING.

123. *Mr. Muhammad Azhar Ali : Will the Honourable the Finance Member please state :

- (a) whether the Imperial Bank being an Agent of the Reserve Bank use that position for competing with the local banking ;
- (b) if the answer be in the affirmative, whether Government have considered the advisability of stopping this competition ;
- (c) whether Government have considered or propose to consider the advisability of taking steps for encouraging banking in India by consolidating small banks into bigger ones by the process of incorporation ; and
- (d) whether Government intend to bring any legislation for the purpose ?

The Honourable Sir Jeremy Raisman : (a) and (b). The attention of the Honourable Member is invited to the provisions of the Imperial Bank of India Act, section 45 of the Reserve Bank of India Act and the agreement provided therein. The Government of India have no power to interfere so long as these provisions are not contravened.

(c) and (d). No.

Mr. Muhammad Azhar Ali : Do Government know that the Imperial Bank can come to the help of the Benares Bank in this crisis ?

The Honourable Sir Jeremy Raisman : I see no reason why any other Bank should not come to the help of the Benares Bank in a crisis, if it thought suitable.

COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Abdur Rahim) : I have to announce that under sub-order (1) of Standing Order 80 of the Legislative Assembly Standing Orders the following Honourable Members will form the Committee on Petitions, namely :

- (1) Mr. A. Aikman,
- (2) Syed Ghulam Bhik Nairang,
- (3) Mr. N. M. Joshi, and
- (4) Raja Sir Vasudeva Rajah.

According to the provision of the same Standing Order, the Deputy President will be the Chairman of the Committee.

PRESENTATION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I present the Report of the Public Accounts Committee on the accounts of 1937-38, Volume I (Report)—Parts I and II.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I present the Report of the Select Committee on the Bill further to amend the Indian Railways Act, 1890, for a certain purpose.

THE REPEALING AND AMENDING BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I present the Report of the Select Committee on the Bill to amend certain enactments and to repeal certain other enactments.

THE INDIAN CARRIAGE BY AIR (AMENDMENT) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move for leave to introduce a Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose.

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

“ That leave be granted to introduce a Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose.”

the motion was adopted.

The Honourable Sir Andrew Clow : Sir, I introduce the Bill.

THE DEFENCE OF INDIA BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move :

“ That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences be taken into consideration.”

Sir, this Bill which is based upon and replaces the Defence of India Ordinance is a purely emergency measure. We are all aware of the nature and the extent of the emergency. It is not pretended that the provisions of the Bill are not designed to give very wide powers to the Government but it will be realised that extremely wide powers are absolutely essential for the successful prosecution of the war and to control disloyal and mischievous tendencies which might do serious damage to the ability of India to make its due contribution towards the prosecution of the war. In one sense, it is not, unfortunately, a new measure, as it is based very largely upon the Defence of India Criminal Law Amendment Act of 1915 with certain adaptations which have been rendered necessary by the present state of affairs.

[Sir Muhammad Zafrullah Khan.]

There are two or three motions tabled, which ask that the Bill shall be referred to a Select Committee. Ordinarily and under normal conditions I should not have had much difficulty in accepting one of these motions but as I submitted to the House when referring to the outbreak of war between His Majesty and Germany, many on our side are bearing an extremely heavy burden and consideration of time at this stage is an extremely weighty consideration. I am not asking the House to pass this Bill this afternoon. I realise that though it is an emergency measure and is an absolutely essential measure, the House is entitled to discuss it fully, scrutinise its provisions and suggest such improvements as may occur to Honourable Members. But to refer it to a Select Committee would involve expenditure of time over and above that which is likely to be taken and bound to be taken otherwise. It is, therefore, not out of any desire to rush the measure through the House that I am submitting that perhaps it would not be wise, having regard to everything, to insist upon the measure being sent to the Select Committee. Subject to that, as I have submitted, I have no doubt Honourable Members will express their views with regard to the measure generally and with regard to any specific provisions during the course of the debate on this motion and on the amendments. Sir, I move.

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

“ That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences be taken into consideration.”

There are a number of amendments. Dr. Banerjee has two amendments for referring the Bill to the Select Committee, the difference being one of date. Does he wish to move any of his amendments ?

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, as the Government are not in a mood to accept either of my amendments, I do not wish to move them.

Maulvi Abdur Rasheed Chaudhury (Assam : Muhammadan) : Sir, I would like to move my amendment and, with your permission, I would like to make a slight change in the amendment. The modified amendment will run thus which I move :

“ That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Lieut.-Colonel Sir Henry Gidney, Sir Muhammad Yamin Khan, Sardar Sant Singh, Dr. P. N. Banerjee, Syed Ghulam Bhik Nairang, Mr. Suryya Kumar Som, Mr. F. E. James and the Mover, with instructions to submit their report within 48 hours, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Honourable Sir Muhammad Zafrullah Khan : May I invite your attention, Sir, to the fact that apart from my name—and I am bound to be in the Select Committee under Standing Orders—no name has been suggested on behalf of Government nor has any request been made to the Government to furnish any names. It is contrary to the past practice and convention of the House.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Sir Muhammad Zafrullah Khan is *ipso facto* a member of the Select Committee, being the Law Member of the Government. It is the convention of this House to consult the Party Leaders as regards the names

of the persons who will serve on the Select Committee from different Parties. There ought to be proper representation of different Parties according to their strength.

Maulvi Abdur Rasheed Chaudhury : Sir, it did not strike me that I have got to consult the Leaders of the Parties. At any rate, I did not find it mentioned in the Manual that I have got to do so.

Mr. President (The Honourable Sir Abdur Rahim) : It is the convention of the House, and the Chair does not see any reason why the Honourable Member should not observe it. Has the Honourable Member taken the consent of the other Honourable Members ?

Maulvi Abdur Rasheed Chaudhury : I have obtained their consent.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Why not accept some Government Members to serve on the Select Committee ?

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) : May I submit, Sir, that.....

Maulvi Abdur Rasheed Chaudhury : Sir, I did not consult Sir Henry Gidney.

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member (Sir Henry Gidney) not willing to serve on the Select Committee ? If so, the Chair will strike out his name.

Lieut.-Colonel Sir Henry Gidney : I am not prepared to serve on the Select Committee after listening to the speech of the Honourable the Leader of the House.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member (Maulvi Abdur Rasheed Chaudhury) has not suggested any names from Government side.

Mr. Abdur Rasheed Chaudhury : I have no objection if other Honourable Members suggest other names.

The Honourable Sir Muhammad Zafrullah Khan : If the motion is carried, we will suggest names.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can now go on with his motion.

Maulvi Abdur Rasheed Chaudhury : Sir, the mere fact that I have said that the Select Committee should submit its report within 48 hours will show that I am not moving my amendment simply to delay the passing of the Bill. I know fully well that in other countries such measures have been passed overnight. I know my duty that delaying a measure like this will do more harm than good to this country. My only idea is that this Bill which is so important in every aspect should pass through the Select Committee so that the Committee may suggest some improvements here and there for the improvement of the Bill. Generally, Bills of this nature pass through the Select Committee and I do not see any reason why this should not be done in this case also, especially as I have put a time-limit of 48 hours for the purpose.

Now, Sir, before I come to the important provisions of the Bill to be considered by the Select Committee, I would like to say a few words.....

Mr. N. M. Joshi (Nominated Non-Official) : There is another amendment for referring the Bill to the Select Committee. Let both the amendments be put before the House.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member does not want to make his speech now, he can make his speech afterwards after the other motion has been moved.

Maulvi Abdur Rasheed Chaudhury : I have no objection. I can speak afterwards. Sir, I move.

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

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir Muhammad Yamin Khan, Sardar Sant Singh, Dr. P. N. Banerjea, Syed Ghulam Bhik Nairang, Mr. Suryya Kumar Soni, Mr. F. E. James and the Mover, with instructions to submit their report within 48 hours, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris : Muhammadan) : Sir, I beg to move :—

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Sardar Sant Singh, Dr. P. N. Banerjea, Syed Ghulam Bhik Nairang, Mr. F. E. James, Mr. N. M. Joshi and the Mover, with instructions to report by the 15th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

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

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Sardar Sant Singh, Dr. P. N. Banerjea, Syed Ghulam Bhik Nairang, Mr. F. E. James, Mr. N. M. Joshi and the Mover, with instructions to report by the 15th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Now, the motion and both the amendments are before the House.

Maulvi Abdur Rasheed Chaudhury : Sir, I wish to state a few words from the Statement of Objects and Reasons before I come to the provisions of the Bill. Sir, this is an emergency measure. We all know that war has been declared. The reason why war has been declared is known to Honourable Members of this House. We had absolutely no hand in the declaration of war. War was declared by His Majesty's Government. This was also announced by the Governor General. This House was not consulted. We have to contribute men and money in this war. So we have a right to criticise whether the declaration of war was right or wrong. It is a pity that within 21 years after the last war was concluded, another war is being waged. Who is responsible for that ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not discuss all that. He must confine himself to the motion before the House which the House is asked to pass.

Maulvi Abdur Rasheed Chaudhury : I will just touch one or two points before I come to the main provisions of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : No ; the Chair will not allow the question of war being discussed. It is not relevant. The war is there ; there is a state of war, and this measure has been brought forward to meet the circumstances that may arise.

Maulvi Abdur Rasheed Chaudhury : My idea is that unless the fundamental principles are changed in politics, this sort of war will be of frequent occurrence. In the last Great War, the principle on which we fought was the independence of Belgium.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not go into all that. He must speak on the motion before the House.

Maulvi Abdur Rasheed Chaudhury : The principle involved in the war is this.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not go into that. He had better deal with the motion.

Maulvi Abdur Rasheed Chaudhury : Sir, the Bill as drafted contains some provisions which necessitate amendments. The first is Chapter I, clause 1, sub-clause (3) : "It shall come into force on such date as the Central Government may, by notification in the official Gazette appoint in this behalf". This is a point on which some discussion will be necessary, as to when it will have to come into force.

The Honourable Sir Muhammad Zafrullah Khan : The Ordinance will be in force until the date on which this measure is brought into force.

Maulvi Abdur Rasheed Chaudhury : The Ordinance has got no responsibility, but this Bill, if passed, will have the sanction of the entire country behind it. This is the difference. Many of the Honourable Members of this House will agree with me that this Bill should not come into force so long as there is actually no warfare within the geographical boundary of India.

Mr. President (The Honourable Sir Abdur Rahim) : That is not the motion before the House.

Maulvi Abdur Rasheed Chaudhury : This is one of the points which has to be discussed in the Select Committee if it sits. I am pointing out some of the salient points which may be discussed in the Select Committee.

Then, I come to Chapter II, clause 2, sub-clause (2) (i) which says : "ensuring the safety and welfare of His Majesty's forces, ships and aircraft, and preventing the prosecution of any purpose likely to prejudice the operations of His Majesty's forces or the forces of His Majesty's allies."

This House, I think, will have no objection to the first part of this sub-clause. As regards the latter part, namely, "forces of His Majesty's allies", I think this House has got a good deal to say about it. The punishment under this Bill is death, confiscation of property and such like punishments. We have got to say much about this. This is another point which I should like the Select Committee to discuss. As regards anything said against the allies, this Government and the country should not be made responsible. That is my personal opinion. I should like this point also to be considered in the Select Committee. I do not see any reason why we, in this country, should suffer for anything said about the allies.

Clause 2, sub-clause (2) (x) is in connection with apprehension, detention in custody of a person who does anything against the interest of the country. Here also the Select Committee will have a good deal to say so that it can decide how much of this clause we can retain, and how much we may omit.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go through the Bill clause by clause. The Honourable Member wants the Bill to be considered in the Select Committee, and, therefore, all these questions might be left to be discussed in the Select Committee. At this stage, the Honourable Member can only discuss the principle of the Bill. This is the well established practice of this House.

Maulvi Abdur Rasheed Chaudhury : The principle involved in this Bill is the punishment of death or transportation, taking possession of people's property, etc. If I cannot discuss these things there is very little that I can say, but I think it would be better if in 15 or 20 minutes I could say what I have got to say.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can discuss the principle only now.

Maulvi Abdur Rasheed Chaudhury : But with this kind of interruption at every point it is very difficult for an amateur like me to remember my points. So I will simply move my amendment.

Mr. H. A. Sathar H. Essak Sait : Sir, I will follow the excellent example set by the Honourable the Leader of the House and speak only on the amendment that I want to move. The reaction of my Party towards this Bill is this. We realise the seriousness of the grave situation that is facing us and we are willing that the Government should take such measures as are necessary for the defence of India and also for the successful prosecution of the war. But so far as this Bill is concerned, we find that the provisions are very wide and there are possibilities of some of the provisions being misused. That is why my Party has put up this amendment for a Select Committee and I do not think anybody in this House will think that ours is a dilatory motion, because we fix the date for the submission of the report as the 15th September ; that is, we give only one week's time to the Committee to carry on their deliberations and submit their report to this House. I do not think that Government will consider that this is a dilatory motion or that we want to be obstructive. But, as the Leader of the House has himself admitted, this is a Bill giving very wide powers to the executive and I maintain that we must devote as much care as we can towards the consideration of this Bill so that it may serve the purpose for which it is meant and not go beyond that. It is in that spirit that we have moved this motion and I commend it to the acceptance of this House.

Mr. A. Aikman (Bengal : European) : Sir, there are two motions for reference to the Select Committee, before the House. I have listened to the reasons put forward by the Leader of the House for not accepting a reference to the Select Committee, but I am not quite certain that such a reference will not expedite the passing of the Bill with the least economy of the time of Government Members. If there be no reference to a Select Committee we are in effect setting up a committee of the whole House which will demand the attendance of all Government Members on all amendments instead of on probably a few.

This Bill is to take the place of the Defence of India Ordinance which was promulgated on the 3rd September, 1939. A perusal of the Ordinances promulgated and legislation passed after the outbreak of war in 1914 indicates how much better prepared is the Government of India today. For example, the Ordinance calling for the registration of

European British subjects was promulgated in 1917, two and a half years after the Great War began. This time it was promulgated two days before the declaration of war. Even so, the non-official European community had more than a month before voluntarily registered itself on an emergency register which has since proved to be of the greatest assistance to the Government of India. In the last war the Defence of India Act received the Governor General's assent 7½ months after the outbreak of war. This time the Bill, which is more comprehensive than the former one, will, it is hoped, be passed within a fortnight of the outbreak of war. All the democratic countries have learnt the lessons of the Great War. They also have had nearly a year after Munich to put their house in order, a factor which may well prove to be a vital element in securing ultimate victory.

The object of the Bill is to provide for ensuring the public safety and interest, and the defence of India. Its enactment will also help in the efficient prosecution of the war. India's interest in this war is neither passive nor neutral. Her future is bound up with the future of the Empire and France and other liberty loving countries. Her effectiveness in defence, man-power and supplies, therefore, is of the greatest importance.

The powers taken under this Bill are vast and cover practically every facet of national life. The rise of the dictatorships has marked the last stage in the development of warfare from intermittent combat between small professional armies to totalitarian war. The dictators have in recent years reshaped every aspect of the life of the nations which they control, and for the sole purpose of such a war. The only answer to that is equally totalitarian war. In her fight for liberty and against aggression Britain has become overnight almost a totalitarian nation with the willing and almost eager assent of her people. Whatever view may be had of India's relationship with Britain in peace time, in this war both countries are fighting a common enemy. They are not fighting Germany as such ; they are fighting a hideous, cruel, ruthless regime. I believe that India is prepared to submit herself to severe restrictions, control and discipline for this cause.

The Bill before the House is only a war measure and its duration is limited to a period of six months after the war. The spirit of its application is defined in clause 15 where it lays down that the ordinary avocations of life are to be interfered with as little as possible. It is to be hoped that this spirit will animate those who are called upon to administer the Act and the wide powers it confers upon the executive. Provision is made for special tribunals, a provision that might have aroused much criticism in the old days before responsible governments took the place of the old bureaucratic machine. Now that the tribunals are under the control of Provincial Governments and appointed by them, many of the old objections are now obsolete. I presume that the rules which are at present enforced under the Ordinance will be notified in their substantial form under the rule-making powers conferred on the Central Government by this Bill. We have observed very wide discrepancies in penalties which are imposed under the rules for various offences, and perhaps we could have some explanation as to the basis for these discrepancies inasmuch as some of them appear to us to be difficult to explain.

[Mr. A. Aikman.]

We have received many complaints of profiteering from various parts of the country, and I am glad to note that Government is alive to the dangers of an undue rise in prices. The problem is not an easy one but it is possible that as things settle down the evil may subside to some extent. A solution of the problem raises complicated issues and presents opportunities for harassment but it must be remembered that in the unfortunate cycle of rising prices, labour unrest, increased wages and still higher prices, it is the poor who suffer most. Only a very few are better off and the economy of the country as a whole is greatly weakened.

We hope too that under the powers conferred upon the Executive by this Bill the movements of those who make it their business to stir up strife in industrial areas will be closely watched. I do not now refer to the legitimate activities of Trade Unions. I refer to the self-seeking agitators whose motives are partly political and partly personal, and who have no genuine interest in the welfare of the labour which they attempt to exploit. I hope Government will not hesitate to take swift action in dealing with those who would wish wantonly to damage India's effectiveness as an ally of the democracies in this time.

We give our support to this Bill and hope that it will be passed with the least possible delay. This war was not sought by Britain or by France. In the words of one of the leading papers in India, the *Hindu*, "Britain and France have acted throughout the present crisis with a due sense of responsibility, but also with correctitude....."

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : On a point of Order, Sir. The Honourable Member is not in order in going through the genesis of the war when discussing this Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think the Honourable Member is trying to discuss the merits of the war.

Pandit Lakshmi Kanta Maitra : But the Honourable Member is going into the reasons that led to the war.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think the Honourable Member has understood him properly. The Honourable Member is not trying to discuss the merits of the war, because the war is actually there.

Mr. A. Aikman : To continue my quotation from the *Hindu* :

"Till the very last they are making efforts to avoid a catastrophe, consistent with their determination not to allow Germany to enforce demands at the point of the sword. If a general war is to be avoided, it must be the German Chancellor who will have to resile from the position he has taken."

Mr. President (The Honourable Sir Abdur Rahim) : The Chair thinks the Honourable Member should not go on on those lines : the House is not discussing the merits of the war now, but the merits of the measure now before the House on this motion.

Mr. A. Aikman : All right, Sir. It is clear from statements made by prominent men in India, including Mr. Gandhi himself, that public opinion in this country is behind the democracies. That being the case, India is in a position to render powerful aid, both moral and material. Her first contribution, therefore, must be in ensuring the security of her shores and frontiers. Her second requirement must be in finding the best use of her immense resources for the prosecution of the war. But above all, as a distinguished military writer has said, "to gain whole-hearted service from people they must be shown a cause that is worthy of service and sacrifice. For them, and particularly for the young, their ideals of freedom and justice count far more than material interests. Even soldiers—professional soldiers—fight best when they fight for a moral cause". India may, therefore, claim that in strengthening the forces of the Empire in this time of its need, she is defending not only her own interests and not only the interests of the great Commonwealth of Nations to which she belongs, but she is fighting to preserve the ideals of freedom and democracy and the reign of law throughout the world.

Sardar Sant Singh (West Punjab : Sikh) : Sir, there is no doubt that this is a moment of emergency, and there is no doubt that ordinarily, where the executive is responsible to the Legislature, the drastic measures proposed in this Bill should be given to the executive for the successful prosecution of the war. There can be no doubt, at the same time, that whether we are party to the declaration of war or not, the fact remains that we are in the midst of the war. I will not, therefore, discuss the merits of the declaration of the war, but shall confine myself to the powers that are demanded by the executive in this country from the Legislature. I am glad that after all the Government of India considered it a better policy to consult this Legislature in the measures they propose to adopt in the prosecution of the war. At the same time, I am simply disappointed with the short speech which the Honourable the Leader of this House made in presenting this measure for consideration.

Before I come to the merits of the Bill, I assure the House that I shall try my level best not to be bitter, but shall weigh my words and speak with a full sense of responsibility. Coming to the speech of the Honourable the Leader of the House, it is a tragedy that the measure should have been moved by a Member from my province. I cannot enter into his feelings when he did not make a long speech on this measure. The reasons to me are obvious, for this is the second measure, the first having been introduced in the last Great War : for a second time it is coming before this House in a certain emergency. We in the Punjab have had bitter experience of the Defence of India Act after the close of the war, and, therefore, those memories are probably fresh in the minds of the Leader of the House and they are particularly fresh in my mind as I was a victim of the Defence of India Act in 1919. I, therefore, take this opportunity to ask for certain assurances from the Government before I record my vote in favour of this measure. I am simply surprised that having introduced such a drastic measure which curtails the liberties of the subject and which always interferes in the daily routine of the life of every citizen in the country and having known at the same time that this measure is to be applied to 350 millions of Indians who are at this time more at the mercy of the executive than under their own laws:

[Sardar Sant Singh.]

therefore, I will just quote to this House the assurance that was considered necessary to be given in Parliament by no less a person than Mr. Winston Churchill. For the information of the House, I will read a small portion of his speech. He said :

“ This is a war to establish and revise the stature of man. Perhaps it may seem a paradox that a war, undertaken in the name of liberty and right should require as a necessary part of its process the surrender, for the time being, of so many valuable liberties and rights.

We are sure these liberties will be in hands which will not abuse them and which will cherish and guard them, and we look forward to the day confidently when our liberties and rights will be restored to us and when we shall be able to share them with peoples to whom such blessings are known.”

That a responsible executive should consider it their bounden duty

12 NOON. to assure the people of the right use of the power that is being vested in the executive is a thing which probably has not struck the Members of the Government here to hold out such an assurance to this House. I looked forward in the speech of the Honourable the Leader of the House for some such assurance. But it was a great disappointment to me when I found that not a word about this assurance was forthcoming. No doubt, it is good to possess strength, but to use that strength in a brutal manner will be monstrous, as one of my friends says. Therefore, I will ask the Government the clear question whether in getting these powers they mean to abrogate the rule of law in the country or not. That is the first assurance I should like to have from the Government. There is no doubt that the rule of law, as it is administered in peaceful times, will have to be curtailed and it has been curtailed in the Bill to a very great extent ; but there are certain things which require an expression of opinion and a direction to be given to those who will be called upon to administer this measure. Sir, in those days when unfortunately the disorders in the Punjab were considered to be rebellion, the mental outlook of those who administered the Defence of India Act can best be expressed in the words of Colonel Johnson who said :

“ I wanted to produce an impression and a moral effect.”

That means he was animated by the idea of creating an impression and a moral effect. Now, will the administration of this measure be also undertaken with that mental approach or with this approach that the measure will be confined strictly to the prosecution of the war and nothing else ? Colonel Johnson, Sir, when faced with a situation to use the Defence of India Act, used it not for the prosecution of the war, because then the war was over. The fact that the measure will be in force for six months after the war indicates that anything which is left by the war will be rearranged and the change to normal conditions will be made easier, but, as a matter of fact, this provision proved to be most dangerous after the last war. Therefore, I would ask the Executive Government to say whether it is their idea to use this Act or to continue to use this Act in the same drastic manner after the war is over or to use it in the same drastic manner even after the successful termination of the war ? Though technically the Act may be in force, we should be clearly told that as soon as the needs of the war are over, as soon as a truce is declared,—I wish it were a victory,—this Act will be suspended and the normal course of

administration by Civil Courts will be resorted to. Colonel Johnson then stated—I shall quote his very words :

“ He very brutally stated before the Hunter Committee, when he was examined as a witness, that he was waiting for an opportunity to show them the power of martial law and used that opportunity for doing so.....”

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : You are talking of days which are never to come. The days of Dyers, O'Dwyers and Johnsons are gone for ever.

Sardar Sant Singh : I am surprised at the mental revolution of my friend, Maulana Zafar Ali Khan, because he is the only person here who suffered internment under the Defence of India Act in the Punjab ; I think we are the only two persons whose memories are still fresh regarding the administration of this measure in the Punjab in those days. That this remark should come from my friend shows.....

Maulana Zafar Ali Khan : A change has come over India.

Sardar Sant Singh : Now, what I submit before the House is that such drastic measures should no longer be used after the successful termination of the war so as to create a moral impression, nor should the military people, after once tasting the blood of man like a tiger, be permitted at every conceivable opportunity to teach a lesson to Indians of the brute force they have been using during the war, and, therefore, the Government should make a clear and straightforward declaration that such things will not happen in the future, as they did happen after the last war was over.

Then, there are two questions involved in this Bill. The first is that the executive Government by this Bill not only wants drastic powers to be entrusted to them to be administered in their executive capacity in the country, but they also want legislative power to be entrusted to them. In clause 2 of the Bill, they don't tell us what laws will have to be administered ; they don't tell us the terms of these laws ; they don't lay before us the various provisions of the law that will have to be administered under the Defence of India Act ; but they say that the Central Government may, by notification in the official Gazette, make such rules as appear to them to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community.

The tragedy of the thing becomes more apparent when we know that under the Defence of India Ordinance of 1939, they have already made rules and published them. May I ask, Sir, why, when the provisions have been defined in the rule, when definite provisions have been made about the obligations they expect from the public, these provisions have not been placed in the form of law, why they have been retained merely in the form of rules, why should they not have been embodied in the Bill itself ? There is no reason to withhold those rules from the Legislature. I know they have been published in the Gazette of India, but the proper procedure would have been to embody them in the Bill itself so that the provisions may be scrutinised in the Select Committee and a complete legislative measure is placed before the country so as to do away with the necessity of acquiring further power to change the rules

[Sardar Sant Singh.]

from time to time and make use of such rules in a manner not sanctioned by the Legislature. My submission is that instead of the long list of subjects specified in clause 2, under which rules can be made, those rules should be embodied in the Bill itself, so that we may know how far the new offences created by those rules are consistent with the principles of jurisprudence, with the principles of the rule of law in the country, and how far the liberties of the subject will necessarily be curtailed and they will not be used beyond what the emergency requires. Therefore, I will ask Government to consider whether they are prepared to make those rules as part of the legislation which is before the House. Those rules should be placed before this House for its scrutiny, more preferably as I stated in the form of clauses to the Bill itself.

The Honourable Sir Muhammad Zafrullah Khan : You will have to sit for six months.

Sardar Sant Singh : As pointed out by the Leader of the European Group, it will be a greater economy of time to consider them in the Select Committee.....

Mr. F. E. James (Madras : European) : Not the rules.

Sardar Sant Singh : In the Select Committee, we can consider the rules and form them part of this Bill.

The Honourable Sir Muhammad Zafrullah Khan : That is your suggestion, not the suggestion of the European Group.

Sardar Sant Singh : The Leader of the European Group suggested that it would lead to more economy of time.....

Mr. F. E. James : Certainly not in regard to rules, but only in regard to the Bill.

Sardar Sant Singh : I was answering the question put by the Honourable the Leader of the House whether it will take a longer time if the rules were placed before the Select Committee or before this House. There are two answers to this question. One is that the Defence of India Emergency Act is already in force ; so no harm is going to be done. The second is that the rules can be considered in the Select Committee and placed before this House for adoption as quickly as is possible under the circumstances. We do not mean to obstruct the passing of this legislation. Let me make it very clear. There is no person in this House who will obstruct the passage of this measure, but certainly we have a right to scrutinise and to see that when such powers are granted, they are definite and are not left vague. Presently, I will give an illustration. This sort of legislation was never intended during the last war to punish offences such as cheating, or raising of prices ; I will give you a list of offences in regard to which it was used. Offences, such as cheating, perjury, false personation, adultery, and so on—these are the offences to which, during the last war, the Act was used.

An Honourable Member : Where ? In the Punjab ?

Sardar Sant Singh : What I am trying to show is that those rules were interpreted as if they provided for these offences. I do not think that any Honourable Member will get up and say that the inclusion of

these offences is necessary for the prosecution of war. Certainly not. There can be only one reply to it, namely, that they were used not for the successful prosecution of the war, but as it was said, in order to strike terror amongst the people. If the object of this measure is to strike terror amongst the people, I warn the Members from the Punjab particularly and other Members generally, that we shall not permit such a measure to be adopted in that fashion. We are willing to be parties, to put it, as a help for the successful prosecution of the war, but not for the purpose of terrorising the people as it was done on the last occasion. That is the point I want to make very clear.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has said that very often.

Sardar Sant Singh : There seems to be some doubt as to the line of argument that I have been pursuing when I suggest that the Government should decide to put the rules in the Bill itself, so that those rules may not be too wide, too vague and be open to some mad man to interpret them as giving him power in the manner in which it was done during the last war.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I may remind my Honourable friend that those words were perhaps borrowed from the English Act. There is nothing like that in the Indian Act.

Sardar Sant Singh : Therefore, my first suggestion would be that instead of having clause 2 which is a most indefinite and vague clause, giving wide rule-making power, those rules, particularly the offences which are proposed to be created should be defined more clearly, so that there may be no scope for any man to misinterpret them for purposes other than the prosecution of the war.

I now come to the second part of this Bill, which deals with the creation of special tribunals—Chapter III. It is provided in the Bill that special tribunals will be set up for the trial of cases more in a summary manner than in a manner which is at present provided in the Criminal Procedure Code. Let me assure the Honourable the Leader of the House, who is sponsoring this Bill, that I have no quarrel over a modification of the procedure to some extent, but not to that extent to which it is embodied in this Bill. My reasons for this are more obvious to my Honourable friend, Sir Muhammad Zafrullah Khan. I think if he were free to give expression to his experience of the tribunal procedure adopted in Lahore and if he could recall those days when Mr. Manohar Lal, at present the Finance Minister of the Government of the Punjab, was hauled up, Lala Harkissen Lal and others were hauled up, I think he would pause and hesitate before giving this power. We are concerned with two aspects of the provisions which are in the Bill. One aspect is to curtail the procedure, and the second one is to give a finality to the decisions of the summary courts.

I need not detain the House for long, but I will just remind Honourable Members that, if they were to study the majority and minority reports of the Hunter Committee as to how these summary courts acted, that they did not even follow the procedure laid down for the trial of cases, that they did not care even to put down the findings, did not care even to note down a précis of the evidence as required in the Act.

[Sardar Sant Singh.]

they would realise that to give finality to the decisions of the summary courts is the most dangerous thing in the world. Either abrogate the rule of law and say that the whole thing is military and there shall be no rule of law—I can understand that, but I cannot understand this, that you give power to a magistrate who does not follow the procedure, that brief procedure, that curtailed procedure which is given in the Act itself, and then ask that there should be no appeal against his decision.

I remember my own case and I will briefly refer to it. One Mr. Hyde, who was some time the Salt Commissioner in the Government of India, was specially imported from the Central Provinces to try us. When we went to him, we asked him to show us the records so that we might be able to prepare our defence, and we said, what are the charges against us? He made the historical reply which is embodied in my evidence before the Enquiry Committee and he said: "You make a list of all the possible enemies you have in the world, and if any one of those possible enemies come, you cross-examine him." Is that the way in which a judicial act is done?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is dwelling too much on how the last Defence of India Act was administered.

Sardar Sant Singh: May I submit, I was giving an illustration.....

Mr. President (The Honourable Sir Abdur Rahim): It is permissible to give an illustration to show how certain powers may be abused, but the Chair does not think the Honourable Member is justified in dwelling upon the administration of the last Act in any detail.

Sardar Sant Singh: Sir, I want the House to realize the dangerous step that the House will be taking unless the House decides to more clearly define these powers and to provide for the safety of those to be tried by these summary courts.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already made that point.

Sardar Sant Singh: May I submit, Sir, that after all this Bill is to govern the country for a pretty long time as it appears, and at the same time we have had some past experience of some such provision and, therefore, I think it is relevant.....

Mr. President (The Honourable Sir Abdur Rahim): The Chair did not suggest that the Honourable Member was irrelevant, but he was perhaps going too much into detail.

Sardar Sant Singh: I shall certainly curtail a reference to the last Act as much as it is possible to curtail it.

Then, Sir, there is the provision in this Bill for eliminating the High Court altogether from sentences where the penalty is the death penalty. I will certainly refuse to be a party and will fight every inch of the ground in the Select Committee and here if this power of appeal is taken away from the High Court. After all, the High Court and the magistracy of the country are the best protectors of the liberties of the people of this country. The liberties may be curtailed, the law may

be made more stringent, but the law must be administered by a court, there should be proper administration of the law, not the administration of an executive authority. For the administration of law, it is absolutely essential that the power of appeal vested in the High Court and the power of revision vested in the High Court must remain as a safeguard against the wilful and autocratic actions of a misguided magistracy. The Leader of the European Group in his able speech has expressed the desire and hope that the liberties and ordinary avocations of the people will be least interfered with during this war. I join with him in expressing that hope.

Mr. F. E. James: This is in the Bill.

Sardar Sant Singh: Quite right, but yet no brake is to be applied and full powers are to be given to a single individual. Therefore, Sir, I submit that in the administration of this Bill, when it becomes law, the executive Government will assure this House that they will issue the necessary instructions to all those who are entrusted with the working of this Bill that they must act in a manner which may be called humane and civilized. I am afraid, Sir, that this was not the case last year, but, now, with the change in the situation, with the desire of the country that they should rather go with the Government, the Government should not act in a manner which should shock human feelings amongst the Indians and which should make them desperate, as they did by the passing of the Rowlatt Act. We hope no Rowlatt Act will be passed again, and we shall hope that India will find a place after this war which has up to this time been refused to her.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Sir, I appreciate the anxiety of the Honourable the Leader of the House to accelerate the passage of this Bill and place it upon the Statute-book as early as possible. The measure is a very important one and it will remain on the Statute-book during the war. God alone knows how long the war will be prolonged; it may go on for six months or a year or a hundred years.

An Honourable Member: No, it will not take so long as that.

Maulana Zafar Ali Khan: The conditions have radically changed. What was impossible in 1914 is possible in 1939. The war may in six months come to our very door, Russia might take another somersault and join Germany in plunging the whole of the East into the horrors of war. It is very kind of Germany to ignore India up to the present moment. But it is possible for her perhaps to send two or three aeroplanes and have Simla bombed. The danger is thus very close to us and, therefore, I think that this Bill must be passed as soon as possible.

An Honourable Member: Who is responsible for it?

Maulana Zafar Ali Khan: When I come to the question of responsibility, all sorts of people will have to be roped in. Who knows whether Hitler is responsible or Mr. Chamberlain is responsible, or you are responsible? If we had been an independent nation, we could have had an army of ten million at our disposal and rendered war impossible. It is our weakness which is responsible for the present situation, so I think this Bill must be passed as soon as possible. But it gives very wide powers and although it is the duty of the State and the right of the State to restrict the liberty of the subject during such an emergency,

[Maulana Zafar Ali Khan.]

it is also the duty of the State to see to it that the inborn rights of the subject are respected. So our Party, the Muslim League, has made certain proposals and tabled certain amendments to some of the clauses and we have taken very good care that the rights of the subject are protected as much as possible. In this connection I cannot help referring to the attitude adopted by my friend, Sardar Sant Singh, who is usually a very clear thinker, but this time he got muddle-headed. He speaks of the years 1914, 1916, 1917 and 1918 when there was no Provincial Autonomy, when the Congress was not in power in eight or nine Provinces. He speaks of the days of Johnsons, and Dyers, and O'Dwyers when we were pilloried and when we were treated as so many animals. Those days as I have already pointed out to him can never come back and if they come back we are not fit to be regarded as men. So, to require an assurance from the Leader of the House that no one after the war is over would be tried under the Defence of India Act for adultery is to me very unthinkable. After the war is over, the Bill will remain on the Statute-book for six months. Sardar Sant Singh wants an assurance that no one during that period would be tried under the Defence of India Act for cheating, adultery and all sorts of things. This is exactly what I cannot understand. I hope that when the war is over, Britain would rise victorious out of this struggle and I trust there will be a re-adjustment so far as the middle east is concerned, so far as the Muslim world is concerned and so far as India is concerned.

An Honourable Member : After the war ?

Maulana Zafar Ali Khan : Yes, certainly ; our talk of complete independence is no idle talk. We give a full measure of support to the Britishers and we expect Britain to see to it that India's self-respect is maintained and that India, as an independent country, ready to extend its hand of friendship towards England in the same way in which France has extended her hand to England, is respected. That would come and England would be forced in the same way in which she has been forced to part with her powers in the provinces in the shape of Provincial Autonomy to grant us more powers. So a day will come when independence is bound to come. But this is not the time for haggling or bargaining. This is the time to give full support to Britain. The fears of my friend, Sardar Sant Singh, are I think misplaced.

As regards the provisions of this Bill, I have already pointed out that they require some modification and amendments are coming, but the proper place for the consideration of the Bill is in the Select Committee. We only require four or five days' time in which this Bill should be considered in the Select Committee and then come on the 15th before the House. This is not a very long time. Nothing would be lost by the Government by accepting the proposal. The Governor General has the power of administering the country, so far as war requirements are concerned, by Ordinances. These Ordinances have come, might come up to the 15th, and after the 15th but will no longer be required when the Bill comes before the House after emerging from the Select Committee, passed in one or two days' time and placed on the Statute-book.

The Honourable Sir Muhammad Zafrullah Khan : If I could make sure of the time-limit which the Honourable Member proposes, I would have no objection.

Maulana Zafar Ali Khan : So I appeal to the Honourable the Leader of the House to accept our recommendation that the Bill should be referred to a Select Committee.

Lieut.-Colonel Sir Henry Gidney : Sir, my remarks will be confined entirely to the issues before the House. I shall, therefore, refrain from touching on any of the sections of the Bill, because I believe this is not the time for it. Sir, my regret, my extreme regret and I am sure this regret is shared by all Parties of the House, is the absence of the Congress Party here today. Before this House is a Bill which is one of, if not the most, important Bills which has ever faced the country and it is very regrettable that circumstances should have kept the Congress Party away. I also regret the absence today of two other Party Leaders, viz., Mr. Jinnah and Mr. Aney. Sir, I was struck with the remarkably patriotic speech of my friend, Mr. Essak Sait, and also the speech of the last speaker. The issue before this House is very simple. The Honourable the Leader of the House asks us to decide whether or not we should let this Bill go to a Select Committee and that is the point we have to decide today. Various Members have spoken of the patriotism of their own Provinces and I congratulate them. The Leader of the European Group has spoken about the excellent register maintained by the European Association with whom the Anglo-Indian Association has co-operated. Sir, I take an equal opportunity of telling this House that in the Anglo-Indian and Domiciled European community, as in the past, so in the future, every man and woman is ready to respond, in service and sacrifice, to our King and country and our mother-land, India, whenever the call comes, "God save the King".

Sir, what are the issues before this House ? Will this Bill go to a Select Committee, or shall we now as a House discuss it *in extenso* ? Whenever a Committee is suggested I am reminded of the story of a little child who asked his mother, "mother, where is daddy ?" "Daddy has gone to attend a committee meeting". "What is a committee meeting, mother ?" "A committee meeting is a place where men sit round a table (even if they be Legislative Assembly Members) keep minutes and waste hours." Sir, I believe most committees end in that way. But what will happen with this Committee ? It will submit a report, may be with dissenting minutes and when the report is presented to the House innumerable amendments will be tabled and much time will be spent discussing them. Will there be any economy of time effected ? Have we any assurance from Parties that amendments will not be presented on the Committee report ? If not, I ask : where is the economy of time ? It is this fear which prompts me not to support this amendment and the support given it by the Leader of the European Group. On the other hand if Leaders of the Parties will give this assurance here and now that the House on that side will accept the report of this Committee without any such delay, Government will be very foolish to oppose sending the Bill to a Select Committee. Sir, I am a quick movie and I believe in doing things quickly and so don't let us see Rome burning while Nero is fiddling. Here we are talking, the war is on, we have danger facing us in the East, and God knows whether Russia will appear on the West. We want to be ready, we must be ready not by talking but action, and in the quickest possible time and we certainly would not acquire preparedness or economise time if we send this Bill to

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a Committee and then spend days in discussing amendments. Sir, it is most gratifying to feel that all Members including my friend, Sardar Sant Singh, are prepared to support the Government in this Bill and in the present crisis the nation needs unity. If Members require any alterations in the Bill, secure these when the Select Committee sits. Sir, I am still not convinced—I listened with great care to my friend, Sardar Sant Singh, and to the very able speech of my Leader yet I am not convinced that there will be any economy of time unless Party Leaders give the assurance I have suggested. But I am in agreement in entirety with my Leader that a measure like this, before it is placed on the Statute-book, should be put with the consent of all Parties in this House and every community in India. I, however, realise if the Government insists upon discussing this Bill as it is and refusing a Committee, it may lead to a certain feeling of grievance on the other side, though I do not believe this will be of a very serious nature; I believe the motion before this House has the support and the sympathy of every Member. It is the procedure to which I objected. If I am convinced that there will be an economy of time, I will support the motion for the Select Committee, but at present I am certainly unconvinced. I, therefore, regret that I cannot support the amendment. I would ask the House to realise that time is short and there is much to do and to do quickly. Therefore, we should not delay this measure.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : Sir, I do not wish to take up much time of the House. It is only to clear one of the points referred to by the last Speaker that I want to say a few words. When the Leader of the European Group made his speech, I thought he was voicing the opinion of the entire Group when he supported the idea of the Bill being referred to a Select Committee and pointed out the advantage of it. But the last Speaker talked as if the European Group were a house divided against itself. Anyhow, the key-note of his speech was that time should be economised and while minutes are kept, hours should not be wasted, as was said in the very beautiful story which he told us. If it is going in any way to influence the mind of the Government in its attitude towards the motion for reference to a Select Committee made by my Party, I may say on behalf of my Party that if the amendments which have been tabled by my Party are duly considered by the Select Committee, we can undertake that, thereafter, we have no more amendments to table and we shall help in economising time as much as possible. I may say that there will be hardly any speeches on behalf of my Party. Even if there are any speeches, there shall be no more amendments and no more discussion about matters of detail provided, of course, as I have already said, the amendments which have been tabled on behalf of my Party are duly considered in the Select Committee and a decision arrived at.

Mr. F. E. James : Sir, I hope that after the assurance which has been given by the Deputy Leader of the Muslim League Party, the Government will reconsider its attitude to the reference of this Bill to a Select Committee. As far as we are concerned, we should not like to oppose the motion of my friend, Mr. Essak Sait, which was proposed in terms as loyal and as accommodating as one could possibly wish, and I should like here and now to pay a tribute to the attitude of the Muslim League Party in this

connection. Our fear has always been that if the matter is referred to a Select Committee, then on the consideration stage of the Select Committee's report there might be a repetition of a discussion on the general principles of the Bill. I think, however, the House will accept our assurance and the assurance of the Muslim League Party which I hope will be joined also by an assurance from the Nationalist Party.

Dr. P. N. Banerjea : No assurance from our Party.

Mr. F. E. James : I have only expressed the hope and I shall be very disappointed if the Nationalist Party, of all the Parties in this House, stands out and refuses to give reasonable co-operation. But I do trust that if these assurances are given and maintained, namely, that the report of the Select Committee when it comes before the House is treated as a special case in view of the urgency of the matter and dealt with expeditiously without the repetition of the discussion on the general principles of the Bill,—under these circumstances, I do hope that the Government of India will accept the motion for reference to the Select Committee.

There is one thing which weighs with us considerably and which I feel disposed to mention. While we appreciate as much as anybody else in this House—and I hope they will accept this in the spirit in which I am making this remark—the desirability of saving the time of those who have the responsibility of the conduct of the emergency arrangements of the Government of this country, at the same time they also, I hope, will appreciate the value to them of carrying all communities of this country with them as far as they possibly can. As long as the House sits, therefore, I trust that the Government will appreciate the value of the co-operation of this House—of all Parties. When co-operation has been offered as it has been this morning from the Muslim League Party in such a definite and generous form, I hope the Government will receive it and accept it with both hands. Sir, I trust what I have said will perhaps move the Government to change their original decision.

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. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, the position has already been fully explained by different speakers of the Party. I have no desire to repeat the same points, but I will make a few points clear which might perhaps be construed as ambiguous. This is a Bill of great importance. It was introduced on the 5th, and today is the 8th, and we are now asked to go through a Bill of this complex nature and have it passed. We have to deal with a problem of so great an importance that we require the co-operation of all Parties and of all communities as far as possible. It is not, therefore, desirable that Government should rush through a Bill of this nature which has been drafted by themselves. There may be some thing which may have been overlooked; it may be desirable to add to or subtract from the provisions of the Bill. Government want undoubtedly all kinds of powers to meet this emergency. I am sure, nobody in this House would grudge to give full co-operation to Government to meet the situation which may arise at this time. The full

[Sir Muhammad Yamin Khan.]

and wholehearted co-operation from non-official side in the House should be welcomed by Government. The Government should not take up this position : " You accept this, whether it is right or wrong. Do not give me advice to make this a better law ; even if it is a bad law, let it remain." I say, this kind of co-operation is only demanded from unintelligent people. If the Government treat this House as an intelligent House, they must give it an opportunity to give its support intelligently, not blindly. Such blind co-operation is asked for only from people who have no brains. When all Parties are ready to give co-operation, the Government should welcome it in the spirit in which it is offered. Nobody would like to curtail the powers of the Government. Even if some relevant powers are omitted from the Bill, the Select Committee can modify the Bill by incorporating those extra powers. Many of us would be willing to give them more extensive powers if they are really necessary to meet the situation which is facing India now, at this critical juncture. I think the Government would be treating this House properly, in the spirit in which co-operation is given from the non-official Benches, if they refer the Bill to the Select Committee, so that when the Bill emerges from the Select Committee, it will be a Bill passed with the help of all Non-Official Members. Surely the Government do not want the Non-Official Members to say ditto to what they say. It would have been far better to carry on with the Ordinance if our co-operation is not taken in the spirit in which it is offered. I think a little delay of a few days will not matter much. It is worth it. Till that time, the Ordinance will be in force to deal with the situation. It will also save a lot of time of the House. We need not discuss all the amendments in the open House. When this Bill is referred to the Select Committee, the Government spokesman may convince the Non-Official Members that these amendments are not necessary or the non-officials might convince the Government about the necessity for these amendments.

I wish to refer to another point. When my Honourable friend, Syed Ghulam Bhik Nairang, spoke, some people might have got the impression that our Party desires only these amendments to be considered in the Select Committee and that any other amendment put forward by other Members need not be considered. That was not our intention at all. So far as our Party is concerned, we will not put in any more amendments. That was the only guarantee given. When the Bill comes before the Select Committee, our Party will be satisfied with the full consideration of these amendments which have been tabled in our name. Thereby we do not tie down Honourable Members who may be in the Select Committee from making other amendments. Our Party is interested only in the amendments that are on the order paper. They are quite sufficient to meet our demands.

As regards our amendments, I only trust that no technical objections will be taken against their consideration. We had given notice of these amendments without the usual two days notice. If technical objections are raised, they will spoil the spirit of co-operation. I think Government will be well advised in not raising such technical objections. The hand of co-operation is stretched, and I appeal to the Government to clutch at it for the best and ordered prosecution of the war, in which this country is now engaged. I do not want now to deal with the causes for the outbreak

of war. Whatever may have been the causes, now that war has broken, we must help in the prosecution of the war with the greatest diligence. With these words, I support the motion for Select Committee.

Mr. N. M. Joshi : Sir, the Honourable the Leader of the House in his short speech this morning, in my judgment too short, when we consider the importance of the occasion, admitted that the Bill is a very drastic one. It gives extremely wide powers to the executive in almost every aspect of the life of the people of this country, regulating almost all their activities, making them penal whenever the executive chooses to make them penal, abrogating the existing judiciary, changing the judicial procedure, enhancing the punishments provided by the ordinary law of the land. Sir, if these wide powers, which are in my judgment tantamount to the abolition of the rule of law, are to be given to the executive it is necessary that the executive should make an extremely strong and convincing case for this abolition of the ordinary rule of law. Sir, I am aware that there is a nominal declaration of war on behalf of India but that nominal declaration of war is not enough justification for the executive to ask for the abolition of the ordinary rule of law. It is necessary for the Legislature, in my humble judgment, to examine the present circumstances, the likelihood of the war actually coming into India, the likelihood of internal disturbances arising in this country ; and if the executive does not make out a good case I feel that the Legislature should not give them these powers which they are asking for. Sir, considering the circumstances at present existing in the world, with whatever knowledge I possess of the political situation in Europe, I feel there is very little likelihood of hostilities actually occurring in any part of India. I feel also that there is very little likelihood of India making an attack directly against any foreign power. Judging the internal situation, I see no sign of a grave upheaval in the country justifying the Legislature giving all the wide powers which the executive is asking for. I, therefore, feel, Sir, that this legislation is premature. I admit that a mere nominal declaration of war and the fact of the existence of the war in Europe will necessitate giving special powers to the executive in certain matters. For instance, we shall have to give power to the executive to regulate the activities of enemy foreigners ; we may have to control the activities of those people who are found to be spies ; we may have to give power to the executive even today to control prices. Still I cannot admit that a wider measure of this kind is justified by the circumstances that exist today. It is quite natural for an executive government to take advantage of every occasion that arises to ask for special powers. This is not the first occasion when the Government of India have asked for special powers ; for much smaller occasions they have asked for these powers. I remember very well emergency amendments to the criminal law to put down what was admittedly a non-violent civil resistance movement have been made. I am not, therefore, surprised at the Government of India coming forward to ask for these wider powers when they have actually declared war against a European power. But, Sir, it is for the Legislature to consider whether these powers should be given to the executive or not. I feel, Sir, that considering the fact that the Government of this country is not a responsible government and that the Government of India have misused powers given to them in the past, it will be

[Mr. N. M. Joshi.]

wrong for the Legislature to give these powers to the executive before it becomes absolutely necessary that they should possess them. It is a question of the degree of trust which we can put in the executive. It is true that the degree of trust depends upon the individuals. So far as I am concerned, I feel that considering the constitution of the Government of India, considering the use or the abuse of the powers which they had taken before, the Legislature need not be in a hurry to hand over these powers to the executive. It may be said that these powers are given to almost all Governments in the world. In Great Britain the Defence of the Realm Act was passed in a night and perhaps in an hour. I read this morning that one of the Dominions has passed an Act very quickly. But we must remember the fact that in those countries there is responsible Government and the executive is responsible to the Legislature. Sir, the other day the Honourable the Leader of the House told us that the constitutional position is known to all people ; it exists and it will exist perhaps for a long time, and, therefore, in his opinion it was not necessary for us to talk of the constitutional position.

The Honourable Sir Muhammad Zafrullah Khan : I did not say it was not necessary for Members to talk of the constitutional position. My remark had reference to the particular point raised at the time. Perhaps the Honourable Member was not listening.

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : What the Honourable Member said was that we have to take the constitutional position as it is.

Mr. N. M. Joshi : That is my point also, that we cannot forget the constitutional position and we shall never forget the constitutional position unless the constitution is changed. Therefore, we have to consider this fact before handing over these powers to the executive, whether the executive is responsible or not ; and that is the difference between Great Britain and India. Even if we have an executive responsible to the Legislature I am one of those who would think twice before handing over these wide powers even to a responsible executive. We have some experience of responsible governments recently in some of the Provinces. You remember very well that some years ago this Legislature considered some emergency legislation to amend the Criminal Law of the land. The Party which is considered to be most popular, the Congress Party, opposed those pieces of legislation. That Party is now ruling over some Provinces. As one who is interested in the maintenance of civil liberties in my city of Bombay, I make it my business to watch the maintenance of civil liberties in my Province. I know now by sad experience—I had no need for being disillusioned because I never belonged to that Party, and had no illusions about it, but I expected a little better of them—that the civil liberties of the people in the Province of Bombay are threatened at their hands by the very legislation which they had opposed in this Legislature. Orders are issued under that very Criminal Law Amendment Act. They are using that emergency legislation, asking papers not to criticise certain taxes levied by that Government. Newspapers are asked before they are started to deposit securities. Under that very emergency legislation non-cognisable offences are made cognisable and non-bailable. With this experience I am distrustful,

frankly speaking, even of government executives which are responsible to the Legislatures. I, therefore, feel that this Legislature should hesitate before they hand over these wide powers to this irresponsible Government. I had stated that certain powers will be necessary to be given even today to the executive in certain matters ; but I feel that this Bill goes too far. It is so wide that it cannot be supported. As I stated in the very beginning of my speech, it seeks to regulate every aspect of life, every activity of the citizens of this country. There is enough civic law in our country for the maintenance of law and order ; but the Government of India again seek further powers for the maintenance of law and order : they seek power to prevent tampering with the loyalty of people in Government service. They seek power to prohibit meetings, as if meetings cannot be prohibited today. Section 144 is enough to prevent any meeting. Processions are to be prohibited by this legislation.....

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : No ; unless they satisfy certain conditions.

Mr. N. M. Joshi : I do not know those conditions. My Honourable friend, Sir Yamin Khan, may have been taken into confidence by the Government of India. I have not the privilege of having the confidence of the Government of India. Powers are being sought to prohibit processions as if meetings cannot be prohibited under the ordinary law. I, therefore, feel that this Bill goes too far. If the Government of India intend to use the powers in this Bill very reasonably and causing as little disturbance in their ordinary avocations to people, why should they ask for special tribunals ? Why not trust the ordinary judiciary ? It is considered wrong to trust the ordinary judiciary in a condition of war. I do not know what these poor District Judges and High Court Judges have done to the Government of India. I, therefore, feel that the Bill goes too far. It seeks to abolish ordinary courts ; it seeks to abolish the ordinary civil procedure.

Then, I have to consider the important question : against whom are these powers likely to be used ?

The Honourable Sir Muhammad Zafrullah Khan : Evil-doers !

Mr. N. M. Joshi : It does not require the possession of much power of imagination or power of prophecy to find out and judge which are the classes of people likely to suffer most. It was not necessary for my Honourable friend, the Leader of the European Group, to suggest to the Government of India against whom those powers should be used. I could easily imagine. May I make a guess ? I feel that the powers under this Bill will be used against the working classes of this country more than against any other class.

Honourable Members : No, no.

Mr. N. M. Joshi : I shall go into greater detail. There is a great likelihood that one of the first acts of the Government of India, if I can read the mind of my Honourable friend, the Leader of the European Group, will be to break down the strike at Digboi : next will come the turn of Cawnpore, and perhaps Bombay will come next. This Bill seeks to regulate the administration and the conduct of Indian railways. Only two months ago, we asked the Government of India to remove one of

[Mr. N. M. Joshi.]

the greatest injustices done to the lowest-paid railway employees in this country, namely, the denial of provident fund only to the lowest paid employees. We have told the Government of India that if they do not remove this injustice early, the railway men in India will fight for its removal. May I ask whether this Act will not be used if railwaymen in India think of fighting, say after two months, for the removal of this great injustice, admitted by the Royal Commission on Labour which had recommended that this injustice must be removed ten years ago, in 1930? Well, Sir, I make a guess again that if we go on strike for the removal of this injustice which was recommended to be removed ten years ago by the Royal Commission on Indian Labour, the Defence of India Act will be used. I can cite many more examples. But, Sir, before I leave this subject, I would like to say a word with reference to what the Honourable the Leader of the European Group said. He said that Government must put down people who will stir up industrial strife; he said there are many self-seekers who are doing this.

Mr. A. Aikman : Yes.

Mr. N. M. Joshi : May I ask you, Mr. Deputy President,

Mr. Deputy President (Mr. Akhil Chandra Datta) : Do not ask me.

Mr. N. M. Joshi : You are one of the most experienced men in this House, and I can always come to you for enlightenment,—may I ask you, Mr. Deputy President, where are the philanthropists in this House? Are these people who work for the working classes the only people who are self-seekers? May I ask the Honourable the Leader of the European Group—where are the philanthropists in his Group?

Mr. A. Aikman : Here they are.

Mr. N. M. Joshi : Are they not self-seekers? What are they if they are not self-seekers? I want to know where the philanthropists are. Mr. Deputy President, those people who work for the working classes have every right to seek maintenance for the work which they do and to serve some of their legitimate objects as any other people do. I, therefore, think that it is wrong that my Honourable friend, the Leader of the European Group, should have unnecessarily labelled a class of people who deserve his thanks as well as the thanks of the working classes of this country. If people like my friend would go and agitate among the working classes, I am sure, Sir, he will not be self-seeking, but he will not do it. The working classes naturally have to depend upon people who are regarded as self-seeking. I, therefore, feel, Sir, that there is a great danger to the working classes of this country from this Defence of India Act. We know what influence the European Group in this House possesses with the Government of India. I have absolutely no doubt in my mind that this Group and the other employers in this country will use their influence with the Government of India, and I have also no doubt in my mind that the one class which will suffer most on account of the Defence of India Bill is the working classes of this country. I feel, therefore, that this Bill is premature, that this Bill is too wide, and as a result of the passing of this Bill, the activities of the working classes of this country will be so restricted that their interests will suffer.

Mr. Deputy President, before I sit down, may I say this? We all know that the prices of articles in this country are rising. They have already risen, I am told. Naturally cost of living is higher. Those people who have studied the life of the working classes, those who have seen their life, know that the wages do not rise in proportion to the rise in the cost of living. The workers of this country will have to fight for securing justice. I hope, Sir, that the Government of India and those people to whom these powers will be transferred and delegated will remember this fact that these working classes have every right to fight for their maintenance, and they will fight. Mr. Deputy President, under the present circumstances I cannot support this Bill.

Sardar Sant Singh : I want to say one word, Sir,

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member has already made his speech and he cannot make another speech. But if he wants to make a statement on behalf of his Party, he can do so. But he can only make that statement without any speech.

Sardar Sant Singh : Sir, I will only say this much, that our Party does not wish to be obstructive at all.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am extremely gratified that, with one exception,—and the Government have only themselves to blame for that exception,—the principle of the Bill and the need for such a measure as this have been generally accepted, and that all Parties in the House, though naturally they are anxious to see certain improvements made in the Bill, are willing to co-operate so that this measure may find a place on the Statutebook at an early date.

In support of the motions for reference to a Select Committee, the attitude has generally been adopted that reference will actually be conducive towards saving of time rather than in the end delay the passage of the Bill. To that I shall come later. In the meantime, I might submit a few observations to the House on some matters raised by one or two Honourable Members with regard to the general provisions of the Bill. One Honourable Member raised the point that the Bill should not come into force immediately but that it should come into force only in case India is invaded by an enemy. Sir, I found it extremely difficult to reconcile this statement by that Honourable Member with the one with which he started, that he realised the gravity of the emergency with which the country was faced, and agreed that a measure of this kind was necessary but I am disposed to think that he himself did not attach any very great importance to this suggestion of his. Anyhow, this was the typical kind of suggestion that he wanted to make in the Select Committee, and if he uses that as an argument for inducing the House to agree to a Select Committee, I would warn the House that they would be committing themselves to an extremely dangerous step if, on that ground, they thought that a reference to a Select Committee was justified. In regard to the motion which that particular Honourable Member sponsored, he says that he realises this is a very important measure and ought to be passed at once because the emergency is grave, though it need not be brought into force till some enemy invades India and that is the reason why the Select Committee should report within 48 hours. I am very much afraid that that Honourable Member fears that India is going to be invaded during the space of the next 96 hours.

An Honourable Member : 48 hours !

The Honourable Sir Muhammad Zafrullah Khan : 48 hours for the Select Committee and 48 hours for this House to pass the Bill and we shall then be ready to meet that particular emergency which he thinks this Bill is designed to meet. I submit that if there is any advantage in referring a Bill of this kind to a Select Committee it would be absolutely impossible for the Select Committee to report within 48 hours. My main object, however, in making a speech at this stage is to meet some of the observations which fell from my Honourable friend, Sardar Sant Singh. He said that he was extremely disappointed that I had not made a comparatively long speech in making the motion this morning that the Bill be taken into consideration. I should have thought that, when I had said that Government did not pretend that this Bill was not designed to invest them with very wide and drastic powers, I had said all that was necessary to say with regard to the scope of the Bill. It was not necessary for me to take up every paragraph of a sub-clause and try to explain its purport, for, however wide the provisions of the Bill, they are perfectly clear. Then he said that he was sorry that it should have fallen to somebody who came from the Punjab to sponsor this Bill. I do not know for what reason he thinks that a Punjabi should not sponsor this Bill except.....

Sardar Sant Singh : Obviously.

The Honourable Sir Muhammad Zafrullah Khan : that he referred to certain of his own experiences and made an appeal to what he thought must have been my own impressions of what the Punjab suffered during the martial law days. He said, "Well, that was the result of the Defence of India Act". Nothing of the kind. Whatever happened then—and I have no desire to rake up memories which ought to remain buried in the past—happened under the Martial Law Ordinance which was promulgated because, as its preamble said, there was a state of rebellion in the Punjab. I do not want to go into the question whether that was or was not so, but that was the basis of the Ordinance. It was passed in order to meet a particular contingency where, according to the preamble of that Ordinance, the Government and a section of the people were at loggerheads with each other, which is not the position under the Bill which is under discussion just now. Then he said that I should have given an assurance of the kind that was given in the House of Commons by Mr. Winston Churchill. I do not know whether Mr. Churchill was at that time a Member of the Government, I do not think he was ; but, one of the reasons which he put forward for persuading the House to accept the emergency measure was the assurance which Sardar Sant Singh read out, and with all sincerity, on behalf of the Government I proceed to give that assurance to this House in those very words :

"This is a war to establish and revise the stature of man. Perhaps it may seem a paradox that a war undertaken in the name of liberty and right should require as a necessary part of its process the surrender for the time being of so many valuable liberties and rights. We are sure that these liberties will be in hands which will not abuse them and which will cherish and guard them and we look forward to the day confidently when our liberties and rights will be restored to us and when we shall be able to share them with people to whom such blessings are known."

As I have said, I repeat this assurance on behalf of the Government. I hope that that will be some comfort to Sardar Sant Singh. Then he went on to occupy himself with certain reflections with regard to what would happen after the war, especially during the six months after the war, during which this Act might be in force. I shall not pursue him into those apprehensions. I think they were very effectively dealt with by Maulana Zafar Ali Khan and I regret that Sardar Sant Singh was not in his seat at the time. Perhaps he will read Maulana Zafar Ali's speech to satisfy himself that his anxiety with regard to prosecution for certain offences by a special tribunal was entirely misplaced. Another reason why he is so anxious that the matter should be referred to a Select Committee is that the rules which were framed under the Ordinance and which are now to be issued under this Bill, when it becomes law, should be incorporated in the Bill in the Select Committee. If that was his desire and intention, I do hope that he will not be successful in carrying it into effect, because if he could by some means or the other induce the Select Committee to consider not only the text of the Bill but also the rules issued under the Ordinance, the Select Committee would have to sit for months. I may further illustrate the danger of trying to, as he said, make everything definite in the shape of a legislative enactment here and now. The effect of what he has in mind would be that the whole thing—the Bill and the rules—would have to be enacted as a piece of legislation so that, if at any time any emergency arose which had not been anticipated in the rules and further rules were necessary in order to meet that emergency, we would either have to wait till the next Session of the Legislature after the emergency had arisen, or to summon an emergency Session of the Legislature in order to make those rules.

Sardar Sant Singh : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : For the reason that by the time Honourable Members could be collected together here and could pass the rules, the mischief might be done and the rules would come too late. One illustration has been supplied by Mr. Joshi. The upward trend in prices which has become very sharp during the last few days started very suddenly, and if the Legislature had not been sitting and, if in order to deal with the emergency it had been necessary to obtain express powers from the Legislature, the mischief would have occurred before the Legislature could have empowered Government to take action. Much more serious and dangerous emergencies might arise suddenly which would have to be dealt with promptly, and if there is any use vesting these powers in Government, they must be there before the emergency arises otherwise they would be entirely useless.

Sardar Sant Singh : May I interrupt the Honourable Member for a minute ? When such emergencies do arise in England which is actually in the midst of war, the House of Commons has been made ready for being called at any moment to meet those emergencies.

The Honourable Sir Muhammad Zafrullah Khan : I do not know how long it will take to make the Honourable Member ready to come up if an emergency arose.

Sardar Sant Singh : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : But apart from that, I think the Sardar Sahib is entirely unconscious of the fact that, though Parliament is meeting frequently, even during what is usually known as the recess period, the first thing Parliament did when the emergency arose was to arm the executive with absolutely unlimited powers.

An Honourable Member : But that was a national Government.

Sardar Sant Singh : May I explain.....

The Honourable Sir Muhammad Zafrullah Khan : I am not giving way. The question put to me was this. Parliament can be summoned very easily to deal with any emergency and, therefore, we can be equally easily summoned. My reply is—even if that were so, which is not the case in such a huge country as India, that Parliament which can be easily summoned and is practically in session from day to day has thought it wise and necessary to invest the executive with absolutely unlimited powers.

Sardar Sant Singh : If they misbehave, they can be turned out. What is the guarantee that you can be turned out if you misbehave. That is the difference.

The Honourable Sir Muhammad Zafrullah Khan : I did not drag Parliament into the discussion myself : if the Honourable Member thought that the analogy did not apply, he should not have invoked it. Having invoked it.... (Interruption by Sardar Sant Singh) Sir, I cannot go on with my speech if Sardar Sant Singh goes on interrupting me in this way.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair hopes there will be no interruptions.

An Honourable Member : But you are inviting interruptions.

The Honourable Sir Muhammad Zafrullah Khan : May I say that when the Honourable Member was speaking, he was inviting interruptions but I desisted from interrupting him. The point I was stressing was that Parliament, though they knew they could meet almost every day and scrutinise these things, have nevertheless invested the executive with powers to the extent that the executive is now empowered to repeal any Act of Parliament, to amend any Act of Parliament without reference to Parliament and take whatever power they like merely by Order in Council. I am aware of the distinction—I should be the last person to be ignorant of it which exists between the constitutional position of Parliament *vis-a-vis* the Cabinet and the constitutional position of this Assembly *vis-a-vis* the Government of India. I do submit, with great respect, that if we brought forward a measure which would anticipate every conceivable kind of emergency and tried to cast it into the shape of a legislative enactment, as I said, we should be sitting here for six months to finish our business. If that was the main reason which impelled Sardar Sant Singh to press for reference to Select Committee, I am afraid he will be very much disappointed, even if we do go to Select Committee. Then he had a great deal to say with regard to the special tribunals for which provision is made in this Bill, the procedure which they

were entitled to adopt for the trial of cases and the fact that no appeal was provided for from their decisions, or rather that it was expressly provided that there would be no appeal or revision. So far as I could follow him, his main criticism was that he was entirely unwilling to invest one single individual with all these powers and that he would fight inch by inch with a view to securing that no single individual should have all these drastic powers. I think he need not be very apprehensive on this point. I hope at some time or other he will read clause 8 and the subsequent clauses of the Bill. He will find there that a special tribunal will consist of three people—not a single individual—some of whom may be qualified to be High Court Judges.

Sardar Sant Singh : On a point of personal explanation. Probably my friend did not catch me. What I said was that I will not entrust any tribunal with the final powers without a right of appeal. I said that I would fight inch by inch to get the right of appeal from the decisions or sentences passed by tribunals. That is what I said.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member did say, and I took it down at the time, that he would in no circumstances entrust a single individual or magistrate with such powers. The tribunals will not consist necessarily only of magistrates. They may consist of people who are qualified to be High Court Judges and people who are or have been Sessions Judges or Chief Presidency Magistrates or District Magistrates.

I now come to the question whether Government are or are not willing to have the Bill referred to a Select Committee. I appreciate, and I am grateful to Honourable Members for them, the assurances given on behalf of their Parties with regard to the further passage of the Bill through the House after it has emerged from Select Committee. On the basis of those assurances, that is to say, that having regard to the time at our disposal this will be treated as a special measure, after it has emerged from Select Committee, I am willing to accept reference to Select Committee but will point out this, that in the motion by Mr. Essak Sait—and I might say that this is the motion out of the two motions that I am willing to accept—because it will be impossible to report on this Bill within 48 hours—Government have not been given adequate representation. If the Mover of the motion will accept the addition of Mr. Wakely who has, to a very large extent, been associated with the preparation of this Bill and Sir Abdul Hamid, out of the Nominated Members, then the personnel of the Committee, with these two additions, might stand as set out in the motion that was moved by Mr. Essak Sait. I would further submit that if this motion is adopted, the intention is to call the Select Committee to meet at 10-30 tomorrow morning and I hope that Honourable Members who are on the Committee will make it convenient to attend, even though it may be that they have made some other engagements on the supposition that Saturday was a free day, because, as Honourable Members know, the 11th, 12th and 13th will be ordinary working days and unless the greater part of the work is finished tomorrow, time may not be found to finish the work in time for the report to be laid on the table of the House on the 15th. With these observations I am willing to accept the reference to Select Committee.

Mr. Deputy President (Mr. Akhil Chandra Datta) : May the Chair take it that the addition of these two names is accepted ?

Dr. P. N. Banerjea : I do not wish to serve on the Select Committee. I suggest that my name be replaced by some other name.

Sardar Sant Singh : May I suggest the name of Mr. Akhil Chandra Datta in the place of Dr. Banerjea.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Does the Honourable Member accept that addition ?

Mr. H. A. Sathar H. Essak Sait : Yes.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair takes it that Mr. Abdur Rasheed Chaudhury wants to withdraw his motion.

Maulvi Abdur Rasheed Chaudhury : As Mr. Essak Sait's motion has been accepted, I do not press my amendment.

The amendment was, by leave of the Assembly, withdrawn.

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

“ That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Sardar Sant Singh, Mr. Akhil Chandra Datta, Syed Ghulam Bhik Nairang, Mr. F. E. James, Mr. N. M. Joshi, Mr. Wakely, Sir Abdul Hamid and the Mover, with instructions to report by the 15th September, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

THE INDIAN TARIFF (FOURTH AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I move :

“ That the Bill further to amend the Indian Tariff Act, 1934, for a certain purpose, and to validate the levy and collection of a certain duty under that Act be taken into consideration.”

This Bill, at any rate, Sir, is a very simple Bill and I believe a non-controversial Bill. When the Indian Tariff Amendment Act was passed last April a revenue duty with reference to wood pulp was converted into a protective duty. Sir, under the Provisional Collection of Taxes Act the duty has been collected from the 1st to the 20th of April and this has now to be validated owing to the change that has been made by the Legislature. The amount involved is about Rs. 22,000 and if the amendment is not made, that amount will have to be refunded. Honourable Members will easily realise the difficulty of refunding this amount apart from the loss which will ensue to the revenues of the State. The second amendment is with reference to the *ad valorem* duty on perfumed spirits. This

alternative *ad valorem* duty was omitted by inadvertence on the last occasion and I seek the permission of the House to restore that *ad valorem* duty so that the alternative duty will be collected in case it is higher. Sir, I move.

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

“ That the Bill further to amend the Indian Tariff Act, 1934, for a certain purpose, and to validate the levy and collection of a certain duty under that Act be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

The motion was adopted.

THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I rise to move :

“ That the Bill to amend the Law of Evidence with respect to certain commercial documents, as reported by the Select Committee, be taken into consideration.”

The period of gestation which this measure has enjoyed or suffered is one of quite unusual length, unknown in the animal kingdom and remarkable even in the world of administration and legislation. I would remind the House quite briefly of the stages. In 1926 the Bombay High Court brought to notice that the course of justice was impeded by the absence of any legal provision which would enable documents, which in ordinary commercial practice are accepted as being what they purport to be and as accurate in their substance, to be tendered as evidence without formalities which enabled parties who desired to cause vexatious delay to impede the course of the proceedings. The suggestion then made for legislation was referred to Local Governments and High Courts and Associations representing the law and commerce ; and in due course, after I fear a very considerable delay, a Bill and Schedule were framed and introduced in this House in March, 1937. By order of this House the Bill was circulated and in February, 1938, it was referred to a Select Committee. The House has now before it the report of the Select Committee, which deals with the subject in such detail that I think any further attempt at elucidation by me is really unnecessary.

[Mr. J. A. Thorne.]

As regards the Bill itself, the main changes are two. One occurs in clause 3 where, in deference to opinions that were expressed in the course of circulation and on the floor of this House, a distinction has been made between documents which the court "shall presume" and documents which the court "may presume" to have been duly made by or under the appropriate authority and that the statements contained therein are accurate. It is probably unnecessary for me to explain to most Members of this House what is meant by the terms "may presume" and "shall presume". They are used in the sense in which they are used in section 4 of the Evidence Act. According to section 4, "whenever it is provided by this Act that the court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it". That is the definition of "may presume". "Shall presume" is defined thus: "whenever it is directed by this Act that the court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved". I quote those definitions to remove any misconception. It is not of course meant that the court thereby shuts out all proof to the contrary. It is not the same as what the Evidence Act calls "conclusive proof".

While I am on clause 3 I would just mention a misprint that has crept into sub-clause (b) of it. "Part III" of the Schedule should be "Part II". I have no doubt that that mistake will be remedied in the ordinary course of routine.

Then, the second change in the body of the Bill is the recasting of clause 4. Clause 4, as it now reads, has no relation whatever to clause 4 as it appeared in the original Bill. That clause in the original Bill recited "that the Governor General in Council may, by Notification in the Gazette of India, direct that any document shall be added to or removed from the Schedule, and upon such direction being made the Schedule shall be deemed to be amended accordingly". We have scrapped that provision. It came in for a certain amount of criticism as arming the Government of India with powers which in a strict sense should be considered legislative. I may say that that argument was not the one which proved conclusive for the omission of the clause: but, as explained in the report of the Committee, it was discovered at a late stage by the pandits that the clause as it appeared in the original Bill is beyond the power of this Legislature to enact. Therefore, that provision has been omitted: and any amendment of the Schedule, if the Bill is passed in the form reported by the Select Committee, will have to be made either by the Central Legislature or, since Evidence falls into the concurrent list of the Seventh Schedule of the Government of India Act, by any Provincial Legislature—which, of course, would have the power to legislate only for its own provincial area.

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

As regards the provision now included in clause 4, I think I need say nothing except that it is an obvious device for convenience of drafting.

THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

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Then, Sir, as regards the Schedule, which now falls into two parts, it would delay and weary the House if I were to attempt any survey of this long list of items. I can assure the House—and the Members of the Select Committee will bear me out—that this list received very detailed consideration and examination in the Select Committee and we believe that it represents the best that can be done if this Bill is to go through without a very elaborate further examination. I have with me samples of every kind of these documents, and if any Member is sufficiently curious to examine them here, they are at his disposal. Sir, I move.

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

"That the Bill to amend the Law of Evidence with respect to certain commercial documents, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

The Chair understands there is a clerical mistake in this clause. Will some Honourable Member move an amendment?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I move :

"That in sub-clause (b) of clause 3 of the Bill, for the words 'Part III', the words 'Part II' be substituted."

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

"That in sub-clause (b) of clause 3 of the Bill, for the words 'Part III', the words 'Part II' be substituted."

The motion was adopted.

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

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. J. A. Thorne : Sir, I move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : Honourable Members are aware that His Excellency the Viceroy will address the Members of this House and of the Council of State on Monday next at 11-30 A.M. The House, therefore, stands adjourned till 2-30 P.M. on Monday next.

The Assembly then adjourned till Half Past Two of the Clock on Monday, the 11th September, 1939.

LEGISLATIVE ASSEMBLY.

Monday, 11th September, 1939.

SPEECH DELIVERED TO THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY BY HIS EXCELLENCY THE VICEROY.

His Excellency the Viceroy having arrived in procession with the Presidents of the Council of State and the Legislative Assembly took his seat on the Dais at Half Past Eleven of the Clock.

His Excellency the Viceroy : Gentlemen, I have in the first place to read to you a Gracious Message to India from His Imperial Majesty the King-Emperor which I have just received, and which I think can most appropriately first be announced in the presence of the Central Legislature :

(The Message was received by all standing.)

“ In these days, when the whole of civilisation is threatened, the widespread attachment of India to the cause in which we have taken up arms has been a source of deep satisfaction to Me. I also value most highly the many and generous offers of assistance made to Me by the Princes and people of India. I am confident that in the struggle upon which I and my peoples have now entered, we can count on sympathy and support from every quarter of the Indian Continent in the face of the common danger. Britain is fighting for no selfish ends but for the maintenance of a principle vital to the future of mankind—the principle that the relations between civilised States must be regulated, not by force, but by reason and law, so that men may live free from the terror of War, to pursue the happiness and the well-being which should be the destiny of mankind.
GEORGE R. I.”

We are all of us by now only too familiar with the circumstances in which Germany has attacked her neighbour State. We have seen, even in the week that has elapsed since the outbreak of the war, the spirit in which that war is likely to be waged by Germany's Rulers. We have seen the ruthless onslaught upon Poland without a declaration of war ; the sinking without warning of the liner “ Athenia ”, and the loss of life that has followed ; the complete and cynical disregard by the Rulers of the German people of those principles the establishment and the maintenance of which has been the general object of civilised mankind in past years. It is clear beyond any question in the present circumstances that, hateful as the idea of war may be to us, we, and the nations associated with us, are left with no alternative. There is no means of replying to the unprovoked and wanton onslaught that has been made on a peaceful country but by resorting ourselves to force. But, in resorting to force, we can at least do so with confidence as to the purity of our motives, and as to the unselfishness of the considerations which have led us to our decision.

[His Excellency the Viceroy.]

I need not today enlarge on the importance of the issues. You are all of you familiar with them. But I would again emphasize the impossibility which confronts us in face of repeated breaches of faith, breaches of honourable understandings, over the past year and more, of trusting the word of the Rulers of the German people—a point which the Prime Minister forcibly brought out in his recent address to Germany. Nothing could be more damning than the plain recital of the facts. We have been assured time and again that Germany had no further territorial ambition in Europe, and that assurance has been repudiated on every occasion on which it has suited the Rulers of Germany to repudiate it. We have been assured that Germany would respect the Treaty of Locarno; that she had no designs on the former Czechoslovakia; that she was concerned only to restore to Germany the Sudeten fringes of Czechoslovakia, and had no designs on the true Czechoslovak centre of that country; that she did not aim at the incorporation in her territories of the citizens of any non-German nation or race; that she did not contemplate the annexation of Austria; that she had no designs on Poland, for many years in the difficult post-war period a trusting friend bound to her by treaties of alliance. That long list does not exhaust the tale of German pledges, publicly given in the most binding and the most sacred fashion. No single one of those pledges has been honoured. Each one of them has been broken with entire disregard for those standards of truth and international morality on the basis of which alone the world can hold together, or hope to progress. And those breaches of faith have been not merely a breach of faith. They have represented a denial of justice; a refusal to recognize any guiding principle save that of force; a complete and cynical disregard for the principles that regulate the intercourse of nation with nation; an anxiety to turn to the fullest advantage the absence of preparedness of those nations who had believed in the sanctity and in the sacredness of the undertakings given on behalf of a great nation by the Rulers of that nation.

Now that the decision is taken, now that it is clear that no course other than armed resistance will enable us, and the countries allied with us, to preserve the principles for which we fight, I would make only one appeal today. My appeal is one for unity. In the Message which I have just read His Imperial Majesty has told us of the deep satisfaction caused to him, by, in his own words, "the widespread attachment of India to the cause in which we have taken up arms". Our task must be to vindicate the principles at stake, to work together in the closest unity for the furthering of our common object. Nothing could be more significant than the unanimity of approach of all in India—the Princes, the leaders of the great political parties, the ordinary man and woman; or than the contributions, whether in offers of personal service, of men, of money, that have already reached me from the Princes and the people of India. There could be no more striking evidence of the depth of the appeal of the issues now before us. I am confident that however difficult may be the days that lie ahead of us (and the teaching of history shows us clearly the folly of assuming in a struggle of the magnitude of the present that victory will be easy, or that the course of the campaign, whatever it may be, will be unchequered) India will

speak and act as one, and that her contribution will be worthy of her ancient name.

Gentlemen, in circumstances such as those in which we are met together today you will not expect me to deal with the matters of more ordinary interest which in the normal course would have figured in my address to the Central Legislature. I am certain that I shall be voicing the wishes of all of you if I confine my remarks today to the war and to the issues that directly concern or arise out of war. But I feel that it is only proper that I should express my own confidence that, whatever may be the tasks that, as the campaign develops, may fall to the lot of our Defence Forces, whether by sea, by land, or in the air, the response will be one worthy of those glorious traditions the fame and renown of which are world-wide. They are already, as you know, represented overseas, and our fighting forces can claim to be assisting, at the very outset of the war, in holding posts of vast and critical importance.

To the civil population of the country, and to the civil services, whether at the centre or in the provinces, I would say that past experience has shown the spirit in which we may anticipate their answer to the new call which is being made upon them, and to the new tasks which they have to undertake. These are anxious and difficult times, in which heavy burdens, personal as well as general, must necessarily weigh upon all of us whoever and wherever we may be. I am certain that those burdens will be sustained in a manner worthy of our past.

Before I conclude my remarks to you today there are two matters, both of them arising out of the present situation, on which I would say a word. The first is the acceptance by His Majesty's Government and the Government of India of the conclusions of Lord Chatfield's Committee as expressed in the recently published Despatch. That decision marks an epoch in the history of Indian defence. The grave problems which confronted us in the matter of defence consequent on changes in the international situation and the development of modern armaments are now in a fair way to solution. They have been the constant concern of my advisers, and particularly of His Excellency the Commander-in-Chief, for many months past. The result of the deliberations which have taken place is, on a broad view, satisfactory in the highest degree. In particular I am glad to think not only that the improvements so essential at the present stage of the world's history should be so far advanced, but that, thanks to the most generous measure of help which has been extended to us, the necessity of laying heavy additional burdens on the Indian tax-payer has been avoided. The profound significance of the decisions that have been taken lies in the fact that India,—so largely an agricultural country, which could never, save at the cost of a complete disregard of other calls, have hoped to make available the vast sums of money necessary for re-equipment and modernization,—has, thanks to the gift which she has received from His Majesty's Government, been placed in the same position in relation to the modernization of her army as the great industrial nations of the world.

I will add only one word more, in regard to our federal preparations. Those preparations, as you are aware, are well advanced, and great labour has been lavished on them in the last three years. Federation remains as before the objective of His Majesty's Government; but you

[His Excellency the Viceroy.]

will understand, Gentlemen, without any elaborate exposition on my part, the compulsion of the present international situation, and the fact that, given the necessity for concentrating on the emergency that confronts us, we have no choice but to hold in suspense the work in connection with preparations for federation, while retaining federation as our objective.

Had we met in more normal times, there would have been many other matters to mention to you today,—the position of Indians overseas ; the various developments of interests and importance which are under consideration in civil administration ; the working of provincial autonomy and of the reformed constitution. But, as I have already suggested, I feel certain that at a time when the struggle which is raging elsewhere is uppermost in our thoughts, this is a moment in which that emergency, and matters directly associated with that emergency, must be of predominant and, in a sense, of almost exclusive importance. Our trust must be that, under Providence, the forces of right and of justice will triumph, and that we may be able to take up again those interrupted activities on which we have been engaged for the furtherance of the constructive work of peace, and of the progress and the prosperity of India. (Applause.)

The Assembly met in the Assembly Chamber at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

MEMBERS SWORN.

Mr. Geoffrey Stephen Bozman, C.I.E., M.L.A. (Secretary, Department of Education, Health and Lands) ; and

Mr. Abbas Khaleeli, M.L.A. (Government of India : Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

FATALITIES BY ACCIDENTAL DROWNING IN THE NATIVE JETTY, KARACHI.

124. *Mr. Lalchand Navalrai : (a) Will the Honourable Member for Communications be pleased to state if Government are aware of the fact that fatalities by accidental drowning have been taking place almost every year at Native Jetty within the Karachi Port Trust area and that there have been two recent instances when a girl and a man met with accident and died helplessly at the Native Jetty, Karachi ?

(b) How did these two accidents take place and why was no help afforded to them ? Is it a fact that these accidents took place as there were no sufficient precautions provided for by the Port Trust ?

(c) What are the precautions at the Native Jetty against such accidents ?

(d) Were there any life belts or other safeguards provided at the Native Jetty for use at the time of such accidents ?

(e) Are Government aware that there are bathing ghats at the Native Jetty where several men, women and children take bath daily, and thousands of them gather for a holy dip during *Purushotam Mass* that is the month of July ?

(f) What steps do Government propose to take to avert such accidents and provide safety and security to the persons visiting the Native Jetty ?

The Honourable Sir Andrew Clow : (a) and (b). No cases of accidental drowning have occurred at the Native Jetty within recent years. The two recent fatalities in which a girl and a young man were drowned occurred at the road bridge over Chinna Creek and at the Hindu Bathing Ghat respectively. The girl fell over the railing of the road bridge into the Creek in which the current was very strong at the time. The man got out of his depth at the Hindu Bathing Ghat.

(c) and (d). The railing of the road bridge is over three feet high. After the accident, it has been raised another six inches. At each end of the Creek the Port Trust keeps two life belts, but they are frequently stolen, and no life belt was available at the time of the accident. Life belts have since been supplied. The site of the other accident, the Bathing Ghat, is under the control of the Hindu community whose duty it is to take precautions against accidents there.

(e) and (f). The facts stated by the Honourable Member are correct, not as regards the Native Jetty but as regards the Bathing Ghat controlled by the Hindu community. The Harbour Police and the Port Trust have arranged for special staff to be on duty near the Bathing Ghat and the bridge during the hours of bathing at the time of the annual festival.

Mr. Lalchand Navalrai : May I know if any boats are stationed there for the safety and to give them help when there is accident ?

The Honourable Sir Andrew Clow : I want notice of that question.

Mr. Lalchand Navalrai : May I ask the Honourable Member to advise the Port Trust to keep some boats of this character ?

The Honourable Sir Andrew Clow : I cannot advise them, because one of the areas at least is under the control of the Hindu community, that is the Bathing Ghat.

Mr. Lalchand Navalrai : People surely do not go there to get drowned. They get into the creek which is called the Native Jetty. Will the Honourable Member ask the Port Trust to make certain arrangements to see that no such accidents happen ?

The Honourable Sir Andrew Clow : I am not familiar with the geography ; but one of the accidents to which the Honourable Member had referred occurred at the Hindu Bathing Ghat.

MARKING OF SERVICE STAMPS IN RED INK.

125. *Mr. Lalchand Navalrai : (a) Will the Honourable the Communications Member be pleased to state if it is a fact that the service postage stamps used to bear ' service mark ' in black ink, and that the mark has now been changed into red which is the colour of the body of the stamps ? If so, what is the reason for this change ?

(b) Do Government propose to revert to the old system of marking the service stamps in black ? If not, why not ?

The Honourable Sir Andrew Clow : (a) All service stamps used to bear the word " SERVICE " overprinted in black. A special design for service stamps of denominations up to and including eight annas in value has been adopted, a feature of which is that the word " SERVICE " is embodied in the design and appears in bold white letters at the foot of the stamps. For these denominations overprinting has been discarded as the process was found to be more expensive than printing a distinctive stamp, and involved some disfigurement of the design.

(b) Members of the public cannot be misled as service stamps are not on sale at Post Offices and cannot be used for the prepayment of postage on private correspondence. Government do not propose to revert to the practice of overprinting service stamps of the smaller denominations.

Mr. Lalchand Navalrai : Is it not a fact that it is misleading to have the same colour as the colour of the word " service " ?

The Honourable Sir Andrew Clow : No, Sir. Misleading to whom ?

Mr. Lalchand Navalrai : Misleading to everybody.

The Honourable Sir Andrew Clow : I have already explained that the stamps are not on sale to the public. Government officers who use these stamps know the difference between service stamps and ordinary stamps. The colour is the same in order to make it easier for postal employees to make sure that the postage is correct.

Mr. Lalchand Navalrai : Is it not true that it is often mixed up ?

The Honourable Sir Andrew Clow : These stamps are only retained in Government offices which do not use private stamps for correspondence.

CONSTRUCTION OF WAITING ROOMS IN BARAMCHAL STATION ON THE ASSAM-BENGAL RAILWAY.

†126. *Maulvi Abdur Rasheed Chaudhury : Will the Honourable the Railway Member please state :

(a) the number of representations the railway authorities received for constructing waiting rooms in the Baramchal railway station (Assam-Bengal Railway) ;

(b) when they received the last representation ; and

(c) whether they have decided to construct the waiting rooms ?

The Honourable Sir Andrew Clow : (a) Two since 1937.

(b) In May, 1939.

(c) The Company has decided to construct a combined intermediate and third class waiting room for ladies in 1941-42, if funds permit.

FEMALE WAITING SHED AT BARAMCHAL STATION ON THE ASSAM-BENGAL RAILWAY.

†127. *Maulvi Abdur Rasheed Chaudhury : Will the Honourable the Railway Member please state :

(a) the length, breadth and height of the existing female waiting shed at Baramchal (Assam-Bengal Railway) ;

(b) whether it is walled with corrugated sheets on three sides without any window ;

(c) whether one side is without wall and door ;

(d) whether there is any arrangement to prevent cattle entering and sleeping in this shed ; and

(e) whether the roof of the shed is only 6 feet high from the plinth and that there is no ceiling beneath the roof ?

The Honourable Sir Andrew Clow : Enquires are being made from the Railway Administration and a reply will be laid on the table in due course.

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

VERANDAHS AT BARAMCHAL STATION ON THE ASSAM-BENGAL RAILWAY.

†128. *Maulvi Abdur Rasheed Chaudhury : Will the Honourable the Railway Member please state :

- (a) the height of the eastern and western verandahs of the station house at Baramchal (Assam-Bengal Railway) ;
- (b) whether there is no ceiling beneath the corrugated roofing of these verandahs ; and
- (c) the average temperature of these verandahs in June to September, when the midday trains pass through Baramchal, Assam-Bengal Railway ?

The Honourable Sir Andrew Clow : Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

OPENING OF THE BROADCASTING STATION AT Dacca.

†129. *Choudhury Sikandar Ali : Will the Honourable the Communications Member be pleased to state :

- (a) what the cause of delay is in opening the Broadcasting Station at Dacca and when Government propose to actually open it ;
- (b) what the estimated expenditure is and what has actually been spent up till now on account of the said station at Dacca ;
- (c) how many superior and clerical appointments are proposed to be made for this station and when and how this is intended to be notified for general information ; and
- (d) whether any importance is proposed to be given by the authorities concerned to the recommendations of the Members of the Legislative Assembly specially in making clerical appointments to this office ; and if not, why not ?

The Honourable Sir Andrew Clow : (a) The principal factors which have operated to prevent the opening of the Station within the period originally envisaged are :

- (i) the delay in the completion of the transmitter building owing to abnormal floods in Dacca during the monsoon of 1938,
- (ii) the difficulty experienced in finding and obtaining vacant possession of a suitable building for the studios and office of the Station, and
- (iii) the postponement for financial reasons of the purchase of studio equipment and stores. It is expected that the Station will begin broadcasting in December.

(b) The total estimated capital expenditure on the Station (excluding the cost of the Receiving Centre) is Rs. 2,38,000. Up to the 31st July, 1939, a sum of Rs. 1,35,000 has been spent.

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

(c) The sanctioned staff includes 19 superior appointments of which four are clerical. Most of the posts have already been advertised, and selection for some of them has been made through the Federal Public Service Commission or through Selection Boards.

(d) A candidate is at liberty to forward recommendations with his application. The weight to be attached to any such recommendations depends on the qualifications of the persons making them to speak with knowledge of the candidate's character and capacity.

NON-APPOINTMENT OF MUSLIM CLERKS IN KANCHRAPARA WORKSHOP, EASTERN BENGAL RAILWAY.

130. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member please state :

- (a) whether Government are aware of the fact that the Eastern Bengal Railway authorities have contravened the Recruitment Rules and neglected the Muslim quota in filling up vacancies of clerks in the Progress Section, Shop No. 2, Shop No. 3, Shop No. 4, Shop No. 5, Time and Gate Sergeant's office of Kanchrapara Workshop, Eastern Bengal Railway ;
- (b) if the reply to part (a) above be in the negative, why out of 43 vacancies in the said department 42 were given to Hindus and one to an Indian Christian, though about nine among them were only matriculates ; and
- (c) whether Government propose to take immediate action for making up the quota thus neglected in filling the said vacancies ?

The Honourable Sir Andrew Clow : (a) No.

(b) I have no information in regard to appointments to these posts.

(c) The communal percentages prescribed for direct recruitment apply to the total recruitment and not ordinarily to each category of staff. Returns of recruitment by communities on the Eastern Bengal Railway show that the percentage prescribed for Muslim recruitment is being adhered to.

Mr. Muhammad Nauman : May I know if the Eastern Bengal Railway has been sending monthly reports to the Railway Board ?

The Honourable Sir Andrew Clow : I was not aware if it is a fact that reports were received monthly.

Mr. Muhammad Nauman : What is the system that they have ? Is it monthly or quarterly or annual report that they send ?

The Honourable Sir Andrew Clow : It is annual, I think. I have not looked the matter up.

Mr. Muhammad Nauman : Will the Honourable Member see that monthly returns are supplied ?

The Honourable Sir Andrew Clow : We require for our purpose only annual returns. What does it matter if they are monthly or annual returns ?

Mr. Muhammad Nauman : The difference is this. Posts on Rs. 10 or Rs. 20 are given to Muslims, while posts above Rs. 50 are given to non-Muslims. We have been repeatedly pressing that the proportion of Muslims in the higher grades is much less.

The Honourable Sir Andrew Clow : I do not see how monthly returns instead of annual returns would make any difference.

Mr. Muhammad Nauman : The Railway Board will then be able to see whether in each grade the proportion of Muslims is kept up or not ?

The Honourable Sir Andrew Clow : The rules do not prescribe that in each grade promotion should be made on communal lines.

FILLING UP OF VACANCIES OF LABOURERS UNDER THE DISTRICT CONTROLLER OF STORES, HALISHAR, EASTERN BENGAL RAILWAY.

131. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member please state :

- (a) whether Government are aware of the fact that out of 500 labourers, Grade I and II, under the District Controller of Stores, Halishar, Eastern Bengal Railway, there are about 20 Muslims and 20 Christians ; if so, why ;
- (b) whether it is a fact that according to the order of the District Controller of Stores, Halishar, No. 23/P. of the 2nd December, 1938, 50 per cent. Muslims were required to be taken in the permanent and temporary vacancies of labourers under the District Controller of Stores, Halishar ; and
- (c) who has cancelled order No. 23/P. of the 2nd December, 1938, and framed the rule that whenever vacancies of labourers under the District Controller of Stores, Halishar, Eastern Bengal Railway, arise on account of retirement, death, leave or promotion, these should be filled up by members of the same community to which the incumbent or incumbents of the posts falling vacant belong ?

The Honourable Sir Andrew Clow : (a) No : Government have no record of the communal composition of these labourers.

(b) and (c). Government have no particulars of the orders issued by the railway administration, but the orders issued to the Agent in 1935 were that the percentage of each minority community then existing should be maintained on the inferior services of the railway.

Mr. Muhammad Nauman : With reference to part (c), does it not mean that for all times to come the Muslims on the Eastern Bengal Railway will be in a hopeless minority, because, if the quota is not increased, there is no hope of Muslims ever getting the required number ?

The Honourable Sir Andrew Clow : I do not think that necessarily follows. The order was not passed in my time, but I understand it was passed mainly with a view to protecting the rights of Muslims on the railways.

Mr. Muhammad Nauman : Will the Honourable Member see that they are maintained if they are not being maintained by the Railway ?

The Honourable Sir Andrew Clow : I understood that the complaint in (c) is that they were being maintained.

EMPLOYMENT OFFICERS IN WORKSHOPS OF CERTAIN RAILWAYS.

132. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) how many are the sanctioned posts of Employment Officers in the Workshops on the following Railways :
 - (i) North Western Railway ;
 - (ii) East Indian Railway ;
 - (iii) Great Indian Peninsula Railway ;
 - (iv) Bombay, Baroda and Central India Railway ;
 - (v) South Indian Railway ;
 - (vi) Madras and Southern Mahratta Railway ;
 - (vii) Bengal Nagpur Railway ;
 - (viii) Eastern Bengal Railway ;
 - (ix) Assam Bengal Railway ; and
 - (x) Bengal and North Western Railway ; and
- (b) how many out of them are Hindus, Muslims, Europeans, Anglo-Indians and Christians ?

The Honourable Sir Andrew Clow : According to the distribution return of establishment which is submitted annually to the Railway Board at the close of each year, the designation "Employment Officer" is in use only on the East Indian Railway, where there are three such officers : two being Hindus and one Sikh.

ADVERTISEMENT OF VACANCIES IN WORKSHOPS OF CERTAIN RAILWAYS.

133. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) whether Government are aware of the fact that vacant posts in the Cadres of Officers, Senior Subordinates, Subordinate and Skilled Labour in any workshop of the State-owned and State-managed and Company-owned and Company-managed Railways have never been advertised ; and
- (b) if the reply to part (a) above be in the negative, whether Government propose to give the following statement for the period from the 1st July, 1934, to the 1st April, 1939, for each State-owned and State-managed and Company-owned and Company-managed Railway, separately :
 - (i) vacancies advertised ;
 - (ii) newspapers in which advertised ;
 - (iii) dates for which advertisement appeared ;
 - (iv) total vacancies filled up ; and
 - (v) allotments of communities for these vacancies ?

The Honourable Sir Andrew Clow : (a) No.

(b) Government have no record of these advertisements and I regret that I cannot undertake to embark on an attempt to collect them. The particulars of recruitment by communities on the State and Company-managed Class I railways will be found in the Chapter on Staff and the appendices thereto in Volume I of the Reports of the Railway Board on Indian Railways. These do not, however, include figures for 1938-39 as these are not yet available.

Mr. Muhammad Nauman : Do Government realise that unless posts are advertised and sufficient publicity given, there may be undue manipulations and also sacrifice of efficiency ?

The Honourable Sir Andrew Clow : Some posts are advertised when the necessity arises, but it is not necessary to advertise all posts, and it is not the custom in any big business.

Mr. Muhammad Nauman : Should not there be a rule that in certain grades certain posts must be advertised ? Otherwise, what is the use of advertising posts on Rs. 20 or Rs. 25, and not advertising those on Rs. 80 or Rs. 100 ?

The Honourable Sir Andrew Clow : The Honourable Member is now expressing his own views.

FILLING UP OF VACANCIES IN THE SUBORDINATE CADRES IN WORKSHOPS OF CERTAIN RAILWAYS.

134. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

(a) why the vacancies in the subordinate cadres from 1934 to 1939 in the Workshops of

- (i) East Indian Railway ;
- (ii) Eastern Bengal Railway ;
- (iii) Bengal Nagpur Railway ;
- (iv) Great Indian Peninsula Railway ;
- (v) North Western Railway ;
- (vi) Bengal and North Western Railway ; and
- (vii) Assam Bengal Railway ;

have been filled up by menials through promotion ;

(b) whether this method of recruitment contravenes the policy laid down in the Home Department Resolution No. F. 14/17-B/33, dated the 4th July, 1934 ;

(c) whether the Government of India have issued separate rules for recruitment in Railway Workshops ; and

(d) whether the Resolution was enforced rigidly in recruitments in the Railway Workshops ?

The Honourable Sir Andrew Clow : (a) Vacancies in the subordinate cadres in railway workshops are filled by :

- (i) direct recruitment ;
- (ii) appointment of persons who have served a specified apprenticeship ; and
- (iii) promotion of inferior servants.

(b) No.

(c) Separate rules issued regulate only the recruitment of apprentices in workshops on State-managed Railways.

(d) The returns giving details of direct recruitment to subordinate services, published in the Railway Board's Annual Report have so far indicated that the orders are being adhered to.

EMPLOYEES ON THE EASTERN BENGAL AND THE EAST INDIAN RAILWAYS.

135. *Mr. Muhammad Nauman : Will the Honourable the Railway Member please state :

(a) what is the total number of employees on the Eastern Bengal Railway and on the East Indian Railway ;

(b) what is the total number of Muslim employees on the Eastern Bengal Railway and the East Indian Railway ;

(c) what is the number of Muslims receiving pay of Rs. 125 per month on the 30th June, 1939, on the Eastern Bengal Railway and the East Indian Railway ;

(d) whether it is a fact that the number of Muslim officers on the Eastern Bengal Railway is only seven, taking all departments on that Railway ; and

(e) what is the number of employees on the Eastern Bengal Railway and the East Indian Railway who have been promoted from subordinate grades ?

The Honourable Sir Andrew Clow : (a) 53,337 on the Eastern Bengal Railway and 126,519 on the East Indian Railway on the 1st April, 1938.

(b) 16,667 on the Eastern Bengal Railway and 25,251 on the East Indian Railway on the 1st April, 1938.

(c) Such statistics as are available relating to the communal distribution of subordinates are published in Appendix F of Volume I and Appendix C of Volume II of the Railway Board's Reports on Indian Railways. The figures in Volume I show the distribution of subordinates drawing Rs. 250 per mensem and over, or on scales of pay rising to Rs. 250 per mensem, and those in Volume II cover all subordinates.

(d) The number on 1st April, 1939, was six.

(e) I would refer the Honourable Member to the Classified List of State Railway Establishment, a copy of which is in the Library of the House. Officers in the Lower Gazetted Service are practically all promoted from a subordinate grade. Other officers who have been promoted from a subordinate service have the letter " P " after their names.

Mr. Muhammad Nauman : With reference to part (c), have not Government got the exact figure of the employees who are drawing over Rs. 125 ?

The Honourable Sir Andrew Clow : I have explained that our division is at a different point.

INSOLVENT EMPLOYEES ON THE EASTERN BENGAL RAILWAY.

136. *Mr. Muhammad Nauman : Will the Honourable the Railway Member please state :

- (a) the names of the Eastern Bengal Railway employees who have gone into insolvency by the permission of the authorities ;
- (b) whether it is a fact that recently 14 employees, who were heavily in debt have been taken back and given two or three years' time for payment on the Eastern Bengal Railway ;
- (c) whether it is a fact that more than eight undischarged insolvents are working on the Eastern Bengal Railway ;
- (d) whether it is a fact that there are over fifty employees of the Eastern Bengal Railway against whom civil decrees are pending and against some of whom attachment of pay has been ordered ;
- (e) whether Government propose to state the rule under which employees are advanced loans on the Eastern Bengal Railway ; and
- (f) whether Government propose to state the exact percentage up to which an employee's pay attached is not looked with prejudice ?

The Honourable Sir Andrew Clow : (a) to (d). Government maintain no record of the indebtedness of employees working under the railway administration ; but I shall call the attention of the General Manager to the allegation made in part (c) with a view to the examination of the position.

(e) There is no such rule.

(f) Under the Government Servants' Conduct Rules a Government servant is liable to dismissal when he is declared or adjudged an insolvent, or when one moiety of the salary of such Government servant is constantly being attached, has been continuously under attachment for a period exceeding two years, or is attached for a sum which, in ordinary circumstances, cannot be repaid within a period of two years.

Mr. Muhammad Nauman : Are Government aware that undischarged insolvents are serving on the Eastern Bengal Railway ?

The Honourable Sir Andrew Clow : I have no information, but, as I have said, I will call the attention of the General Manager to the point.

Mr. Muhammad Nauman : In the event of these people being proved to be undischarged insolvents, will they be dismissed ?

The Honourable Sir Andrew Clow : They will be " liable to dismissal ", but it does not follow that they will inevitably be dismissed. Regard will be had to the circumstances of the case.

Mr. Muhammad Nauman : In spite of their being undischarged insolvents, can they be retained for some reason or other ?

The Honourable Sir Andrew Clow : That has happened in some cases.

REPORT OF THE XB ENGINE COMMITTEE.

†137. *Maulvi Muhammad Abdul Ghani : Will the Honourable Member for Railways be pleased to state :

- (a) whether the XB Engine Enquiry Committee finished enquiry about the XB engines and submitted their report ; if so, when ; if not, when the report is expected to be submitted ; and
- (b) the amount of expenditure hitherto incurred for the said enquiry ?

The Honourable Sir Andrew Clow : (a) The report of the Pacific Locomotive Committee was received in the middle of April and a copy was sent to every Member of this House in June.

(b) The expenditure incurred to the end of August, 1939, is Rs. 1,61,400.

EXPERIMENTS MADE AT JAMALPUR TO FIND OUT THE CAUSES OF THE BIHTA RAILWAY DISASTER.

†138. *Maulvi Muhammad Abdul Ghani : Will the Honourable Member for Railways be pleased to state :

- (a) whether any departmental experiment was made at Jamalpur to find out the causes of the Bihta Railway Disaster ; if so, when and in what way ;
- (b) the number of goods wagon and passenger carriages and engines engaged in the operation ;
- (c) the number of engines and wagons damaged in the operation ;
- (d) the extent of the damages to engines and wagons ;
- (e) the number of persons killed or injured in the experimental operation ;
- (f) the type or class of engines used in the operation ;
- (g) the cost of engines and wagons and carriages so engaged ; and
- (h) whether any film company was asked by the East Indian Railway authority to take the films of the experimental operation ; if so, the name of the company and the amount of contribution or fee paid by the said film company ?

The Honourable Sir Andrew Clow : (a), (b), (c), (d), (f) and (g). The attention of the Honourable Member is invited to the statement laid on the table of the Council of State by the Honourable Sir Guthrie Russell on 15th November, 1937, in reply to question No. 241 asked by the Honourable Mr. Hossain Imam on 2nd October, 1937.

(e) No persons were killed or injured during the experiment.

(h) Kodak, Limited, provided three cameras and photographers free of charge for filming the experiment. The railway purchased the necessary projector, screen and films from the company.

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

IGNORING OF THE CLAIMS OF MUSLIMS FOR PROMOTION IN THE SAIDPORE WORKSHOP, EASTERN BENGAL RAILWAY.

139. *Mr. Muhammad Nauman : Will the Honourable the Railway Member be pleased to state :

- (a) whether the claims of senior Muslims in the Paint Shop and Machine Shop of the Saidpore Workshop, Eastern Bengal Railway, were ignored at the time of promotion, and whether Hindus were promoted on the plea of efficiency to the posts of Mistries in the years 1938 and 1939 ; and
- (b) if the reply to part (a) above be in the negative, whether Government propose to place on the table a statement showing the seniority of Muslims and Hindus in the said Shops and state what circumstances debarred Muslims from the said promotion ?

The Honourable Sir Andrew Clow : (a) I have no reason for supposing that promotions have been based on anything but the merits of the case.

(b) The answer to the first part is in the negative. As regards the last part, there is no bar to the promotion of competent officials of any community and if any official considers that his claims have not been properly considered, it is open to him to represent his case to the appropriate authority.

Mr. Muhammad Nauman : I have been given certain cases,—I do not say they are all correct,—on which I am satisfied that promotions have not been duly carried out. In view of that, will the Honourable Member be pleased to bring it to the notice of the Agent of the Railway ?

The Honourable Sir Andrew Clow : As I have said, if any employee feels aggrieved, he can represent his case.

REPRESENTATION OF MUSLIMS IN THE ESTABLISHMENT OFFICE OF THE WORKS MANAGER OF THE SAIDPORE WORKSHOP, EASTERN BENGAL RAILWAY.

140. *Mr. Muhammad Nauman : Will the Honourable the Railway Member be pleased to state :

- (a) whether Government are aware of the fact that the representation of Muslims in the Establishment Office of the Works Managers of the Saidpore Workshop, Eastern Bengal Railway, is unsatisfactory, as the following statement shows :

Grade.	Hindus.	Muslims.	Total.
Rs.			
150—200	1	..	1
100—140	5	..	5
85—100	13	..	13
28—80	29	3	32
30—60	1	2	3
	49	5	54

- (b) why out of two Muslims in the lowest grade one is still temporary and the Hindu clerk who does not possess the requisite qualifications for a clerk according to the recruitment rules has been made permanent ; and
- (c) how this Hindu clerk was promoted to the post of a clerk from the post of a khalasi against the recruitment rules which clearly lay down that no recruitment can be made unless the vacancies in the subordinate cadres are thrown open to communal quota ?

The Honourable Sir Andrew Clow : (a) Government are not aware of the communal composition of this office.

(b) and (c). I have no information in regard to the particular case to which the Honourable Member refers. There is, however, nothing in the recruitment rules to prevent an inferior servant being recruited against a subordinate post. The communal proportions prescribed apply to the railway as a whole.

Mr. Muhammad Nauman : With reference to part (a), will Government find out whether the facts stated are correct ?

The Honourable Sir Andrew Clow : From the details given by the Honourable Member, I take it he has himself ascertained the facts.

Mr. Muhammad Nauman : Will the Honourable Member take it up with the railway and see that the position is equitably improved ?

The Honourable Sir Andrew Clow : I recognise that in a great many grades Muslims have not got a proportion of posts corresponding to the strength of their community, but that is a matter that obviously can only be remedied by time as we are not displacing employees and are only applying the communal percentages to recruitment.

Mr. Muhammad Nauman : I thank the Honourable Member for finding out these things, but if he takes a little more interest things will be expedited.

The Honourable Sir Andrew Clow : No interest of mine can alter the percentages of recruitment.

FILLING UP OF VACANCIES IN THE SUBORDINATE CADRES IN CERTAIN WORKSHOPS OF THE EASTERN BENGAL RAILWAY.

141. *Mr. Muhammad Nauman : Will the Honourable the Railway Member be pleased to state :

- (a) whether it is a fact that the vacancies in the Subordinate Cadres in the Saidpore and Kancharapara Workshops of the Eastern Bengal Railway from the period 1935 to 1939 have been filled up by the menial staff who do not possess the requisite qualifications for these posts according to the rules on the subject ; and
- (b) if the reply to part (a) above be in the negative, when the vacancies in the Subordinate Cadres were advertised and how ?

The Honourable Sir Andrew Clow : (a) I would refer the Honourable Member to the reply I have just given to Shaikh Rafiuddin Ahmad Siddique's question No. 134.

(b) Does not arise.

MUSLIM CLERKS IN THE OFFICES OF THE DISTRICT CONTROLLER OF STORES AND THE GENERAL STORES, SAIDPUR, EASTERN BENGAL RAILWAY.

†142. ***Mr. Muhammad Nauman :** Will the Honourable the Railway Member be pleased to state :

(a) how out of eight Muslim clerks in the offices of the District Controller of Stores and the General Stores, Saidpore, Eastern Bengal Railway, only three are permanent and the rest are temporary, and out of nine Hindus seven are permanent, and the rest are temporary ;

(b) whether Government are aware of the fact that in the leave vacancies of clerks in the District Controller of Stores Office and the General Stores only Hindus are recruited ignoring the quota of Muslims ; and

(c) if the reply to part (a) above be in the negative, how many Muslims were employed in the leave vacancies during the period from 1935 to 1939, and how many Hindus taken in the leave vacancies have been made permanent ?

The Honourable Sir Andrew Clow : (a) I am not clear as to the meaning of the Honourable Member's question. The number of temporary men in any grade depends on the strength of the grade and the numbers who happen to be confirmed, and confirmation of candidates in a particular office is not subject to communal considerations, provided that the rules governing the communal representation for the railway as a whole are observed.

(b) There is no quota for Muslims or any other community in these offices ; the quotas apply to the railway as a whole.

(c) This does not arise ; but I propose to forward the question to the General Manager of the Railway and call his attention to the allegation made in it.

DELAY IN THE DELIVERY OF MAIIS AT BIJNOR.

143. ***Mr. Muhammad Azhar Ali :** Will the Honourable the Communications Member be pleased to state :

(a) whether it is a fact that prior to 1930, the Mail for Bijnor used to go *via* Nagina and there was a Railway Mail Service office at Nagina ;

(b) whether it is a fact that in those days the mail used to be carried from Nagina to Bijnor by motor lorries, and used to be delivered to public at about 8 A.M. ;

†Answer to this question laid on the table, the questioner having exhausted his quota.

(c) whether it is a fact that since 1930 the Railway Mail Service office has been shifted from Nagina to Najibabad and now the mail is delivered at Bijnor from 12 A.M. to 3 P.M. ;

(d) whether Government are aware that the delay in the delivery of post at Bijnor is causing great inconvenience to the public and is causing great damage to the trade and business of Bijnor ; and

(e) whether Government have considered or propose to consider the desirability of removing the complaint of the public and the representation of the business and industry of Bijnor by shifting the Railway Mail Service office to Nagina and taking to lorry service for the carriage of mails from Nagina to Bijnor ?

Sir Gurunath Bewoor : (a) and (b). Yes. The mails used to be delivered at Bijnor at 8-30 A.M.

(c) The Sorting Mail Office was removed from Nagina to Najibabad in 1931. Prior to 1931 the whole mail was delivered at Bijnor only once in the day, namely at 8-30 A.M. At present mails from the Eastern United Provinces, Bengal and Bihar are issued for delivery at 8-00 A.M. and those from the rest of India are issued for delivery at 12-00 noon.

(d) Complaints have been received that the present arrangements cause some inconvenience to the public as compared with the arrangements which existed eight years ago.

(e) No. As Bijnor is now linked by railway with the main line and as Nagina is no longer a stopping place for East Indian Railway mail trains, no purpose would be served by re-establishing the Mail Sorting Office at Nagina.

ACCIDENTS ON THE RAILWAYS.

144. ***Mr. Muhammad Azhar Ali :** Will the Honourable the Railway Member be pleased to state :

(a) whether in serious accidents on the railways during the recent years, which have caused serious damage to and loss of life of passengers, they have observed that the persons who suffer most are those travelling in the first two or three bogies ; and

(b) if the answer to part (a) above be in the affirmative, whether Government have considered or propose to consider the advisability of replacing the first three bogies in all the fast trains by goods and luggage vans and thus in case of accidents avoid serious loss of life and damage to the railways ?

The Honourable Sir Andrew Clow : (a) This has not been observed to be always a fact.

(b) Does not arise.

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ACQUISITION OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

145. *Mr. Muhammad Azhar Ali : Will the Honourable the Railway Member be pleased to state :

- (a) whether Government have arrived at any decision regarding the acquisition of the Shahdara-Saharanpur Railway in 1941 ;
- (b) whether Government have made an enquiry about it from a financial point of view ; if not, what are its conclusions ; and
- (c) whether Government have taken any steps to serve the Shahdara-Saharanpur Railway Company with a notice in April 1940, for terminating the contract in 1941 ?

The Honourable Sir Andrew Clow : (a) and (c). No.

(b) The financial aspect of the question has not yet been examined.

Mr. President (The Honourable Sir Abdur Rahim) : The answer to the next question of Mr. Nauman will be laid on the table.

APPOINTMENT OF TOOL KEEPERS IN THE SAIDPUR WORKSHOP, EASTERN BENGAL RAILWAY.

146. *Mr. Muhammad Nauman : Will the Honourable the Railway Member be pleased to state how in January 1937 Hindu tool keepers were appointed on Rs. 22, while Muslim tool keepers were appointed on Rs. 16 per month in the Saidpore Workshop, Eastern Bengal Railway ?

The Honourable Sir Andrew Clow : The information has been called for and will be laid on the table in due course.

CASHING OF CROSSED INDIAN POSTAL ORDERS.

147. *Mr. Lalchand Navalrai : Will the Honourable the Communications Member be pleased to state :

- (a) whether Government are aware that instructions appear on the reverse of the Indian Postal Order to the following effect :

"If this order be crossed like a cheque, payment will only be made through a bank ;"

- (b) with which banks in India, the Postal Department have made arrangements to cash the crossed-Postal Orders ;
- (c) whether it is a fact that in Karachi only Lylod's Bank of India, Limited, have entered into an arrangement with the Department to cash the Indian Postal Orders ; and
- (d) if the reply to part (c) above be in the affirmative, whether Government propose to make arrangements with other banks also to cash the Indian Postal Orders without any extra charge ; if not, why not ?

† Answer to this question laid on the table, the questioner having exhausted his quota.

The Honourable Sir Andrew Clow : (a) Yes.

(b) Crossed Indian Postal Orders are paid through any bank, provided that the name of the bank and the payee appears in the body of the Order and the Order is endorsed by the payee. The arrangements between the Post Office and banks relate to the payment of Postal Orders in other circumstances.

(c) No.

(d) Does not arise.

Mr. Lalchand Navalrai : May I know if this arrangement will not inconvenience people in the interior of the country ? There are banks in the urban areas, but in the interior there are no banks, and, if there are any, they are private banks. Will Government arrange that they also should take these crossed postal orders ?

The Honourable Sir Andrew Clow : I have explained already that crossed postal orders can, provided the name of the bank and the name of the payee are entered, be paid through any bank.

SEARCH LIGHT FIXED IN FRONT OF ENGINES.

148. *Mr. Muhammad Azhar Ali : Will the Honourable the Railway Member be pleased to state :

- (a) whether it is a fact that the search light fixed in front of railway engines is fixed and cannot be moved sideways ;
- (b) whether it is a fact that due to this fixity, the search light cannot be properly utilised on the corners of the track ; and
- (c) if the answer to part (b) above be in the affirmative, whether Government have considered or propose to consider the advisability of getting the search light on the engines moveable instead of being fixed ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) The matter has been considered but it is undesirable to introduce manual control and it is difficult to secure satisfactory automatic control. But the possibility of making an experiment will be reconsidered.

SELECTION OF ROUTINE CLERKS FOR PROMOTION IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

149. *Bhai Parma Nand : Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that the selection of candidates for the clerical posts class II from among the routine clerks is an innovation in the Railway Clearing Accounts Office which has replaced the method of departmental promotions from the routine grade as well as from the other grades which have so far been made by seniority in service and qualifications of the incumbent ;
- (b) if the reply to part (a) above be in the affirmative, whether Government propose to explain the reasons why the practice so far followed has been given up in contravention of the usual procedure followed by Government ; and

- (c) whether Government propose to place on the table a list of the routine clerks selected for promotion to clerks, class II grade, by the Selection Committee in July, 1939, in the Railway Clearing Accounts Office, giving the lengths of service and qualifications, both departmental and academic, of the selected candidates ?

The Honourable Sir Andrew Olow : (a) No.

(b) Does not arise.

(c) No ; but if any Honourable Member wishes to inspect the list, facilities will be afforded by the Controller of Railway Accounts.

SELECTION OF ROUTINE CLERKS FOR PROMOTION IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

150. *Bhai Parma Nand : Will the Honourable Member for Railways please state whether it is a fact that routine clerks, who have actually worked and are working as clerks, class II, and also those who have passed Appendix 'C' Examination making them eligible for promotion to clerks class I grade, have been passed over, by the Selection Board in their selection, who has preferred non-matrices junior Routine clerks for promotion to clerks, class II grade, in the Railway Clearing Accounts Office ; if so, why ?

The Honourable Sir Andrew Olow : No routine clerk who had actually *officiated* and drawn pay as clerk, class II, at any time was passed over by the Selection Board. Two routine clerks who have passed the Appendix 'C' Examination were not selected as they were not regarded as reaching the requisite standard.

SELECTION OF ROUTINE CLERKS FOR PROMOTION IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

151. *Bhai Parma Nand : Will the Honourable Member for Railways please state :

- (a) whether Government are aware that there is great dissatisfaction and resentment among the routine clerks and other staff in general with the result of the selection of routine clerks by the Selection Board ;
- (b) if the reply to part (a) above be in the affirmative, whether Government propose to make an enquiry as to the way in which selection was done and remove the cause of dissatisfaction ;
- (c) what is the method of promotion from the routine clerks to clerks, class II grade, in the Railway Clearing Accounts Office, and what it was up to 1938 ;
- (d) whether any representation was received in this connection from the Staff Association of the Railway Clearing Accounts Office, a recognised body, and what was the reply to it given by the administration and whether Government propose to place the correspondence on the table of the House ; and

- (e) whether it is a fact that the Staff Association of the Railway Clearing Accounts Office has been demanding from the very beginning that promotions to higher grades should be on the basis of seniority as shown in the printed seniority list of the office with due regard to efficiency ; if so, what are the reasons of the administration for not adopting this basis for promotion ?

The Honourable Sir Andrew Olow : (a) and (b). Government are not aware of any great dissatisfaction ; but certain representations have been received from the routine clerks which are being dealt with.

(c) Promotions both in 1939 and before that year were based on merit with due regard to seniority.

(d) Yes ; the matter is still under consideration. Government do not propose to place the relevant correspondence on the table.

(e) Yes. The reason is that selection is calculated to secure the most efficient men.

PROMOTION OF STENOGRAPHERS IN DIVISIONAL OFFICES OF THE NORTH WESTERN RAILWAY.

152. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

- (a) whether the stenographers in Divisional and inter-divisional offices of the North Western Railway, though considered as technical men are borne on one general seniority list, like other technical staff for the whole Railway, including Headquarters office where higher grades exist ; if not, what are their chances of promotion ;
- (b) whether these stenographers had been representing to the Administration through memorials since 1928 for a general seniority list like their other technical colleagues (draftsmen and sanitary inspectors) ; if so, what steps the administration have taken to redress their grievances ;
- (c) whether it is a fact that Sanitary Inspectors, being technical men and few in number, were placed on a general seniority list in 1930 to give them a fair chance of promotion ; if so, why the stenographers have not been treated in the same manner ;
- (d) whether it is a fact that in the absence of a general seniority list during these 11 years, junior stenographers in grades III and IV in Headquarters office have become senior to much more senior stenographers in the same grades in the Divisional and inter-divisional offices ;
- (e) whether it is a fact that stenographers, being considered as technical men, are debarred from going to other branches and thus have all the doors of promotion closed upon them ;
- (f) whether it is a fact that this category of stenographers was not included in the letter issued by the office last year laying down the channel for promotion for all staff in the Divisional offices of the North Western Railway ; and

- (g) whether the Administration propose to look into the matter and see what can be done to redress the grievances of these stenographers ?

The Honourable Sir Andrew Clow : (a) No : their opportunities for promotion are in the office to which they are attached.

(b) Memorials have been received from stenographers, but the Administration did not consider that there was any justification for a change in the existing arrangement.

(c) Yes : Sanitary Inspectors were placed on one seniority list in order to give them reasonably equal opportunities for promotion, as the number of posts of Sanitary Inspectors in the higher grades was appreciably fewer on some Divisions than on others. Stenographers have such opportunities of promotion on their own Divisions.

(d) I am prepared to accept this from the Honourable Member. Inequalities in promotion are inevitable with the maintenance of separate seniority lists.

(e) Normally, yes. In view of the nature of the work performed by stenographers, their selection for posts requiring knowledge and experience of other duties is generally impracticable.

(f) Yes.

(g) The matter has already been considered by the Administration and nothing has transpired since then to warrant its re-consideration.

Mr. President (The Honourable Sir Abdur Rahim) : The answers to the next two questions of Mr. Nauman will be laid on the table.

NON-APPOINTMENT OF MUSLIM CLERKS IN KANCHRAPARA WORKSHOP, EASTERN BENGAL RAILWAY.

†153. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways please state :

- (a) whether Government are aware that the Eastern Bengal Railway authorities have contravened the recruitment rules and neglected the Muslim quota in filling vacancies of clerks in Progress Section, Shop No. 2, Shop No. 3, Shop No. 4 and Shop No. 5, Time and Gate Sergeant's office of Kanchrapara Workshop ;

- (b) whether it is a fact that out of 43 vacancies in the said Department forty-two have gone to Hindus and one to a Christian ; and

- (c) whether it is a fact that out of those 42 Hindus selected nine were non-Matric and three possessed very feeble health ?

The Honourable Sir Andrew Clow : I would refer the Honourable Member to the answer I have just given to Shaikh Rafiuddin Ahmad Siddiquee's question No. 130.

†Answer to this question laid on the table, the questioner having exhausted his quota.

SELECTION BOARDS FOR RECRUITMENTS ON THE EASTERN BENGAL RAILWAY

†154. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- (a) the personnel with designations of the officers of the "Selection Boards" on the Eastern Bengal Railway who sat for the purpose of direct recruitment and recruitment by promotions during January, 1938 to June, 1939 ;

- (b) whether it is a fact that "majority of non-Muslims" is the outstanding feature of the "Selection Boards" formed on the Eastern Bengal Railway ; and

- (c) whether it is a fact that applications have been entertained even after the expiry of the period notified in the newspapers by the Eastern Bengal Railway ?

The Honourable Sir Andrew Clow : (a) As I informed the Honourable Member on 4th September, the Railway Board received no reports of the personnel of such committees and I do not feel that the compilation of the particulars would yield results commensurate with the labour involved.

(b) I am prepared to accept this from the Honourable Member. As selection boards are constituted from among officers, and there are only six Muslim officers on the railway, it would be unusual for a selection board to have a majority of Muslims.

(c) Government have no information, but will bring the Honourable Member's question to the notice of the General Manager.

TOLL COLLECTED ON RAMGANGA AND KOSI BRIDGES BETWEEN MORADABAD AND RAMPUR.

154A. ***Mr. Muhammad Azhar Ali :** Will the Honourable the Railway Member be pleased to state :

- (a) whether in the past toll used to be collected by railway authorities on the Ramganga and Kosi rivers between Moradabad and Rampur from private conveyances ;

- (b) whether the toll on the Ramganga bridge has been stopped but on the Kosi bridge still continues ; and

- (c) for how long the toll was realised on the Ramganga bridge and for what period it is being levied on the Kosi bridge ?

The Honourable Sir Andrew Clow : (a) and (b). A toll was levied by the late Oudh and Rohilkhand Railway authorities on the Ramganga and Kosi bridges between Moradabad and Rampur on private conveyances upto July, 1907, when the toll on the Ramganga bridge was discontinued. The toll on the Kosi bridge continues.

(c) The exact dates from which the toll began to be levied on these bridges are unknown but presumably the system was introduced with the opening of the bridges about 1894.

†Answer to this question laid on the table, the questioner having exhausted his quota.

Information promised in reply to part (c) of starred question No. 416 asked by Mr. K. S. Gupta on the 23rd August, 1938.

GRIEVANCES OF EMPLOYEES OF THE VIZAGAPATAM PORT.

(c) Conditions of service in the Port are not completely uniform as some of the employees have been permitted to retain wholly or in part the conditions applicable to them before their transfer to the service of the Port. Generally speaking, the employees enjoy the same conditions of service as other Government servants in civil employ. They are not pensionable, but enjoy Provident Fund facilities.

Information promised in reply to starred questions Nos. 556A and 556B asked by Pandit Sri Krishna Dutta Paliwal on the 20th February, 1939.

TREATY WITH MUSCAT.

A copy of the Treaty of Commerce and Navigation between His Majesty and the Sultan of Muscat and Oman, dated the 5th February, 1939, is laid on the table of the House.

Treaty of Commerce and Navigation between His Majesty and the Sultan of Muscat and Oman.

Muscat, February 5, 1939.

[Ratifications exchanged at Muscat on February 7, 1939.]

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and Sultan Saiyid Said bin Taimur bin Faisal, Sultan of Muscat and Oman and Dependencies,

Desiring to confirm and strengthen the friendly relations which now subsist between them and to promote and extend their commercial relations by the conclusion of a new treaty to replace the Treaty of Friendship, Commerce and Navigation signed at Muscat on the 19th March, 1891, which terminates on the 11th February, 1939,

Have accordingly appointed as their plenipotentiaries :—

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India (hereinafter referred to as His Majesty) :

For Great Britain and Northern Ireland :

Lieut.-Colonel Sir Trenchard Craven William Fowle, K.C.I.E., C.B.E., Political Resident in the Persian Gulf ;

For India :

Lieut.-Colonel Sir Trenchard Craven William Fowle, K.O.I.E., C.B.E., Political Resident in the Persian Gulf ;

The Sultan of Muscat and Oman and Dependencies (hereinafter referred to as the Sultan), in person ;

Who have agreed as follows :—

ARTICLE 1.

For the purposes of the present Treaty—

- (i) The term "territories of His Majesty" or "territories of the one (or the other) High Contracting Party" in relation to His Majesty shall mean the United Kingdom of Great Britain and Northern Ireland and India, and any territories to which the present Treaty applies by reason of extensions under Article 19 or accessions under Article 20 ; and the

term "territories of the Sultan" or "territories of the one (or the other) High Contracting Party" in relation to the Sultan shall mean Oman and its Dependencies.

- (ii) The term "nationals of His Majesty" or "nationals of the one (or the other) High Contracting Party" in relation to His Majesty shall mean all subjects of His Majesty and all persons under his protection, wherever domiciled, except nationals of Koweit, Bahrein, Qatar, Abu Dhabi, Dibai, Sharjah, Ajman, Umm-al-Qaiwain, Ras-al-Khaimah and Kalba and, for the purposes of Articles 13, 14 and 15, nationals of the States of the Aden Protectorate and nationals of Zanzibar of Omani origin who own property in Oman ; and the term "nationals of the Sultan" or "nationals of the one (or the other) High Contracting Party" in relation to the Sultan shall mean all the Sultan's subjects, wherever domiciled. For the purposes of Articles 2, 3, 4, 5, 6, 13, 14 and 15 the word "nationals" shall be deemed to include corporate bodies created under the law of the territories of the High Contracting Party concerned.
- (iii) The term "British vessels" or "vessels of one (or the other) High Contracting Party" in relation to His Majesty shall mean all ships registered under the law of any part of the British Commonwealth of Nations, including any territory under the sovereignty, protection, suzerainty or mandate of His Majesty except Koweit, Bahrein, Qatar, Abu Dhabi, Dibai, Sharjah, Ajman, Umm-al-Qaiwain, Ras-al-Khaimah and Kalba ; and the term "Omani vessels" or "vessels of one (or the other) High Contracting Party" in relation to the Sultan shall mean all ships registered by the Omani Government and entitled to fly the flag of the Sultan.
- (iv) The term "British aircraft" or "aircraft of one (or the other) High Contracting Party" in relation to His Majesty shall mean all aircraft registered under the law of any part of the British Commonwealth of Nations, including any territory under the sovereignty, protection, suzerainty or mandate of His Majesty except Koweit, Bahrein, Qatar, Abu Dhabi, Dibai, Sharjah, Ajman, Umm-al-Qaiwain, Ras-al-Khaimah and Kalba ; and the term "Omani aircraft" or "aircraft of one (or the other) High Contracting Party" in relation to the Sultan shall mean all aircraft registered by the Omani Government.
- (v) The term "foreign country" shall mean in relation to His Majesty any country or territory not under the sovereignty, protection, suzerainty or mandate of His Majesty, and, in relation to the Sultan, any country or territory not being a part of the territories of the Sultan.

ARTICLE 2.

(1) There shall be perfect freedom of commerce and navigation between the territories of the High Contracting Parties. Each High Contracting Party shall allow the nationals of the other to enter all ports, creeks and rivers with their vessels and cargoes, also to travel, reside and pursue commerce and trade, whether wholesale or retail, in his territories provided, as regards nationals of the Sultan, that they satisfy and observe the conditions and regulations applicable in the territory of His Majesty in question to the entry, travel, residence and departure of all foreigners, and provided that nationals of His Majesty satisfy and observe the conditions applicable in the territories of the Sultan in regard to the entry of foreigners and that, in proceeding from the place where they reside in the territories of the Sultan to another place in his territories where foreign subjects do not already reside, they shall, before doing so, notify in writing the local Omani authorities of the place where they reside, and such authorities shall inform them whether the intended destination is suitable for them to travel to or not ; if the authorities in question notify the said nationals in writing that the intended destination is unsuitable, and if the said nationals persist in travelling to their destination, or if they should fail to notify the local authorities of their intended movements, they will proceed at their own risk. Further, subject to the provisions of Article 9, each High Contracting Party shall allow in his territories the nationals of the other, whether personally or by agent, freely to bargain for, buy, barter and sell goods, articles of import or local production, whether intended for local sale, use or consumption, or for export.

(2) Should the Sultan wish to establish any monopoly in any part of his territory such monopoly will be arranged in such a way that it will not be detrimental to the trade in which nationals of His Majesty are at the time occupied in that part of his territory.

ARTICLE 3.

(1) Nationals of His Majesty shall enjoy throughout the territories of the Sultan with respect to commerce, shipping and the exercise of trade all the rights, privileges, immunities, advantages and protection, of whatsoever nature, enjoyed by the nationals of the Sultan or the nationals of any other foreign country.

(2) They shall not be liable to taxes, duties, imposts, restrictions or obligations of any description whatever, other or more onerous than those to which the nationals of the Sultan or the nationals of any other foreign country are subjected.

(3) In all that relates to navigation and the treatment of shipping, the Sultan undertakes to treat British vessels not less favourably in any respect than Omani vessels or the vessels of any other foreign country. The provisions of this Article relating to vessels apply also to the passengers and cargoes carried therein.

ARTICLE 4.

Nationals of His Majesty shall be permitted in the territories of the Sultan to hire or to acquire, by gift, purchase, intestate succession, will, or any other legal manner, land, houses, and property of every description, whether movable or immovable, to possess the same, and freely to dispose thereof by sale, barter, donation or otherwise on the same conditions in respect of immovable property as are or may be established with regard to the nationals of the most favoured foreign country, and in respect of movable property as are or may be established with regard to the nationals of the Sultan or the nationals of the most favoured foreign country.

ARTICLE 5.

(1) Articles produced or manufactured in the territories of His Majesty imported into the territories of the Sultan, from whatever place arriving, shall not be subjected to duties or charges other or higher than those paid on the like articles produced or manufactured in any other foreign country.

(2) No other or higher duties or charges shall be imposed in the territories of the Sultan on the exportation of any article to the territories of His Majesty than such as are payable on the exportation of the like article to any other foreign country.

(3) The import duties leviable in the territories of the Sultan on goods produced or manufactured in the territories of His Majesty and on goods imported by nationals of His Majesty shall be paid at the port or other place in the Sultan's territories where the goods are first imported, and on payment thereof such goods shall thereafter be exempt within the said territories from all other customs duties.

(4) Customs duties shall not be levied in the territories of the Sultan on goods produced or manufactured in the territories of His Majesty or imported by nationals of His Majesty in the following cases, namely:—

(a) On goods which, being destined and manifested for a foreign country, are transhipped from one vessel or aircraft to another in any of the ports or airports of the Sultan or which have been for this purpose provisionally landed and deposited in any of the Sultan's custom-houses to await the arrival of a vessel or aircraft in which to be reshipped abroad; but goods so landed shall only be exempted if the consignee or his agent shall have, on the arrival of the vessel or aircraft, handed over the said goods to be kept under customs seal, and declared them as landed for transshipment, designating at the same time the foreign place of destination, and if within a period not exceeding three months after their first landing the said goods are actually shipped for the said foreign country as originally declared and without having in the interval changed owners, and if all customs charges are paid before they are reshipped.

(b) On goods which, not being destined and manifested for the territories of the Sultan, have been inadvertently landed, provided that such goods are left in the custody of the customs authorities and are reshipped for a destination abroad within two months of being so landed, and that all customs charges are paid before the goods are reshipped.

(c) On coal, fuel and oil, Naval and Air Force provisions and stores and fittings, the property of His Majesty's landed in the territories of the Sultan for the use of the ships of His Majesty's Naval Forces and the aircraft of his Air Forces; duty shall, however, be payable if any of the goods thus exempted are sold or otherwise disposed of in the local markets.

(d) On goods transhipped or landed pending the repair of damage caused to the vessel or aircraft by stresses of weather or disasters at sea or in the air, provided the cargo so discharged shall be left in the custody of the customs authorities and be reshipped abroad within a period of three months from the date of the original landing and that all customs charges have been paid.

(5) In the cases referred to in paragraph (4) above customs formalities in respect of landing, examination, clearance and shipment of goods are to be observed.

(6) All goods remaining uncleared in the Sultan's custom-houses after four months from the date of their original landing shall be disposed of by the Sultan's customs authorities by a public auction after notifying the steamer or aircraft agents concerned. Their sale proceeds, after payment of the auctioneering charges, customs duty and charges, shall be kept in deposit for a period of one year and refunded to the owner if the claim is established during this period, after which no claim shall be entertained.

(7) In this Article the words "customs charges" shall mean charges other than customs duties and may include landing, transit, weighing, wharfage or ground rent, supervision and overtime fees, it being understood that all such fees will be assessed on a reasonable scale.

ARTICLE 6.

(1) All customs duties leviable in the territories of the Sultan shall be paid in cash and not in kind.

(2) The value of the goods on which duty is to be levied shall be fixed according to their market price following the normal usage of trade in Muscat.

(3) The Sultan's Government shall have the right to fix the valuations for customs purposes of any descriptions of goods for any period, provided such valuations are fixed by a tariff board appointed by the Sultan, consisting of equal numbers of the Sultan's nationals and nationals of His Majesty representing the merchant community, and presided over by the Director of the Sultan's Customs.

(4) In the event of any dispute arising between a national of His Majesty and the Customs House authorities regarding the value of any goods, this shall be determined by reference to two experts, each party nominating one, and the value so ascertained shall be decisive. Should, however, these experts not be able to agree, they shall choose an umpire, whose decision is to be considered as final.

ARTICLE 7.

The Sultan's Government has the right to charge all vessels entering any of the ports in the Sultan's dominions with shipping, tonnage, or harbour dues, to be administered under the control of a special board appointed by the Sultan for the improvement of the harbour and construction and maintenance of lighthouses, etc.

ARTICLE 8.

Internal duties, taxes or fees levied within the territories of either High Contracting Party for the benefit of the State, or of organs of local or municipal governments, shall not be other or greater than the duties, taxes or fees levied in similar circumstances on or in connection with goods of national or any other origin.

ARTICLE 9.

(1) No prohibition or restriction shall be imposed or maintained on the importation into the territories of the Sultan of any article, from whatever place arriving, produced or manufactured in the territories of His Majesty which shall not equally extend to the importation of the like articles produced or manufactured in any other foreign country.

(2) No prohibition or restriction shall be imposed or maintained on the exportation of any article from the territories of the Sultan to the territories of His Majesty which shall not equally extend to the exportation of the like articles to any other foreign country.

(3) Exceptions to the general rule laid down in the foregoing paragraphs may be made only in the case of—

- (a) prohibitions or restrictions imposed in the interests of public security ;
- (b) prohibitions or restrictions regarding traffic in arms, ammunition and implements of war, or, in exceptional circumstances, all other military supplies ;
- (c) prohibitions or restrictions imposed for the protection of public health ;
- (d) prohibitions or restrictions imposed for the protection of animals or plants, including protection against diseases, degeneration or extinction, as well as measures taken against harmful seeds, plants and animals.

ARTICLE 10.

The Sultan engages by the present Treaty to provide and give orders to his officials that the movement of goods in transit shall not be obstructed or delayed in a vexatious manner by unnecessary customs formalities and regulations, and that every facility will be given for their transport.

ARTICLE 11.

Either of the two High Contracting Parties may appoint Consuls to reside in the territories of the other, subject to the consent and approval of the other as regards the persons so appointed and the places at which they reside. Such Consuls shall at all times be accorded in the country in which they reside treatment and privileges not less favourable than Consuls of the most favoured foreign country. Each of the High Contracting Parties further agrees to permit his own nationals to be appointed to Consular Offices by the other Contracting Party, provided always that the person so appointed shall not begin to act without the previous approbation of the High Contracting Party whose national he may be.

ARTICLE 12.

(1) British vessels or aircraft coming to the territories of the Sultan, in distress, shall receive from the local authorities all possible necessary aid to enable them to revictual and refit so as to proceed on their voyage or journey.

(2) Should a British vessel or aircraft be wrecked off the coast of or in the Sultan's territories, the authorities of the Sultan shall render all possible assistance to save the vessel or aircraft, its cargo and those on board ; they shall also give all possible aid and protection to persons saved, and shall assist them in reaching the nearest British Consulate ; they shall further take every possible care that such vessel and all parts thereof, and all furniture and appurtenances belonging thereto, and all goods and merchandise saved therefrom, including any which may have been cast into the sea, or the proceeds thereof, if sold, as well as all papers found on board such stranded or wrecked vessel, shall be given up to the owners of such vessel, goods, merchandise, etc., or to their agents when claimed by them or to the British Consul.

(3) The Sultan's authorities shall further see that the British Consulate is as soon as possible informed of such disaster having occurred.

(4) Should a British vessel or aircraft, wrecked off the coast of or in the Sultan's territories, be plundered, the authorities of the Sultan shall, as soon as they come to know thereof, render prompt assistance and take all possible measures to pursue and punish the robbers and recover the stolen property.

(5) Likewise, should a vessel or aircraft of the Sultan, or of one of his nationals, enter a port in His Majesty's territories in distress, or be wrecked off the coast of or in His Majesty's territories, the like help and assistance shall be rendered by the authorities of those territories.

ARTICLE 13.

(1) The Consular authorities of His Majesty in the territories of the Sultan shall, subject to any right of appeal which His Majesty may provide, try and determine—

- (i) all criminal charges against nationals of His Majesty ;
- (ii) all civil suits in which nationals of His Majesty are defendants ;
- (iii) all bankruptcy cases in which the bankrupt or the person whom it is sought to make bankrupt is a national of His Majesty ;
- (iv) all proceedings connected with administration of the estate of a deceased national of His Majesty ;
- (v) all questions of personal status where the person whose status is in question is a national of His Majesty, always provided that where such person is a Moslem the Consular authorities may remit the case for decision by a Moslem religious court of the Sultan on such conditions as they may determine and shall so remit the case if any other party to the proceedings is a national of the Sultan.

(2) All criminal or civil cases in which a national of His Majesty is complainant or plaintiff and the accused or defendant is a national of the Sultan or a national of a third country shall be tried and determined by the courts of the Sultan. The national of His Majesty shall have a right of appeal to the Sultan, in accordance with the procedure prescribed in the Omani courts, against any decision given against him in any such case if the Consul of His Majesty shall so request. If the Sultan should be absent the appellant may, if he so desires, ask that his appeal may be heard by the Sultan's representative.

(3) A national of His Majesty shall not be arrested nor his property seized, nor his house, office, warehouse or other premises occupied by him entered and searched without his consent, by an officer of the Sultan save under an order signed by the Consul of His Majesty, and any national of His Majesty arrested and any property of a national of His Majesty seized shall be placed in the custody of the Consul of His Majesty ; always provided that, in case of necessity for the prevention of breaches of the peace or a breach of a law or regulation of the Sultan which has been made applicable to nationals of His Majesty under Article 15, the authorities of the Sultan may without such an order arrest a national of His Majesty or take charge of his property or enter and search his house, office, warehouse or other premises occupied by him, but in this case the proceedings shall be at once reported, and the person arrested and any property seized handed over without delay, to the Consul of His Majesty.

ARTICLE 14.

In the exercise of their respective jurisdictions under paragraphs (1) and (2) of Article 13, the authorities of the Sultan and the Consular authorities of His Majesty shall afford every possible aid and facility for satisfaction of the rightful claims of the nationals of one High Contracting Party against nationals of the other.

ARTICLE 15.

The Consular authorities of His Majesty will, at the request of the Sultan, apply in the exercise of their jurisdiction under Article 13 all laws and regulations of the Sultan which it is desirable to apply to nationals of His Majesty in the territories of the Sultan, including, in particular, laws and regulations imposing taxation or duties and police and municipal regulations.

ARTICLE 16.

(1) The provisions of Articles 13, 14 and 15 shall apply to nationals of the Sultan or of another foreign country who are in the regular service of the Consul of His Majesty as if they were nationals of His Majesty, provided that, if any such person should be charged with a crime, the Consul will allow the charge to be tried by the authorities of the Sultan.

(2) No criminal or civil proceedings shall be taken before the Consular authorities of His Majesty against any national of His Majesty in the service of the Sultan unless notice of the proceedings has been previously given to the Sultan or his representative.

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ARTICLE 17.

Nationals of the two High Contracting Parties shall, within the territories of each other, enjoy freedom of conscience and religious toleration, the free and public exercise of all forms of religion, provided that such exercise does not wound or outrage the religious susceptibilities of the country in which it is proposed to be practised, and the right to build edifices for religious worship in places specified for the purpose by local authorities. Nothing shall be done by either High Contracting Party that may disturb existing places of worship belonging to nationals of the other.

ARTICLE 18.

All the provisions of the present Treaty providing for the grant of the treatment accorded to the most favoured foreign country shall be interpreted as meaning that such treatment shall be accorded immediately and unconditionally.

ARTICLE 19.

(1) His Majesty may through his Consular Officer at Muscat give notice of his desire that the present Treaty shall extend to any of his colonies, overseas territories or protectorates, or to any mandated territory in respect of which the mandate is exercised by his Government in the United Kingdom, or to any of the States under his protection, except Koweit, Bahrain, Qatar, Abu Dhabi, Dibai, Sharjah, Ajman, Umm-al-Qaiwain, Ras-al-Khaimah and Kalba, and the Treaty shall be extended to any territory specified in such notice as from the date thereof.

(2) After the expiry of a period of two years from the coming into force of the present Treaty either High Contracting Party may, by giving twelve months' notice, terminate the application of the present Treaty to any territory to which it has been extended under the provisions of the preceding paragraph.

ARTICLE 20.

(1) The High Contracting Parties agree that His Majesty may by notification given through his Consular Officer at Muscat accede to the present Treaty in respect of any Member of the British Commonwealth of Nations whose Government may desire that such accession should be effected. Any such accession shall take effect as from the date of notification thereof.

(2) After the expiry of a period of two years from the coming into force of the present Treaty either High Contracting Party may, by giving twelve months' notice, terminate the Treaty as regards any country in respect of which notification of accession has been given under paragraph (1) of this Article.

(3) Any notification made under paragraph (1) of this Article may include any dependency or mandated territory administered by the Government of the country in respect of which notification of accession is given, and any notice given under paragraph (2) of this Article shall be applicable to any such dependency or mandated territory which was included in such notification of accession.

ARTICLE 21.

(1) So long as in any territory referred to in Articles 19 and 20 to which the provisions of the present Treaty are not applicable, either by virtue of accession under Article 20 or by notice of extension under Article 19, goods produced or manufactured in the territories of the Sultan are accorded treatment as favourable as that accorded to goods produced or manufactured in any other foreign country, goods produced or manufactured in such territory shall likewise enjoy in the territories of the Sultan treatment as favourable as that accorded to goods produced or manufactured in any other foreign country.

(2) Goods, the produce or manufacture of Palestine (including Transjordan), shall not be debarred from the benefits of this Article by reason only of any special customs privileges which may be accorded in Palestine to goods the produce or manufacture of any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 22.

(1) The present Treaty has been executed in quadruplicate, two copies being written in English and two in Arabic. These are understood to be of similar import and signification; in the event, however, of doubt hereafter arising as to the proper interpretation of the English or Arabic text of one or other of the Treaty stipulations, the English text shall be considered decisive.

(2) The present Treaty shall be ratified, and ratifications shall be exchanged at Muscat. It shall come into force on the 11th day of February, 1939, if ratifications have been exchanged before that date, or if they have not then been exchanged on the date of exchange of ratifications.

ARTICLE 23.

(1) The present Treaty shall remain in force for a period of 12 years from the date of its entry into force. Unless one of the High Contracting Parties shall have given to the other notice of termination one year before the expiry of this period, the present Treaty shall remain in force until the expiry of one year from the date on which such notice shall have been given.

(2) A notice given under this Article shall not affect the operation of the Treaty as between the territories of the Sultan and any country or territory in respect of which notification of accession has been given under Article 20. It shall, however, apply to any territory to which notification of extension has been given under Article 19.

In witness whereof Lieut.-Colonel Sir Trenchard Craven William Fowle, K.C.I.E., O.B.E., on behalf of His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, and Sultan Saïyid Said bin Taimur bin Faisal, Sultan of Muscat and Oman and Dependencies, on his own behalf, have signed the same and affixed thereto their respective seals.

Done at Muscat, this fifth day of February, 1939, corresponding to the fifteenth Zilhejah of the year 1357 Hejira.

For Great Britain and Northern Ireland :

(L.S.) T. C. FOWLE.

For Muscat and Oman and Dependencies :

(L.S.) [Signature in Arabic of the Sultan of Muscat.]

For India :

(L.S.) T. C. FOWLE.

Information promised in reply to starred question No. 1492 asked by Mr. T. S. Avinashilingam Chettiar on the 4th April, 1939.

PERSONS IN GOVERNMENT SERVICE OF COUNTRIES PROHIBITING THE ENTRY OF INDIANS IN THEIR SERVICES.

(a) to (c). The employment under the Crown in India of subjects of foreign countries is regulated by section 262 of the Government of India Act, 1935. So far as the Government of India are aware, there is no statutory bar to the appointment of lawfully resident Indians in the Civil Services of the Dominions and Colonies in the British Empire, except in Ceylon and Malaya. The numbers of Ceylonese and Malaysians in civil employment of the Government of India are fourteen and one, respectively.

DECLARATION OF EXEMPTION UNDER THE REGISTRATION OF FOREIGNERS ACT.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I lay on the table a copy of the Home Department declaration of exemption, No. 21|32|39-Political, dated the 28th July, 1939.

No. 21|32|39-Political.
GOVERNMENT OF INDIA.
HOME DEPARTMENT.
Simla, the 28th July, 1939.
Registration of Foreigners Act, 1939.
Declaration of Exemption.

In exercise of the power conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to declare that the provisions of the Registration of Foreigners Rules, 1939, shall not apply to, or in relation to, His Royal Highness Prince Peter of Greece.

(Sd.) H. J. FRAMPTON,
Deputy Secretary to the Government of India.

THE INDIAN OATHS (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I move :

"That Mr. J. N. Talukdar, Mr. A. Khaleeli and Mr. C. C. Miller be appointed to the Select Committee on the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose, in place of Mr. C. J. W. Lillie, Mr. P. A. Menon and Mr. P. J. Griffiths who have ceased to be Members of the Assembly."

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

"That Mr. J. N. Talukdar, Mr. A. Khaleeli and Mr. C. C. Miller be appointed to the Select Committee on the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose, in place of Mr. C. J. W. Lillie, Mr. P. A. Menon and Mr. P. J. Griffiths who have ceased to be Members of the Assembly."

The motion was adopted.

MOTION RE REPORT OF THE PACIFIC LOCOMOTIVE COMMITTEE.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the following motion moved by the Honourable Sir Andrew Clow, on Wednesday, the 30th August, 1939 :

"That the Report of the Pacific Locomotive Committee be taken into consideration."

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, I have given notice of an amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member want to move it ?

Maulvi Muhammad Abdul Ghani : Yes, Sir.

(464)

Mr. President (The Honourable Sir Abdur Rahim) : What is the amendment ?

Maulvi Muhammad Abdul Ghani : I beg to move, Sir :

"That at the end of the motion the following be added :
'and having considered the Report this Assembly is of opinion that the indent of 218X Class Pacific Engines during the period 1925-28 without trial being given, was unwarranted and a huge wastage of public money'."

Sir, before I make a few observations on my motion, I must thank the Committee for the labour and pains which they have taken in coming to right conclusion. Sir, the Railway Board was always taking steps since 1903 to standardise the locomotives, and they continued in their efforts till 1923. In 1923, they appointed a Committee called the Locomotive Standardisation Committee. This Committee toured all over India from November, 1923, to February, 1924, and made certain suggestions. They prepared diagrams of XA, XB and XC Engines. They consulted all the various Railway Administrations and drew up their first Report. This Report was submitted to the Railway Board, and after consultation with the Consulting Engineer, this Committee drew up their second Report. This second Report was never sent to any Railway Administrations for comments, and orders were placed all of a sudden for a large number of Pacific Engines. In this connection I should say that there was regular correspondence between the builders and the Railway Board, and the drawings prepared by the builders were examined and approved by the Railway Board, before the order was placed for the three types of XA, XB and XC engines.

Now, Sir, before I mention a few defects in the said types of engines, I want to place before the House the exact dates on which the contracts were placed with the builders for these XA, XB and XC engines in order to show justification for placing subsequent orders. The dates of contracts placed with the builders are as follows :

28-7-26	for 44 engines.	}	46.
15-9-26	" 2 engines.		
14-7-27	" 2 engines.	}	2.
3-4-28	" 20 engines.		
1-6-28	" 12 engines.	}	72.
1-8-28	" 3 engines.		
23-8-28	" 9 engines.		
18-10-28	" 20 engines.		
22-10-28	" 8 engines.	}	98.
30-4-29	" 11 engines.		
3-5-29	" 12 engines.		
17-5-29	" 32 engines.		
8-6-29	" 39 engines.	}	60.
20-6-29	" 4 engines.		
14-7-30	" 27 engines.	}	6.
22-12-30	" 27 engines.		
19-12-30	" 6 engines.	}	6.
12-6-35	" 2 engines.		
on an unknown date.	" 4 engines.	}	Altogether 284 engines.

[Maulvi Muhammad Abdul Ghani.]

Now, Sir, I have mentioned these dates merely to show that the Railway Board were quite aware of the orders which they had placed with the builders for these engines.

The first XB engines were despatched in October, 1927, and were placed on service in India on the 24th January, 1928, (i) in May, 1928, hunting was reported, and (ii) on the 26th June, 1928, track disturbance was reported over the East Indian Railway, (iii) in October, 1928, disturbances of tracks by XB engines were also noticed on the Great Indian Peninsula Railway, (iv) in February, 1929, there was derailment at Talonda on the East Indian Railway in Express trains which were hauled by XB engines. That very day a mail train was also running and that too was being hauled by an XB engine. First the driver felt a lurch, while the driver of the mail train noticed oscillation of track ahead and was consequently thrown down over footplate. Then, when the matter was reported to higher authorities, the Chief Engineer then imposed a 45 miles per hour limit and removed all XB engines from mail and express services, and since that time these XB engines were removed. But inquiries continued and, ultimately, the Railway Board considered that there was not sufficient evidence to show that XB engines were responsible for any trouble, although had reports about these XB and XC engines continued. The Railway Board then started trials and experiments which continued till November, 1929, when it was discovered that XA and XB engines were liable to hunting; still they continued their experiments. In April 1930, an XA engine hunting the Grand Trunk Express was derailed near Wardha and Balharshah. A Chief Engineer while giving evidence before the Committee said that these engines hunted extremely badly from the very start, and after 10,000 to 15,000 miles run the defect became so bad that he had to impose a very severe speed restriction. Till 1933 while XA and XB engines were hauling passenger trains ten derailments occurred and 84 cases of distortions of tracks occurred over East Indian Railway by 36 XB and 30 XC engines between June, 1928 and September, 1937. Of these, 20 cases of track distortion were detected on enquiry later on. Other examples of extensive track distortion took the form of gauge spreading on the Bombay, Baroda and Central India Railway during 1930-32: In 1930 at 71 places, in 1931, at 28 places and in 1932, at 25 places, in all 124 places.

Now, in October and December, 1930, two more cases of derailment of XB engines over the Great Indian Peninsula Railway were reported. At Maijdia, Eastern Bengal Railway at the end of July the Darjeeling Mail derailed and that also was hauled by an XB engine. It had been in service for two years only. After citing all these instances I beg to submit that, although the Railway Board noticed the defects of these engines earlier yet they continued placing orders with the builders till 1935. The builders were not at fault, because whatever design and instructions were given to them they were complied with. At page 34 of the Committee's report, at the end you will find this: "By the end of this year, (that is, 1929) it had been established that XA and XB engines were liable to hunt". The Railway Board had sufficient data before them to find out that these types of engines were defective, but I fail to understand why they continued placing orders for such defective and dangerous engines. The average cost of an engine is said to be a lakh of rupees; so 284 engines

means 284 lakhs of rupees. If you take into consideration the damage done to the rails, to the public, and besides, the expenditure over alteration and changes in the machineries,—taking all these into account it will come to a huge sum. Our country is a very poor country, and if the Railway Board and the railway administrations go on treating the public finance like this, I think there will be no end. Before this Committee the Wedgwood Committee was appointed. From the report of that Committee I find that in the first forty years the railways had to lose about Rs. 58 crores.

Mr. President (The Honourable Sir Abdur Rahim): The Chair would warn Honourable Members that only this afternoon has been allotted for the debate on this motion. The Honourable Member may bear in mind that there are certainly others who may want to speak on this motion.

Maulvi Muhammad Abdul Ghani: I will be very brief, having regard to your observation. Afterwards an amount of Rs. 62½ crores had to be written off. When we were considering the report on the expenditure of the year 1937-38 we noticed to our great regret that the sum not recoverable amounted to Rs. 26,88,000 and odd over and above the amount written off. For the information of the House I may cite one instance. In that very year about 92,000 cast iron sleepers were indented for. They worked for six years and afterwards the Divisional Engineer reported that they were all unsuitable. Now, each sleeper had an average life of 40 years and the price of each sleeper was Rs. 7-4-3. If you take the average cost of the sleeper after a service of six years it will come to Rs. 6-3-0 and at this rate there was a loss of Rs. 6,69,000 and odd. There are any number of such instances, but on account of the shortness of time at my disposal I leave the matter here. How long is this state of affairs going to be allowed in a poor country like India? I think the best course would be to hand over all the State-managed railways to companies. Take the Bengal and North Western Railway. They manage themselves and they give a dividend of 15 to 16 per cent. and here we have to write off amount after amount and we have to pay interest, on the capital, amounting to Rs. 29½ crores every year. So, we are heavily indebted and if this state of things goes on there will be no end and it will have a very bad effect on the financial condition of a poor country like India. With these words I move my amendment.

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

"That at the end of the motion the following be added:—
and having considered the Report this Assembly is of opinion that the indent of 218X Class Pacific Engines during the period 1925-28 without trial being given, was unwarranted and a huge wastage of public money."

Mr. C. C. Miller (Bengal European): Sir, When the Honourable Member for Communications moved the consideration of the Report of the Pacific Locomotive Committee, he concluded his speech on a note of mild optimism. His summing up of the situation was that of the three types of locomotive in question the XA class was definitely successful; the XC class had given trouble at first but no adverse reports had been received about it for a number of years; and XB class had given constant trouble and in that case a speed limit was still necessary. I think the Honourable Member led us to believe, however, that with time and with

[Mr. C. C. Miller.]

the access of knowledge which had been brought to bear on the subject these defects might also be eliminated. But taking a broad view of the position the conclusion was that the Indian railway systems were now probably better off with the Pacific locomotives than they would have been with the old B. E. S. A. type. In other words the risk which the Railway Board took in ordering the Pacific Locomotives in quantity without extended trials was justified in the upshot.

Now that conclusion, I think, Sir, calls for examination.

It is unfortunately the case that one of the most outstanding findings in this report is that the Railway Board were responsible for the purchase in quantity and without extended trial of a type of locomotive of which one class at least has proved unsuitable for Indian conditions—especially Indian track conditions—and very dangerous indeed when running at high speed.

In this finding the Committee are explicit. They realise, as this House must in all fairness realise, that the Railway Board was faced with a dilemma. First there came the urgent call to rehabilitate India's railway systems after the strain of the last war; from all sides there was an outcry for more rolling stock and greater haulage power. Subsequently there followed the need for reducing the fuel bill by the extended use of second class coal.

It is quite wrong to avoid these facts which are vital to the issue and to pour blame wholesale on the Railway Board without considering the dilemma with which they were confronted.

Nevertheless, one cannot overlook these words in the report. "The Railway Board, by their decision to purchase large numbers of engines of a new type took the risk that the new designs would fulfil requirements on the many differing conditions of track in India", and moreover, as the report points out, that risk was taken against the strongly expressed advice of their consulting engineer. Thus it seems that under circumstances of great difficulty the Board did not adhere continuously to the cardinal principle of "safety first".

It may well be that the Railway systems of this country are in a better position today—when past history is being repeated, than they would have been with the B. E. S. A. type of engine, but one devoutly hopes nevertheless that the principle of "safety first" will always be adhered to rigidly in the future.

That, Sir, is all I have to say with regard to past history and I would make it plain that we do not support the very sweeping motion of my Honourable friend, Maulvi Muhammad Abdul Ghani.

I now turn to what is happening in the present—that is to say to the action which is being taken on the basis of this most valuable report.

I do not wish to deal in technicalities—indeed I am not competent to do so—and from the statement issued with the report I think the House may assume that all the technical recommendations of the Committee are being put into force so far as it is humanly possible to do so.

There are, however, two recommendations in the report which refer to Railway organisation, and against each of these in the statement appears the perhaps rather ominous words "Under consideration".

The first recommendation is expounded at some length in paragraph 20 of the report. The Committee considered that there was too often a weak link—perhaps even a missing link—between the Chief Mechanical Engineer and the shed staff and running staff. They therefore recommended that this link should be strengthened, or forged, as the case may be, by "the appointment of young practical officers as mechanical inspectors directly responsible to the Chief Mechanical Engineers". Surely this is a practical step and should not be difficult of fulfilment.

Again the Committee's recommendation for the establishment of a "Research and Development Bureau" is also under consideration. The Committee attach so much importance to this question that they devote the whole of chapter VII of their report to it, and at the beginning of that chapter appear these pregnant words. "Research will not produce fruitful results if crowded in as a secondary consideration among the other duties of a busy executive".

Moreover, the limitations of research in India are thrown into somewhat high relief by paragraph 151 of this same chapter VII of the report.

From this it appears that when the Committee arrived in India the Railway Board were under the impression that the problem of engine oscillation had been solved by various structural alterations to the engines, a great number of which had been reconstructed with these alterations.

The Committee, whose knowledge of research went deeper, came, however, to a different conclusion. The modifications introduced were effective on a straight track—it was on a straight track of course that the Bihta Railway disaster occurred—but there was inadequate knowledge of flange forces, with the result that the modified engines were every whit as dangerous on a curved track, as the original and unmodified engines were dangerous on a straight track.

This fact alone, and in itself, seems to justify the enormous importance which the Committee obviously attach to Railway research work, and we must express very strongly the hope that the Railway systems of India may be able to fall into line with those of Europe—I should say of Europe in happier times—and America, and establish research and development bureaux working as self-contained entities, but in constant liaison with other similar institutions on railway systems throughout the world.

Sir Abdul Halim Ghaznavi (Dacca cum Mymensingh : Muhammadan Rural) : Mr. President, after the Bihta disaster, it was Sir Ziauddin Ahmad and myself who insisted on a judicial inquiry. The then Communications Member was Sir Sultan Ahmad and we insisted and persisted till at last he agreed that there was to be a judicial inquiry. But for that judicial inquiry, we would have been in the dark today as to what was really the matter with these XB engines and how all these troubles and accidents were to be accounted for. Sir John Thom made his sensational report. The result of that judicial enquiry opened our eyes as to happenings behind the scenes. There were many who suggested that Sir John Thom's report would have been different if he had the assistance of two expert assessors who knew more about the rails, the locomotives and the track. We have now had the benefit of an enquiry and report

[Sir Abdul Halim Ghuznavi.]
by experts eminent in their line and it has to be admitted that their Report, if correctly read and interpreted, is a condemnation of the policy underlying the acquisition of the Pacific Engines. Sir, we are now under the shadow of a war, everyone of us has to think how to assist in the carrying on of this war to a successful termination, and I will not take much time of this House today by explaining in detail the difficulties which I feel about this report. I shall merely confine myself very briefly to three salient points which are, firstly, the design, secondly, the initial purchase, and thirdly, the continued purchase of these Pacific Engines.

Now, Sir, regarding the first point, the design, what do we find in the Report? The Pacific Committee's Report says:

"The task of the designer and the builder is not only to provide an engine which can pull a train but also reduce to the lowest possible point the effects of the external disturbing agencies due to defects in the track which can never be perfectly level or smooth."

It goes on to say:

"It is not enough to obtain sufficient boiler horse power with a large fire-box to burn inferior coal, the design of the engine as a vehicle capable of high speed over track as normally maintained is an equally important matter." (Paragraph 7, page 4.)

This was the test of a successful design as laid down by the Committee. Applying that test to the present case the Committee have come to the conclusion that from the point of view of the riding qualities of the engines as a vehicle, we consider that the *original designs* were not suitable for high-speed service. In our opinion, the selected type of bogie, hind-truck and coupling between engine and tender were unsuitable and the amount of side control provided was inadequate (Paragraph 162, page 128).

That is the finding of the report, viz., that the original design of the engine as a vehicle for high speed service was unsuitable. Then as regards the suitability of engines as modified from time to time, the finding of the Committee is that "the engines could not be said to be satisfactory as carriages for high speed". The Committee state that "between March, 1929 and March, 1938, twenty-eight major modifications were tried" (Paragraph 168, page 131.) "These modifications had little effect, and some were in the right direction but were not co-ordinated. The proper combination of the different alterations was not understood and in consequence no clear indication emerged as to what was to be done". (Paragraph 168, page 131.)

So much for the design which was so faulty from the very start that even after numerous modifications carried over a period of eleven years, the Committee had to pronounce the engines unsatisfactory.

Now, Sir, I come to the next point, the initial purchase and the reasons therefor. The first ground was the anticipation of a greatly increased traffic. That was the idea of the Railway Board. The second was the need for curtailing the fuel bill, and the third, standardization as a measure of economy. Sir, as regards the first, the report points out that "it is clear that optimistic views were held as to the trend of trade and traffic (page 171, paragraph 229). Reading between the lines, I find that it was the severest condemnation of the Railway Board by the Committee that there was no justification for their coming to that attitude of optimism with which they hurried on buying engine

after engine in spite of the warnings that they received, not only warnings but serious warnings. As regards the main consideration of economy, in the opinion of the expert committee, it was false economy. They say:

"We feel, therefore, that it is our duty to draw the attention of the Government of India to the comparative ease with which false economy can be effected, with perhaps misleading creditable results, and to the serious economic and psychological consequences of persistent financial pressure in this respect. High speed operation of heavy modern engines, even of perfect design and upkeep, will cause inestimable damage to unsuitable track within a very short period. Deterioration can only be made good over an extended period and at considerable expense, far in excess of that incurred by appropriate systematic maintenance." (Page 173, paragraph 233.)

They further say that:

"A large amount of business could be more economically undertaken with improved and modernised B. E. S. A. (British Engineering Standards Association) type engines. We draw attention on financial and traffic grounds to the desirability of reducing the weight of trains and of individual rolling stock. We feel that serious consideration should be given to this subject." (Page 172, paragraph 231.)

That shows, Sir, that there was hardly any ground whatsoever for supposing that the introduction of Pacific engines into India was justified as a whole.

I now come, Sir, to the third point, that of continued purchase. Sir, it is unthinkable, I have not yet been able to understand what was in it, what was behind it, why was this, that in spite of warning after warning, repeated serious warnings, without any examination as to how these engines were running, hurried orders, continued orders went on without a stop. If my remarks are considered strong, I shall allow the Report speak. The Committee have said the thing in a milder form. How could they condemn the Railway Board wholesale? Surely, they had to bear in mind so many things and they had to show some consideration to them. But what is it they have said? The Railway Board have admitted that they were responsible for these large orders without justification. The Railway Board allowed the introduction of six preliminary Pacific engines for trial purposes only. They refused to permit the Railways concerned more than two engines pending their trial for at least a year, although the proper trial period should have been two years. That is what I find from the report. (Page 15, paragraph 20.) What is the result? Everything was wiped out and overlooked. That wise policy of trial before purchase was soon discarded and orders were placed in quick succession in the face of repeated protests from the consulting engineers. I fail to understand why no attention was given to the letters of the consulting engineers. They were serious warnings to the Railway Board not to continue the purchase of these engines before thorough trial. But no heed was given to these letters. The relevant portions of these letters are reproduced in the Report. There are a number of letters of protest there. (Pages 140 and 141, paragraph 184.) As a matter of fact, out of 284 engines, 218 of this class were authorised and bought in less than three years, that is, between 1925 and 1928. What was the reason for this change of policy of the Railway Board in buying such a huge number of engines in haste? Let me quote from the report. They say:

"So marked a change in policy requires explanation and we have been at pains to ascertain the reasons. There appears, however, to be little recorded on the subject." (Page 142, paragraph 185.)

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There is no record why the policy was so quickly changed and why this continuous buying continued. Then, of course, they must give a little whitewashing to the Railway Board which they did. They said :

"While we cannot say that the Board had no justification, we feel that in view of the warnings conveyed by the consulting engineers, the wiser course would certainly have been to have continued purchasing a further number of well-tried B. E. S. A. type engines pending thorough trial of the new Pacific classes."

That is the whitewash. To continue the quotation : "In our view, the Board's action in the matter was regrettable." (Page 142, paragraph 185.) They had said enough to make us understand what they had felt about this matter. If this is not absolute condemnation and exposure of the policy of continuous purchase of these Pacific engines, then I do not know what it is. Therefore, on all these three points we find that they have condemned the policy and action of the Railway Board.

But, Sir, the past is past and we have now to think of the future. I have to congratulate the Communications Member because he has taken up immediately the recommendations that have been made by the Pacific Locomotive Committee.

Mr. N. M. Joshi (Nominated Non-Official) : Which recommendation you are referring to ?

Sir Abdul Halim Ghuznavi : I am referring to all the recommendations made by the Committee and the Honourable the Communications Member supplied us with a statement on the very first day of the opening of this Honourable House showing the action taken or proposed to be taken on the recommendations of the Committee. We have read that statement and we feel that he deserves our congratulations in taking up the matter so quickly and taking action on all the recommendations of the Committee. But there are some very important recommendations which, as my Honourable friend, Mr. Miller, said, are still under consideration. I hope the result of the consideration will be in favour of the Committee's recommendations. Dealing with that part of the recommendations, I would like to bring to the notice of the Honourable the Communications Member the following recommendations which, I think, should be kept in mind, namely, (1) An enlarged organisation for Research and Standards providing facilities for trains designers ; and (2) the building of Broad Gauge Locomotives in India. I must here admit that in the Railway Finance Committee, year after year, the Congress Members of the committee insisted upon building locomotives in India. We were told that it was impossible. There was a meeting at Bangalore in 1935. The Congress Members of the Standing Finance Committee insisted that if the Bombay, Baroda and Central India Railway could make metre gauge engines at Ajmer, why could not broad gauge engines be built somewhere in India. The then Financial Commissioner, Sir Raghavendra Rau, explained that it was impossible. What was the reason ? He said that the type of engines which would be made in one year would become obsolete next year. The engine manufacturers outside India had to cater for India as well as other portions of the world. Therefore, they could make a large number of engines the prices of which would be much cheaper than those produced

in India. So the engines made in India would be a losing proposition. This was the sort of reply given on the floor of this Honourable House also. What does the Report say ? India should be self-sufficient as regards her locomotives and in that event her Engineers would know exactly what was required for the railway tracks in India and other necessary limitations. What was considered impossible is now a practical proposition : (3) The committee also recommended improvement in the means of collaboration between the Administrations, the Railway Board and the Consulting Engineers. Speaking again about the XB engines, my information is—it may be right or may be wrong—the Agents of the various Railways were against buying these XB Engines. But the Railway Board was the final authority. The Agents had simply to carry out the orders of the Railway Board. The Agents are responsible for carrying passengers. They should also have a voice in the matter of what they required : (4) The need for rapidity in the adoption of preventive measures on Indian Railways. Sir, we must express our appreciation of the services and the Report of the Pacific Locomotive Committee. I am sure the Report has been found satisfactory by all those who have taken the trouble to read it and in so far as portions thereof may be intelligible to layman. It will be a fingerpost and a guide for all those who may be engaged in India as designers and manufacturers of locomotives and those who had the duty of making and laying down tracks and controlling traffic so that human life and property may not be endangered and railway accidents may be eliminated as much as possible.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, those who have read this report will agree with me that this committee was very necessary. The setting up of this committee was rather late. We could have avoided all the accidents if their report had been available for the use of railways in India earlier. This is a fair report and it discloses a number of defects. I, however, find that in one or two places there is an attempt to whitewash some of the defects. But on the whole it is quite a useful report. Instead of Pacific Locomotives, I would say they are unpacific locomotives. They are so violent. They are dangerous machines. If these machines had to be purchased, they should have done so under instructions from engineers of experience.

Now, Sir, before completely laying the blame on the railways, the Railway Board, the House should know some of the history and the facts which they have found out. Then, this House will be in a position to decide for themselves whether they are really correct in throwing the blame upon the railways and the Railway Board. Now, Sir, to start with, the facts show that in 1923 an attempt was made for the purchase of engines by the railways. A reference was made to the Railway Board and the Railway Board entered into correspondence with these railways. In the meantime, in 1926, six engines were purchased. Communications went on between the Railway Board and the administrations and they appointed the Locomotive Standard Committee. That committee laid down the features and the designs of the engines that they should purchase. Thereafter what happened ? The Consulting Engineers in London were consulted. They also instructed the Railway Board to get a few engines of different type built for trial

[Mr. Lalchand Navalrai:]

purposes only. This was very important. Then a Consulting Engineer from England visited India and discussed the matter not with the Locomotive Standard Committee but some individual railways. At this time all that was intended by the Railway Board as well as by the authorities here was to purchase only two engines for trial. These instructions were not followed and the Railway Board authorised the purchase of as many as 284 engines. The consulting engineer advised caution in purchase until the new engines had proved themselves well in service but that caution was also disregarded. The question arises why no test was made before such a big order was given. In my opinion the railways should have started factories here in India in which case they could have tested engines and found such defects, and remedied them according to requirements. What happened was that they had a demand for engines and in disregard of the Consulting Engineer's advice the Railway Board recklessly and callously ordered 284 engines, which is far beyond any conception of fairness. India is already a field for foreign exploitation and here they saw another chance of exploitation and ordered these engines. This does not speak well of the authorities who are responsible for running the railways.

After these engines were purchased it came to light that they were no good at all and, according to the report, experience showed that they were too sensitive to the existing track and caused pivoting, oscillation and hunting movements. The complications of the track in India were not taken into account, namely, as the report says, that black cotton soil exists. I say this is culpable negligence. Then, owing to the economy campaign the tracks were not strengthened. That was also criminal because they were playing with the lives of the people and playing with fire. The result has been these accidents which would have been avoided if at the very start they had tested these engines before purchasing them. It was false economy to allow these dangerous engines to be worked on these tracks with such deplorable and disastrous results. It may be true that the track on the North Western Railway is better and, therefore, as the report says, XC engines have done well on that line. But the other two have not done well and what they did was to renew or repair some component parts of the track only. But was that sufficient? If there was trouble in one part of the engine they would do some patch-work and then there was trouble at another place. That is how they were dealing with these dangerous things and the result has been the purchase of so many engines which was wrong and has caused these fatal accidents. My Honourable friend said, let the past be passed. But we should not allow things to pass; some punishment should be meted out to those guilty of negligence. It is only in India that we plead helplessness with regard to past actions and look to the future, but this should not be. I submit, Sir, that for the future some precautions should be taken and I suggest that if possible the use of XA and XB engines should be avoided on Indian railways; because the tracks are not strong enough for these engines. Of course, it is all right to speak of sabotage but that is only taking shelter behind a vain plea.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan): I may tell my Honourable friend that XC engines are the heaviest engines and they have been running successfully from Karachi to Lahore without accidents.

Mr. Lalchand Navalrai: I said that my Honourable friend was not probably listening. I did say that XC engines proved well because the track is good. The Committee also say that. But my point is with regard to XA and XB engines: XB specially has been condemned. And it is dangerous to patch it up here and there and work it. There is no knowing when accidents may take place. The Committee's suggestion in this direction is in the nature of tinkering with the business and merely patch-work. They suggest extra-powerful bogie control springs and the stiffening of the main frames of the engine to reduce flexibility, and the regulation of speed in a particular manner. But the point is this: The Railway Board knowing of all these happenings since 1928 began some research work but this was done in such dilatory fashion that until 1935 they did not come to any conclusion: and in 1937, this Bihta accident happened. The Committee have now referred to the fact that India has not been building locomotives and they have now advised that factories should be started in India. In paragraph 221 at page 167 they have stated that there is a probability of engines being made in India—not only parts, but the whole engines. The Government and the Railway Board should start factories, as under present war conditions we may not be able to import the engines which we may require. It will, therefore, be an act of foresight and also complying with the wishes of the Committee if engines are built in India.

On this matter, I looked into this pamphlet which has been given to us to show what Government have done on this report and I do not find any reference to this recommendation in it. I only find that on these questions of organisation, research and development contained in paragraphs 156, 157, 221 to 226, the reply is 'Under consideration'. I say that a particular decision has been given by this Committee and you have said nothing about what you are going to do about it. The last speaker said that they were going to start this business. It may be true but we do not find anything from this pamphlet that the Honourable the Communications Member has given us. I should say in fairness that I have gone through the Public Accounts Committee's report supplied to us recently, and there I find that they have said that they expect to start two factories in India. I hope that that is true and is made in all seriousness. I say that all other economies should be set aside in favour of this important recommendation as it is very important for the safety of the travelling public. I say the Railway Board should not exist if there is no such safety or security. The Railway Board are the supervisors and protectors of the people in this matter. This demand has been made for a very very long time and the Government have done nothing so far and there is every justification for us to say that things are being done only for exploitation by those who deal in these engines. The report says in one place that if certain alterations had been made in these engines and they had been mended in a particular way, these accidents might not have happened. But I do not agree there. The Committee themselves say these engines are not suitable for India.

[Mr. Lalehand Navalrai.]

I, therefore, submit the Railway Board should realise their responsibility. They should also realise why the East Indian Railway were so very anxious to purchase these engines one after another without any foresight and they should see that these engines, hereafter, are not worked at all, or if they are worked that they are worked after they have been put to trial properly and after the engineers have seen that there is no defect in them.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, the problem of Pacific Engines no doubt was very important when the subject was first introduced in the Legislative Assembly, but the war conditions have changed the aspect of the whole question. We do not know whether in future we shall be able to import freely from foreign countries engines as before, and we cannot say what would happen to our Railways. Therefore, Sir, it is very desirable, whatever may have been the history in the past, whatever may have been the implications in the discussions in Select Committees or in the Finance Committees, it cannot be denied that India should now be self-supporting in regard to the supply of railway engines. If, unfortunately, the war continues for a considerable length of time, we may not be able to get fresh supplies of engines for our Railways, and, therefore, I think it is the duty of the Railway Board to concert measures to start the manufacture of railway engines in this country so that our railways may not come to a standstill. When we have to make engines in this country, the aspect of the question will be entirely changed. We will have to manufacture such type of engines which will suit the existing conditions in this country. It may be a Pacific type or it may be some older type, but I think we will have to be satisfied with lower efficiency in the beginning, that is to say, we should be satisfied with engines running at a lower speed than at a greater speed. Therefore, I think the problem to which the Government should at once pay attention is to start the manufacture of meter gauge engines at Ajmer and also broad gauge engines at Jamalpur. When we construct all these engines at one particular place, then standardisation of engines will be achieved as a matter of course because we will have only one type of engine to supply all the Railways. Therefore, we should apply our mind now as to what type of engine we can immediately manufacture in this country. No doubt, safety comes first, and speed should not be of great importance just at present. I think we should not discuss what type of engines can best be made in foreign countries to suit our conditions, but we ought to apply our minds to what kind of engines we can make in this country to keep our railways going.

Now, Sir, coming to the past history, I think I will just say a few words. The Standardisation Office had never been popular. The Railway Retrenchment Committee which met in 1931 did not favour this. They discussed, no doubt informally, these heavy engines, but there was no specific recommendation by the Retrenchment Committee on this point. In 1931, I said before the Retrenchment Committee, which I will repeat now, that our Railway Department is behaving in the same manner as a person who first purchased a saddle and then went about to purchase a horse to suit the saddle. Instead of buying the horse first and then going about to purchase a saddle to suit the

horse, he first purchased a saddle and then went about looking for a horse to suit the saddle. Similar is the case with our Railways. They first purchased heavy engines for speed consideration and then they tried to find out whether these engines which they had imported will suit the tract, bridges and engine sheds. The example is as true in 1939 as it was in 1931. The Retrenchment Committee was not very much enamoured of the work done by the Standardisation Committee. Of course, they could not foresee whether any accidents would happen in the coming years. I do not want to go into greater details of this particular problem, but I think the Railway Board should accept one important recommendation about these engines. You cannot throw away the engines, because we require more engines, and I think you should follow the sound advice.

Speed limit of 45 miles per hour should be imposed, the safety of the public can be ensured. I quite admit the very great advantage which was claimed for the Pacific type of engines, namely, that they would have greater speed. That of course is very desirable, but we have now discovered that our track cannot stand that high speed, and therefore, we have to be satisfied with only a speed of 45 miles per hour. Therefore, we should, as practical men, continue to use these engines, and try to improve them as much as possible, with this condition that they should not be run at more than 45 miles per hour. We should at the same time apply our minds to manufacturing engines in this country so that, should unfortunately the war continue, the Railways should not come to a standstill.

Maulana Zafar Ali Khan : Sir, the Railway Board is responsible for ordering out a large number of XA, XB and XC engines of the Pacific type, without trial, although they were repeatedly warned by the Consulting Engineers against their rash action, and against their own better judgment at an earlier stage which they over-ruled later on without assigning any cogent reasons for such action. In the Committee's view this action of the Railway Board is regrettable and open to criticism, and the Railway Board must accept their full share of responsibility for the accidents that took place later on owing to the importation of these untried Pacific type of engines. The responsibility, however, has not been brought home to any individual or individuals of the Railway Board, and no action has so far been taken against the guilty, though the matter is really very serious. The public will never be satisfied until the responsibility for the purchase of these engines is traced to its source and action taken against those who played ducks and drakes with public money. It ought to be very easy for the Railway Board to take such action. Temperamentally they are unforgiving, and are very strict disciplinarians. I remember the case of one gentleman whose name is Brijlal Pindidas Kapur. He was a Divisional Traffic Manager on the Great Indian Peninsula Railway, with five years' service, a very brilliant man, having excellent testimonials from everybody, but, unfortunately, he had the hardihood to issue eleven passes on his own authority, which converted into rupees would mean Rs. 15 or 20 or 30. These high and mighty Members of the Railway Board, who roll in millions, promptly found fault with him and said : "Look here, you have not shown a proper sense of responsibility and, therefore, we dispense with your services". Poor Kapur, for a

[Maulana Zafar Ali Khan.]

small matter, is chucked out, his services are dispensed with ! He was earning Rs. 1,000 a month, that has gone and he is going on with memorials and memorials and nobody would listen to him. Here are Members of the Railway Board who invest Rs. 150 crores in purchasing engines of a type known all over the world as Pacific, but without giving them a trial in India. Their Consulting Engineers, honest fellows, say, "We advise you in the name of all that is reasonable and sound and sane, do not go and make purchases in bulk before giving a trial to one or two engines". Earlier they reply, "You are right", but later on, some consideration intervenes and they go on purchasing and purchasing crores and crores of rupees worth of engines. What was this consideration ? As I pointed out earlier in the House this was the worst sort of nepotism. If these engines were built in England the benefit would accrue to Britishers and Indians would be deprived of the benefit, that was the reason. But perhaps I may be wrong. Nepotism there may be in the case of Mr. Kapur, but what about the case of a gentleman who signs himself as X Y Z and who contributed an article to the *Civil and Military Gazette* of Lahore, dated the 6th July, 1939, in which he declares in so many words :

"The so-called hunting is not a terror on all railways. There is no need to search for the remedy blindly in the control springs, bogie springs and wheel flanges. Hunting can be stopped *ek dum*."

He then goes on to show how it can be done, and says :

"It is naturally the pivoting that sets up the hunting movements. Adjust the engine on her springs and give each axle the prescribed load and the pivoting will disappear and with it the hunting movement."

This was the time when Sir John Thom's enquiry into the Bihta disaster had closed and later on the Pacific Locomotive Committee was holding its enquiry. It is very very unfortunate that very valuable evidence was suppressed, it was withheld, and this gentleman who signs himself under the pseudonym X Y Z in the *Civil and Military Gazette* of the 6th July, was not produced as witness before these tribunals. The question of questions in India is how hunting arises in engines. There are two schools of thought. Some say that hunting is due to certain inherent defects in the track, that there is some weakness or defect in the track which causes it. There is another school of thought which says that hunting is due to some inherent defect in the make of the engines. Our Communications Member is on the side of those who think that hunting is not due to defect in the design but is due to some defect in track, but what that defect is remains to be pointed out. But here is a man whose articles appear in a paper of the standing of the *Civil and Military Gazette*.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Who is the man ?

Maulana Zafar Ali Khan : He has signed himself X Y Z ; it must have come to the notice of the Honourable the Communications Member ; it must have caught his eye. And here he makes an astounding declaration which goes unnoticed. This Committee and our Communications Member have not up to this time told us whether hunting is curable or not. At one place they say it is curable, and at another place they say, "Whether we can absolutely cure it we cannot say". But X Y Z claims that he can cure "hunting".

He adds a wealth of valuable information on this subject but it is a matter of surprise that he was never called upon to give evidence either before Sir John Thom's enquiry or the Pacific Locomotive Enquiry Committee. Why did not the Communications Member put himself in communication with X Y Z ? I can tell him that X Y Z exists in this world in flesh and blood. He is a junior member of the railway staff and if he comes forward and openly declares his name I think he would be sent to the Andamans. But he is there. He has practical knowledge of railway working, he has practical knowledge of X class engines, he is on the North Western Railway. He is not the Indian Mr. Kapur, he is a Scotchman. Through the Editor of the *Civil and Military Gazette*, they might have asked who this gentleman was who could place such valuable evidence before the Enquiry Committee and the Editor might have told them, this is his name. Now, I call upon the Communications Member to give us an assurance that he will put himself in communication with this gentleman and do him the justice which has hitherto been denied him. You do not know why hunting arises ? He says, "I know the cause and can place before you a device which will cure hunting, I can explain everything". He is an expert in mechanics, he knows everything, better than you do. Speaking on this Report which is a mass of highly technical information, very valuable—and I appreciate the labour and skill that has been spent on it.....

An Honourable Member : Which only X Y Z knows.

Maulana Zafar Ali Khan : I can only speak on the broad features of the Report. For such small mercies that the Honourable the Communications Member has been pleased to extend to us in the matter of giving us about a week to study this Report, I thank him. But I admit that, though he acknowledged when he made his speech on the first day, that he was tutored by some of the mechanical experts—I admit that this tutoring though extended to us for 50 years would not make us understand it ; the study of a lifetime is required to appreciate it.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair wants to bring to the notice of the Honourable Member that perhaps the Honourable Member for Communications might like to reply to the debate.

Maulana Zafar Ali Khan : Then, I will finish. With these words, I support the motion of my friend, Mr. Abdul Ghani.

The Honourable Sir Andrew Clow : Sir, we have had an interesting debate. There was only one suggestion in it that I resented and that was made by the last speaker who threw out a hint that the Railway Board in purchasing these engines had designed to benefit some people in England. I can say that there is not the slightest foundation for that statement and I was sorry that an Honourable Member should have made it on the floor of the House.

I shall try and deal briefly with the remarks made by Honourable Members in the reverse order in which they spoke. Dealing with Maulana Zafar Ali first, I am afraid I cannot give him an assurance that I will consult Mr. X. Y. Z. who, he said, "knows everything".

Maulana Zafar Ali Khan : Supposing I tell you his name privately ?

The Honourable Sir Andrew Clow : I receive in the course of my duties a good many anonymous petitions and it is my constant practice to drop them into the waste paper basket. If there are railway officers

[Sir Andrew Clow.]

who have useful advice to give to the Railway Board and if instead of sending it direct they choose to shelter under anonymity in the newspaper, I do not think they deserve much more consideration than that. Nor am I prepared to believe that Mr. X. Y. Z.'s advice would be much more valuable than that of a committee which, bringing many long years of experience to this question, devoted the better part of a year to its special consideration.

Maulana Zafar Ali Khan : I am sending an extract to you.

The Honourable Sir Andrew Clow : Several speakers referred to the question of the construction of engines, including Sir Ziauddin Ahmad whom we are glad to see restored to health and Mr. Lalchand Navalrai. There seems to be an impression that we are now taking up a project which we could have taken up many years ago. But I would point out that circumstances have changed very greatly since these proposals were first put forward and, particularly, the cost of building engines abroad. But, this is not really a recommendation of the Committee. Mr. Lalchand Navalrai asked why we had not printed it. Actually we reproduced the Committee's recommendations as they set them out themselves in Appendix I. And I think if my Honourable friend will read paragraph 221 of the Committee's report again, and that is the paragraph in which they allude to the subject, he will come to my conclusion that it is not exactly a recommendation.

Mr. Lalchand Navalrai : If it is not a recommendation, then what is it?

The Honourable Sir Andrew Clow : They offer certain observations on the making of locomotives.

Mr. Lalchand Navalrai :and very necessary observations.

The Honourable Sir Andrew Clow : I do not propose to go into that subject here. I would only say that unfortunately there have been big changes since I moved this motion in this House last week ; what effect these will have on the possible building of locomotives now, I am not prepared to predict.

Mr. Lalchand Navalrai : I think, it was, who took the most wholesale view—don't put these engines on the track or build your track sufficiently strong to resist any pressure which they might exert. That would be a most expensive way of proceeding—not to use them at all.

Mr. Lalchand Navalrai : More expensive than the lives that are lost?

The Honourable Sir Andrew Clow : It would be an immense waste of money. To build your track capable of resisting any force, without making the attempt to reduce that force to manageable limits, would be obviously gross extravagance.

Mr. Lalchand Navalrai : Refer to the lives which were lost.

The Honourable Sir Andrew Clow : We are, I hope, not taking any unnecessary risks. We have speed restrictions not merely on the X.B.s, as Mr. Miller suggested but in some other places on the X.A.s and X.C.s as well and I entirely agree that we should pursue a policy of safety first.

Sir Abdul Halim Ghuznavi, in an interesting speech, attributed to the Committee some statements which I think must have astonished the only member of it who was able to hear them. He attributed to the Committee the view that the whole design was unsuitable—a very strange remark, because the Committee appear to have approved the design of the engines as power units, and as vehicles they suggest alterations which only affect certain parts of the vehicle. If the whole design was unsuitable, I should have thought their advice would have been to scrap the lot and start a new design. He went on to say, and I think he attributed it to the Committee, that there was hardly any ground for holding that the introduction of Pacific engines into India was justified as a whole. That is, as I read it, quite contrary to what the Committee say. They found that the Pacific design was on the whole justified.

Sir Abdul Halim Ghuznavi : That is my opinion.

The Honourable Sir Andrew Clow : That is not mine. And then he went on, I think unfairly, to accuse the Committee of applying 'whitewash'. It is a very strange thing that when the Committee, in a very judicial summary, make remarks reflecting on the Railway Board, these are received as careful and accurate statements, but when they point out the extenuating circumstances or circumstances that tell the other way, these must inevitably be 'whitewash'. Really I do not think you can approach a report of this kind in that fashion.

Mr. Miller, I think, attributed to me a little more than I ever said. I did not say that these engines were "justified in the upshot". What I actually said was, in concluding my speech, that "I did not put that forward as a complete justification for action taken between 1928 and 1930". I shall try to return later to the question of how far the action was justified but it is not a matter on which I feel disposed to differ in any particular degree from the Committee.

Now we come to the actual amendment on the paper which was moved by Maulvi Abdul Ghani. I am sorry I cannot accept this. I find it difficult to follow. It refers to 218 out of the 284 Pacific engines, but I am not clear which 218 are intended. It refers to the period 1925—1928 but he seemed to be dealing in his speech with the continued purchase, which, of course, was subsequent to these dates. These, however, are minor details. What I must strongly contest is that there was "a huge wastage of public money". I think he said that the engines cost about a lakh each and that the wastage was 284 lakhs, in other words, that the engines are worth nothing at all. I believe myself honestly, that if you look into the question from the financial point of view, the Railway Board could hardly choose stronger ground. So far as the finances are concerned, a very strong justification could be put forward for these engines. Actually I gave some details, in one instance, of the saving they had effected. But the main point is this.

Those engines were not, as the Honourable Member appears to suppose, an enormous addition, an unnecessary addition, to the locomotive stock in India. When I saw the Honourable Member's amendment I tried to get particulars of the extent to which they represented replacements and the extent to which they represented additions to the number of locomotives. Unfortunately there was not time to complete

[Sir Andrew Clow.]

the investigation, but the Chief Commissioner tells me that probably to the extent of about 90 per cent. they replaced obsolete engines. It is not a case here of a lot of engines which need not have been purchased. The issue is whether these engines should have been purchased or whether engines of another type should have been purchased, and I would point out to the House the very relevant consideration that if you were going in for the more obsolete type, you would have had to pursue the purchase of those engines over a period of five or six years. For you require about two years to build a locomotive and you require another two to try it out and then you have to place your larger order, on the assumption that the try-out has been completely successful. So that on any reckoning, the policy of purchasing B. E. S. A. engines in place of these Pacifics would have involved the presence today of a very large number of locomotives of a more obsolete type than the type which was actually purchased. It is not a case of the engines not being needed.

It may be charged against the Railway Board of the day, and I think it can be, that they were unduly optimistic in their expectations of traffic. But as the Pacific Locomotive Committee pointed out, if they erred in that respect, they erred in extraordinarily good company. I can think of a large number of projects, some non-official, some unfortunately official, of those expensive years which later on proved to be very far from gold mines, and of course neither the Railway Board nor, I think, anyone else anticipated that by the time those engines had been delivered we would be in the middle of the worst economic blizzard that has overtaken the world. Actually, the Railway Board erred in the very best company, the company of this House; for if Honourable Members will turn to page 9 of the report they will see that "On the 27th March, 1922, the Legislative Assembly recommended to the Governor General in Council to accept these proposals"—certain proposals arising out of the Acworth Committee's Report—"which have been based on the following estimate of minimum requirements framed by the Railway Board: 1—Engines, 30 crores". That represents, I am told, an estimate of about two thousand locomotives. Actually, I believe, the number of orders, both broad-gauge and metre-gauge, was rather less than half of that, so that the estimates accepted by the Assembly were very substantially cut down as time went on, and actually on one of the very last orders for XB engines the Railway Board cut down the demand originally put forward by the railway concerned.

Mr. Lalchand Navalrai: So that the whole burden is upon the Assembly?

The Honourable Sir Andrew Clow: Not at all. We must share the burden in these matters. I do not suppose there is anyone here who was a Member of the Assembly then just as no official here now was there, then.....

Some Honourable Members: Mr. Joshi was here.

The Honourable Sir Andrew Clow: Well, except Mr. Joshi, who should perhaps take some share of that responsibility. So that I do not think it is reasonable or fair to say, as Maulana Zafar Ali Khan said, that the Railway Board have been "playing ducks and drakes with the

public money". But it seemed to be his impression that one hundred and fifty crores of rupees have been spent on those engines so that I am not surprised at his conclusion.

To sum up on the question of responsibility, it is always a very difficult thing to judge one's predecessors. It is proverbial that every man is a fool to his successor. The sensible things that we do call for no notice in future years, but the mistakes that we all make become very evident to those who have to repair them. And for that reason I have always tried to be a little tender myself in forming opinions about those who are past and gone and who have dealt with problems similar to those with which we have to deal today. But the Committee themselves make it clear that, in their opinion, there was an error of judgment in neglecting the warnings of the Consulting Engineers and in proceeding with the purchase, before trial, of so many engines at one time. I feel that in matters of this kind the Committee, with their great knowledge and the close attention they have given to this task, are perhaps in a better position to judge than I or any other Member of this House and I am prepared to leave it at that. I have not framed my motion in terms which commit any Members of this House to approving or disapproving of the action that has been taken. That, as I said, I would leave where the Committee left it.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will now put the amendment to the Resolution moved by Maulvi Muhammad Abdul Ghani. The Resolution as thus sought to be amended would then read :

"That the Report of the Pacific Locomotive Committee be taken into consideration, and having considered the Report this Assembly is of opinion that the indent of 218 X Class Pacific Engines during the period 1925-28 without trial being given, was unwarranted and a huge wastage of public money."

The question is that that amendment be made.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 12th September, 1939.

LEGISLATIVE ASSEMBLY.

Tuesday, 12th September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

PROVISION OF UNIFORMS, ETC., TO INDIAN SAILORS ON STEAM NAVIGATION COMPANIES.

155. *Mr. Lalchand Navalrai : (a) Will the Honourable Member for Commerce be pleased to state whether Government are aware of the discontent of the Indian sailors working on the Peninsular and Oriental and British India Steam Navigation Companies for not being provided with uniforms or for not increasing their wages to enable them to wear neat dresses ?

(b) Has the attention of Government been drawn to a contribution in a Sindhi newspaper *Sutantar*, dated 16th May, 1938, under the caption "How are Indians looked upon in the West" ?

(c) Is it a fact that these Steam Navigation Companies do not give uniforms or neat clothing to their Indian sailors and do provide their European sailors with the same ? If so, why this invidious distinction is made ?

(d) Is it a fact that their Indian sailors go out at ports in the same dirty linen with which they work on the steamers and are therefore looked upon adversely and not allowed to enter hotels and restaurants ?

(e) Do Government propose to advise these Steam Navigation Companies and to take necessary steps to see that Indian sailors are provided with uniforms or neat clothing and the aforesaid distinction of dress is removed ? If not, why not ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : (a) No.

(b) Yes.

(c) No. The crews whether Indian or European have to provide their own uniforms.

(d) Government understand that Indian seamen serving with these Companies usually go ashore in clean clothes.

(e) Does not arise.

Mr. Lalchand Navalrai : Who supplies them with clean clothes ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The answer says that the crews, whether Indian or European, have to provide their own uniforms.

Mr. Lalchand Navalrai : May I know whether at any time these people have not been allowed to go into hotels on account of the fact that they were wearing unclean clothes ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I submit that question does not arise.

Mr. N. M. Joshi : May I know whether the Government of India will enquire whether there is discontent among Indian sailors, especially in Bombay, at the present time, where they are asking for increase in wages ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I submit that question does not arise.

Mr. N. M. Joshi : I submit it does arise. The last portion of the first part of the question refers to increase in wages ?

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not think it arises.

Mr. Lalchand Navalrai : With reference to part (d), the Honourable Member will find that there is a question about hotels and the crews not being allowed into those hotels because of their dirty linen ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I have no information on the subject.

PLAN FOR FEDERATION OF THE PREMIER OF THE PUNJAB.

156. *Maulvi Abdur Rasheed Chaudhury : Will the Honourable the Leader of the House please state :

- (a) whether the attention of Government has been drawn to the Punjab Premier's plan for Federation, published in the *Statesman* of the 31st July, 1939 ;
- (b) whether the Government of India and His Majesty's Government propose to consider this plan before introducing Federation under the Government of India Act, 1935 ;
- (c) whether the Government of India have received an appeal from Mr. M. A. Jinnah, M.L.A., the substance of which was published in the *Statesman* of the 31st July, 1939, for dropping Federation under the Government of India Act, 1935 ;
- (d) whether the Government of India are forcing many States to accept Federation against their will as described in the said appeal ; and
- (e) whether Government propose to consider the desirability of dropping Federation under the Government of India Act, 1935, and prepare a new Federal Scheme on the line of the federal plan of the Premier of the Punjab in consultation with representatives of the people of India ?

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

(b) and (e). I would draw the Honourable Member's attention to the address of His Excellency the Governor General to the Central Legislature yesterday morning.

(c) Government have seen Mr. Jinnah's statement referred to by the Honourable Member.

(d) I would repeat for the Honourable Member's information the reply given by the Under Secretary of State for India to a question in the House of Commons on the 4th August, 1939, on the same subject. The Under Secretary stated that he could give the assurance that pledges given during the passage of the Government of India Bill that no pressure would be brought to bear on any Indian Prince or Ruler to enter Federation had been and would be honoured and that no attempt would be made to prevent a free choice of action by the use of influence on the part of the Government of India.

Maulvi Abdur Rasheed Chaudhury : With reference to the answer to part (b), may I know whether the Government of India are going to consider the plan of Federation given by the Punjab Premier ?

The Honourable Sir Muhammad Zafrullah Khan : It is a hypothetical question.

RESERVATION OF CERTAIN POSTS AND DISTRICTS FOR EUROPEANS IN THE INDIAN MEDICAL SERVICE.

157. *Mr. Lalchand Navalrai (on behalf of Sardar Sant Singh) : Will the Secretary for Education, Health and Lands please state :

- (a) whether it is a fact that certain posts and districts have been reserved for the European members of the Indian Medical Service ; if so, since when ;
- (b) whether it is a fact that the Secretary of State for India with the concurrence of his advisers made certain rules governing the cadre of Indian Medical Service as a whole and the same rules were published on the 4th May, 1939 ;
- (c) if so, whether it is a fact that these rules make no provision for reservation of districts for the European members of the Indian Medical Service ;
- (d) whether it is a fact that Provincial Governments have made representations against this reservation ; if so, which are such Governments ; and
- (e) whether the Government of India propose to abolish the racial discrimination embodied in the reservation of districts for the European members of the Indian Medical Service ; if not, why not ?

Mr. G. S. Bozman : (a) Yes. Since 10th May, 1928.

(b) The Indian Medical Service (Civil) (Reserved Posts) Rules, 1939, were published by the Government of India on the 4th May, 1939.

(c) Yes.

(d) Representations have been received from the Governments of Madras, Bombay, Bihar, the Central Provinces, Sind and Assam.

(e) Although the reservation of certain posts for European and Indian Officers, respectively, is not specifically referred to in the Indian Medical Service (Civil) (Reserved Posts) Rules, the Secretary of State

has decided that the allocation of posts between European and Indian officers decided on at the time of the reorganisation of the Indian Medical Service in 1937 shall be maintained.

Mr. Lalchand Navalrai : May I know what were the reasons for the creation of these Rules ?

Mr. G. S. Bozman : I am unable to disclose the contents of the Despatch from the Secretary of State.

Mr. Lalchand Navalrai : Will the Honourable Member see that, from the point of view of the Government of India, this distinction is removed by recommending to that effect to the Secretary of State ?

Mr. G. S. Bozman : The Government of India are unable to override the orders of the Secretary of State in this matter.

Mr. Lalchand Navalrai : What I am asking is whether the Government of India are prepared to refer this question to the Secretary of State for his reconsideration ?

Mr. G. S. Bozman : The representations to which I have referred have already been sent to the Secretary of State, and he has passed orders thereon.

REPAIRS OF MONUMENTAL SERAI AND BRINDABAN NEAR VILLAGE RAVERKHEDI IN THE CENTRAL PROVINCES.

†158. ***Mr. M. S. Aney :** Will the Secretary for Education, Health and Lands be pleased to state :

- (a) whether the Government of India are aware that a monumental serai and Brindaban built in memory of Peshwa Bajirao I on the banks of the Narmada at the village Raverkhedi in the Central Provinces and Berar, where the last remains of the great Maratha warrior and administrator were cremated, is under the protection of the Archaeological Department ;
- (b) whether it is a fact that the erosion on the bank of the river is threatening the foundation of the north wall of the serai ;
- (c) if the answers to parts (a) and (b) above be in the affirmative, whether Government propose to carry out the necessary repairs immediately and take steps to prevent any damage to these historical monuments in future ; and
- (d) if the answers to parts (a) and (b) above be in the negative, whether Government propose to make an enquiry and call for a report on the condition of the two monuments and the nature of the repairs, and any other construction required to secure the safety of, and prevent damage to the buildings owing to flood and erosion of the river Narmada in future and start the works without delay on receipt of the report of the enquiry ?

Mr. G. S. Bozman : (a) Yes.

(b) Government have received a report that the foundations of the building were damaged by floods in the river Nerbudda.

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

- (c) An estimate of the cost of the work necessary to prevent damage has been prepared and the work will be undertaken as soon as possible.
- (d) Does not arise.

SCHEME OF REPLACEMENT OF INDIAN BY SINHALESE LABOUR IN CEYLON.

159. ***Mr. F. E. James :** Will the Secretary for Education, Health and Lands be pleased to state :

- (a) what developments have taken place since March 1939 in connection with the proposal of the Ceylon Board of Ministers for the replacement of non-Sinhalese daily-paid labourers in Government employment by Sinhalese ;
- (b) how many Indians employed in Government service in Ceylon have already been repatriated ;
- (c) what action the Government of India have taken in the matter and what further action, if any, they propose to take in the future ; and
- (d) whether the Government of India have any information as to whether there is any proposal before the Ceylon Board of Ministers to extend the present scheme of replacement of Indian by Sinhalese labour to (i) estate labour ; (ii) labour employed in Municipalities, public utility companies or private companies and firms ?

Mr. G. S. Bozman : (a)–(d). With your permission, Sir, I shall reply to the whole question by means of a statement.

Towards the end of March, 1939, information reached the Government of India that a scheme on the lines referred to by the Honourable Member was under consideration by the Ceylon Government. After making certain enquiries the Government of India addressed the Ceylon Government on the 1st April, 1939, asking for details of the scheme and for an opportunity to comment. On the 21st April, the Ceylon Government replied that no scheme had been formulated. The Government of India then reiterated their request for an opportunity to comment if any scheme materialised. On the 8th May, the Ceylon Government enunciated certain principles upon which a scheme might be based and stated that, if their scheme involved no more than those principles, it would not, in their opinion, be necessary to consult the Government of India. If, however, any new features were introduced, they promised to do so. On examination of this communication the Government of India found that without a precise scheme they were unable to determine whether the principles enunciated might not involve practical results to which objection could be taken on racial grounds. They communicated this view to the Ceylon Government and made certain provisional comments of detail. On the 5th June, the Government of India received from the Ceylon Government the details of their proposed scheme. After examination and the collection of certain information through the Agent, the Government of India replied on the 21st June expressing strong objection to the scheme and suggesting that at least it should be held in abeyance pending discussion at the time of the proposed trade negotiations between the two countries. On the 27th June, the Ceylon Government replied regretting their inability to cancel or postpone

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amend. The word 'Agent' used there is a translation of a French word, but the intention appears to have been to cover both agents and servants. It was not realised at the time that the word 'Agent' was apt to have in some cases a rather restricted legal meaning and, consequently, it did not extend to cover the servants of the carrier. I might mention that similar legislation has been adopted in the United Kingdom.

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

"That the Bill to amend the Indian Carriage by Air Act, 1934, for a certain purpose be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Andrew Clow : Sir, I move :

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE INDIAN RUBBER CONTROL (AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I move :

"That the Bill further to amend the Indian Rubber Control Act, 1934, as reported by the Select Committee, be taken into consideration."

This Bill implements the agreement that was arrived at at the recent Indian Rubber Control Conference. The Bill has been carefully considered by the Select Committee and no amendments of any consequence have been suggested. I might explain that one amendment which was suggested and was incorporated in the report of the Select Committee has since been found to be invalid in view of certain constitutional difficulties and my Honourable and learned friend, the Secretary of the Legislative Department, will move amendments necessary to restore the original provisions of the Bill. Sir, I move.

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

"That the Bill further to amend the Indian Rubber Control Act, 1934, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

Sir George Spence (Secretary, Legislative Department) : Sir, I move :

"That in sub-clause (g) of clause 3 of the Bill, for the words 'the Central Government may, by notification in the official Gazette,' the words 'the Committee may, by notification in the Gazette of India,' be substituted."

As the Honourable the Commerce Member has intimated, further examination has shown that the Select Committee's proposal to transfer to the Central Government the function of declaring any other plant to be a rubber plant would be of doubtful constitutional validity. When the principal Act was passed in 1934, this function was assigned to the Governor General in Council. The Adaptation Order substituted a reference to the Committee and it must be assumed that this substitution proceeded on the hypothesis that the function was relatable to a subject-matter in the Provincial legislative list with the result that executive authority in respect thereof could not be assigned to the Central Government. There are no grounds for supposing this hypothesis to have been incorrect and it is, therefore, proposed by this amendment to leave the function with the Committee. The substitution of a reference to the Gazette of India for a reference to the official Gazette is consequential. Sir, I move.

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

"That in sub-clause (g) of clause 3 of the Bill, for the words 'the Central Government may, by notification in the official Gazette,' the words 'the Committee may, by notification in the Gazette of India,' be substituted."

The motion was adopted.

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

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clauses 4 to 19 were added to the Bill.

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

"That clause 20 stand part of the Bill."

Sir George Spence : Sir, I move :

"That in clause 20 of the Bill, in sub-sections (1) and (3) of proposed section 27 of the Act,—

(a) for the words 'Central Government', wherever they appear, the word 'Committee' be substituted, and

(b) for the words 'official Gazette', in both places where they occur, the words 'Gazette of India', be substituted."

Sir, the point here is the same as on the previous amendment and I have nothing to add. Sir, I move.

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

“ That in clause 20 of the Bill, in sub-sections (1) and (3) of proposed section 27 of the Act,—

(a) for the words ‘ Central Government ’, wherever they appear, the word ‘ Committee ’ be substituted, and

(b) for the words ‘ official Gazette ’, in both places where they occur, the words ‘ Gazette of India ’, be substituted.”

The motion was adopted.

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

“ That clause 20, as amended, stand part of the Bill.”

The motion was adopted.

Clause 20, as amended, was added to the Bill.

Clauses 21 to 31 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

CONSIDERATION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I move :

“ That the Report of the Public Accounts Committee on the accounts of 1937-38 be taken into consideration.”

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, I move :

“ That the consideration of the motion be postponed for such time till the Members are supplied with copies of the reports—Part II—Evidence of the Public Accounts Committee.”

I think it is very necessary that we should be in possession of all the facts. I do not know why things should be done in such a hurry and Members should be expected to finish the thing in five minutes or five hours. Mr. Jinnah said the other day and very rightly, Sir, that Government Members have got a huge army of Secretariat people, but we, the elected Members and representatives of the people, have not got that, and if informations of details are refused to us, I do not see what purpose we can serve by remaining here. The greatest economist in the world cannot give any opinion on a budget or a public accounts report unless he gets all the

details of facts and circumstances in which they were prepared. Government should have given us the copies of the whole evidence of Public Accounts Committee Evidence, Part II, so as to enable us to understand the position and give our views. If Government want to rush the whole thing without letting us know the facts, it is for them to decide. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not know that as a formal motion it would be in order, but as the suggestion has been made to Government the Chair thinks they should make a statement.

The Honourable Sir Jeremy Raisman : Sir, I must confess that I thought that at a time like the present when most Honourable Members are concerned with more pressing and important business, the *post mortem* investigation of the accounts of nearly two years ago would not have claimed their very detailed attention. It is true that for anybody who wishes to pursue some research into the details underlying particular conclusions of the Committee, it is advantageous to be able to refer to the record of the discussions that took place in the Committee. At the same time I must make it clear, and I think this has been made clear before, that the discussions in the Committee are of such an informal character and take place across the table between about a dozen members that it is not possible for the stenographers to make a genuine *verbatim* account of the whole proceedings; and we have found that the record made is, frequently so inaccurate and inconsequent that the business of editing it becomes almost impossible. We have, therefore, now added a note to the evidence to say that it cannot be taken to be a complete and precise record of the proceedings and that its value is mainly illustrative. In those circumstances I do not think that the complaint that the House has not been given the evidence is as serious as it would otherwise be. At the same time I must admit that for Members who wish to go into a certain degree of detail it is an advantage to possess the record of the evidence. I have the work well in hand,—in fact the proofs have already been corrected, and I hope to be able to supply Members with the evidence volumes in the course of the next two or three days. And on the understanding that Members will be prepared to take up its consideration in this Session and finish it all I am prepared to accept the motion. I think it would be extremely undesirable that this should hang on in the way it has done in past years so that three years' reports of the Committee are still waiting to be taken into consideration by the House because they had been squeezed out in the necessarily more busy programmes of the Budget Session. But on the understanding that Members will be prepared to go on with the consideration and finish it perhaps on some day next week I am prepared to accept this motion.

Mr. Muhammad Nauman : Sir, I am satisfied with the explanation and my Party will be satisfied if the report is given to us in a few days' time.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair is not satisfied that a motion like this is in order; it was really a suggestion to Government. So the Chair will not put the motion to the House.

DEMANDS FOR EXCESS GRANTS.

Expenditure charged to Revenue.

CIVIL.

DEMAND No. 12—EXECUTIVE COUNCIL.

The Honourable Sir Jeremy Raisman (Finance Member) : Sir, I move :

“ That an excess grant of Rs. 355 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Executive Council ’.”

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

“ That an excess grant of Rs. 355 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Executive Council ’.”

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, when the consideration of the motion on the Public Accounts Committee Report has been postponed, I think this also should in reason be postponed till we finish consideration of the report.

The Honourable Sir Jeremy Raisman : Sir, these are purely formal recommendations which are made by the Committee. All these grants which I shall be moving have been recommended by the Committee, and even on a previous occasion when this House did adjourn the consideration of the Report in order to give time for the evidence to be placed in the hands of Members, they went on to vote the excess grants straightaway.

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

“ That an excess grant of Rs. 355 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Executive Council ’.”

The motion was adopted.

DEMAND No. 29—LIGHTHOUSES AND LIGHTSHIPS.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 6,765 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Lighthouses and Lightships ’.”

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

“ That an excess grant of Rs. 6,765 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Lighthouses and Lightships ’.”

The motion was adopted.

DEMAND No. 32—GEOLOGICAL SURVEY.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 5,808 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Geological Survey ’.”

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DEMANDS FOR EXCESS GRANTS.

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

“ That an excess grant of Rs. 5,808 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Geological Survey ’.”

The motion was adopted.

DEMAND No. 36—MINES.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 5,559 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Mines ’.”

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

“ That an excess grant of Rs. 5,559 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Mines ’.”

The motion was adopted.

DEMAND No. 37—OTHER SCIENTIFIC DEPARTMENTS.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 118 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Other Scientific Departments ’.”

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

“ That an excess grant of Rs. 118 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Other Scientific Departments ’.”

The motion was adopted.

DEMAND No. 56—JOINT STOCK COMPANIES.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 44 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Joint Stock Companies ’.”

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

“ That an excess grant of Rs. 44 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Joint Stock Companies ’.”

The motion was adopted.

DEMAND No. 58—CURRENCY.

The Honourable Sir Jeremy Raisman : Sir, I move :

“ That an excess grant of Rs. 15,049 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ‘ Currency ’.”

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

" That an excess grant of Rs. 15,049 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Currency '."

The motion was adopted.

DEMAND No. 61—SUPERANNUATION ALLOWANCES AND PENSIONS.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 4,20,246 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Superannuation Allowances and Pensions '."

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

" That an excess grant of Rs. 4,20,246 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Superannuation Allowances and Pensions '."

The motion was adopted.

DEMAND No. 62—STATIONERY AND PRINTING.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 84,272 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Stationery and Printing '."

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

" That an excess grant of Rs. 84,272 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Stationery and Printing '."

The motion was adopted.

DEMAND No. 70—ANDAMANS AND NICOBAR ISLANDS.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 825 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Andamans and Nicobar Islands '."

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

" That an excess grant of Rs. 825 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Andamans and Nicobar Islands '."

The motion was adopted.

RAILWAYS.

DEMAND No. 1—RAILWAY BOARD.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 4,361 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the grant in the year 1937-38, in respect of ' Railway Board '."

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

" That an excess grant of Rs. 4,361 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the grant in the year 1937-38, in respect of ' Railway Board '."

The motion was adopted.

DEMAND No. 6A.—WORKING EXPENSES—MAINTENANCE OF STRUCTURAL WORKS.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 4,65,121 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Working Expenses—Maintenance of Structural Works '."

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

" That an excess grant of Rs. 4,65,121 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Working Expenses—Maintenance of Structural Works '."

The motion was adopted.

DEMAND No. 6-B.—WORKING EXPENSES—MAINTENANCE AND SUPPLY OF LOCOMOTIVE POWER.

The Honourable Sir Jeremy Raisman : Sir, I move :

" That an excess grant of Rs. 40,31,435 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Working Expenses—Maintenance and Supply of Locomotive Power '."

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

" That an excess grant of Rs. 40,31,435 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of ' Working Expenses—Maintenance and Supply of Locomotive Power '."

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, with regard to this excess in expenditure my attention has been drawn to it because yesterday we were speaking on Pacific Locomotives. Before this excess is sanctioned it would be well for the Member in charge to explain how this amount was actually spent. When we were talking about the purchase of locomotives yesterday the House must have observed that a little blame was also being placed on the Assembly : it was suggested, with regard to a grant that because at one time certain questions in connection with that grant were brought before the Assembly, the Assembly should be taken to have accepted the grant. It may not now be said that we are passing this excess grant blindly. Therefore, I would like the Honourable Member to throw light on this and explain how this excess was justified and how the money was spent.

The Honourable Sir Jeremy Raisman : Sir, in the first place I would like to draw attention to the fact that the excess of Rs. 40 lakhs, although it appears a formidable sum by itself, is related to a total grant of

[Sir Jeremy Raisman.]

the order of Rs. 17 crores. The total grant for maintenance of supply of locomotive power, working expenses, was Rs. 16,98,74,000; and, therefore, although this is a large excess, it is not much in relation to the total grant. But the position was that excesses over the final grant did occur on almost all the railways. This was due to the fact that many railways received at the end of the year larger supplies of coal than was anticipated. The reasons for this have been explained in the Chief Commissioner's review. It was largely due to the fact that earlier in the year there had been a danger of a considerable shortage of coal. The railway collieries, as far as I remember, were then put on to producing a larger quantity. But later in the year supplies of coal both from railway collieries and other sources were larger than had been anticipated. Late in the year the market collieries commenced heavy deliveries which it was inexpedient to reject. Having just gone through a period of some anxiety in regard to their supplies of coal, the railways, naturally, thought that it would be imprudent to refuse the larger supplies which were forthcoming later in the year and so they laid in somewhat larger stocks. This accounts for about Rs. 21½ lakhs of the Rs. 40 lakhs.

A matter of Rs. 10½ lakhs is accounted for by more repairs to locomotives than were originally expected. A further sum is due to an accounting change. The East Indian Railway made provision for Rs. 3½ lakhs under another head instead of under this head on account of certain joint station charges payable to the North Western Railway for the Saharanpur station. I think that accounts for the main variations. The year 1937-38 was also, I may say, in the nature of a boom year for railways. The activity was much larger than in the previous year; the traffic was larger. For instance, the mileage allowances to the staff were one lakh higher than were estimated because there was more traffic, and when traffic is larger than could be anticipated at the time of framing the budget, it is natural that various types of working expenses would also go up, and this being the largest single head of working expenses, there was a considerable expansion.

Mr. Lalchand Navalrai : May I know if any excess amount was also spent on repairs of these XB engines?

The Honourable Sir Andrew Olow (Member for Railways and Communications) : All engines undergo periodical repairs.

Mr. Lalchand Navalrai : Are they behaving better now?

The Honourable Sir Andrew Olow : I hope they are going to be better.

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

"That an excess grant of Rs. 40,31,435 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Maintenance and Supply of Locomotive Power'."

The motion was adopted.

DEMAND NO. 6C—WORKING EXPENSES—MAINTENANCE OF CARRIAGES AND WAGON STOCK.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 23,43,715 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Maintenance of Carriage and Wagon Stock'."

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

"That an excess grant of Rs. 23,43,715 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Maintenance of Carriage and Wagon Stock'."

The motion was adopted.

DEMAND NO. 6G—WORKING EXPENSES—MISCELLANEOUS EXPENSES.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 10,87,300 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Miscellaneous Expenses'."

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

"That an excess grant of Rs. 10,87,300 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Miscellaneous Expenses'."

Maulvi Muhammad Abdul Ghani : Sir, this item includes an amount which was not recoverable. In this connection I want to draw the attention of the House to the fact that several railway administrations reported the amounts of non-recovery as far back as 1929 to the Railway Board asking for instructions. The Railway Board delayed consideration and failed to give the various railway administrations their decisions and instructions regarding the realisation of pending amounts or the writing off of the irrecoverable items or any other instruction at all till November, 1937. The result was that a huge amount of money which could have been recovered from various bodies could not have been recovered, as the claims were barred by limitation owing to the delay made by the Railway Board. I will quote one instance, Sir. There were police saloons for the Bihar and United Provinces police and the matter was going on for a very long time, and after nine years the Railway Board communicated their decision with the result that Rs. 89,590 could not be recovered from those two Governments. Yesterday, I quoted the instance of loss of money over Rs. 92,000 sleepers amounting to Rs. 6,69,250 over Eastern Bengal Railway. These sleepers were cast iron sleepers and after a service of six years they were all declared rejected by the expert. I fail to understand why expert opinion was not consulted by the Eastern Bengal Railway before the purchase of the sleepers and before the money was spent. Another case is that 2,21,700 rail anchors were purchased for the East Indian Railway and after some time the Divisional Engineer declared them rejected as being unsuitable, with the result that Rs. 40,500 were lost by the Railway concerned. This was actually a loss of the public money.

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[Maulvi Muhammad Abdul Ghani.]

There are such innumerable instances. If I go on quoting them the time of the House will not be sufficient, but a glance at the financial irregularities as brought out in the Railway Audit Report, 1939, pages 20-40, will bear out what I have said. In this connection I want to lay before you the opinion of the Audit Department. In the Audit Report, at page 31, it is said :

"It will be observed that most of the Railway Administrations have absolved themselves from blame in the matter as the whole question was under consideration of the Railway Board since 1929 and final orders were issued only in November, 1937."

This amount covers also the cost of the experiment made at Jamalpur after the Bihta accident to ascertain causes of the accident. Before I go into this, let me say that there were arrear recoveries in respect of the carriage reserved for the Band Master, East Indian Railway, Jamalpur, and the amount is Rs. 4,600, a year. The matter was reported long ago to the Railway Board but they have not yet given a decision in regard to who will bear the cost of the Band Master saloon. In connection with the Bihta accident an experimental collision was arranged at Jamalpur, as a result of which several wagons and engines were damaged, and yet the amount of loss due to that experimental accident is stated to be Rs. 1,233 which seems ridiculously low. There are innumerable experts in the railways and they could not find what was the cause of the accident, or they might have found,—I am not to go into the merits or demerits of their enquiry. But the Agent arranged a collision at Jamalpur in order to ascertain the cause of the Bihta accident over which several thousands of rupees were lost, but I cannot see how the estimate was made that the amount lost there was Rs. 1,233 only. In regard to this may I say that when I went to Bihta just after the accident I found that wooden sleepers of 1929, 100 in number, were in use at the place where the accident had taken place. This was in my opinion a case of negligence and other such cases of negligence have been reported in the Locomotive Enquiry Committee's Report. Sleepers were not replaced since 1912-14, till the committee commenced its enquiry in India. These are very deplorable, and if the Finance Department will not have an eye on these things, there shall be no end to this. With these words I resume my seat.

Mr. T. S. Sankara Aiyar (Financial Commissioner, Railways) : Sir, 12 Noon. the Honourable Member who just completed his speech referred to some financial irregularities which had been reported in the Railway Audit Report, 1939. He referred to the case in which the Railway Department had failed to make recoveries from other departments, for example, the Police, for the use of the saloon. It is true there was failure to some extent, but it was due to a certain confusion in the interpretation of the orders issued by the Government of India. Different railways had adopted different procedures, with the result, that on certain railways recoveries were not made for some time.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Was there an ambiguity in the orders of the Government of India ?

Mr. T. S. Sankara Aiyar : There must have been some ambiguity. Otherwise there would have been no scope for different interpretations. When these cases came to the notice of the Railway Board on a reference from one or two railways, instructions were issued and the procedure was made uniform. Since then, there has been no failure in making recoveries.

Mr. Muhammad Nauman : What about the Band Master's saloon at Jamalpur ?

Mr. T. S. Sankara Aiyar : In a big concern like the Railways, if you take into consideration the magnitude and the number of transactions, as the Auditor General himself came to the conclusion, you will realise that after all the financial irregularities have not been many. The Auditor General himself has certified that considering the number of transactions and the magnitude of the transactions, the accounts have been quite satisfactory. It is not, of course, practicable to go into every case of irregularity and deal with it here.

As regards the excesses that have occurred under this grant, I would point out that the chief reasons for the excess were more gratuity payments than were originally anticipated on four Railways on account of the unexpected retirements towards the close of the year,—the four railways are the N. W. Ry., the B. N. Ry., the B., B. and C. I. Ry. and the M. and S. M. Ry.—and the acceptance of certain debits raised on certain other Civil Departments by the N. W. Railway. The acceptance was delayed and the amount involved was somewhere about 4 lakhs. I have nothing more to add.

Mr. Muhammad Nauman : I would not have risen to take part in the debate on this small matter of supplementary grant but for the explanation given by the Honourable the Financial Commissioner for Railways. He has accepted the charge that the orders issued by the Government of India were in ambiguous terms but the Railway Department did not think it necessary to get same orders cleared up and thought it far better to let the demand of over eighty lakhs of rupees be barred by limitation. Besides he has said that in a big department like the Railways there are bound to be some irregularities. I put him a question about the saloon of the Band Master at Jamalpur which costs Rs. 4,000 yearly and he could not give a satisfactory answer. If he had given me any illustration from lines like the Midland and Scottish Railway or any American railway where saloons are provided for band masters, I would have satisfied myself with this idea that as we are copying many other things from Europe we will copy them in this instance also. Looking into the report of the Committee of Public Accounts, we have seen that the Defence Department even has been able to curtail their expenses but the Railways in spite of repeated requests made by different Members of the House have not been able to make any improvement. One Honourable Member said that they are bankrupt, and that they are trying to make themselves declared insolvent. The other day we were discussing the question of giving away some amounts as gifts to the Railway Department from the General Budget and putting them down as bad debts and square up the Government of India's accounts with the losses on Railway. I want to point out to the House that although this demand will now go through this

[Mr. Muhammad Nauman.]

Honourable House and majority will say 'Yes', the Railway Board ought to be more cautious in their expenditure and that they ought to give weight to the views expressed by Members of this House. With these remarks, I resume my seat.

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

"That an excess grant of Rs. 10,87,300 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Miscellaneous Expenses'."

The motion was adopted.

DEMAND No. 6H—WORKING EXPENSES—ELECTRIC SERVICE DEPARTMENT.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 1,29,216 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Electric Service Department'."

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

"That an excess grant of Rs. 1,29,216 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Working Expenses—Electric Service Department'."

The motion was adopted.

DEMAND No. 79—COMMUTED VALUE OF PENSIONS.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 92,684 be voted by the Assembly to regularise the expenditure chargeable to capital actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Commuted Value of Pensions'."

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

"That an excess grant of Rs. 92,684 be voted by the Assembly to regularise the expenditure chargeable to capital actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Commuted Value of Pensions'."

The motion was adopted.

RAILWAYS.

DEMAND No. 12—OPEN LINE WORKS.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 11,59,797 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Open Line Works'."

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

"That an excess grant of Rs. 11,59,797 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1937-38, in respect of 'Open Line Works'."

The motion was adopted.

Expenditure charged to Revenue.

CIVIL.

DEMAND No. 81—AJMER-MERWARA.

The Honourable Sir Jeremy Raisman : Sir, I move :

"That an excess grant of Rs. 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1936-37, in respect of 'Ajmer-Merwara'."

This was a grant which was put before the House in the last Session in connection with the accounts of the year previous to the one with which we have been dealing and after a very short discussion the House negatived the motion. No doubt the object of the Party which opposed the motion was to indicate their dissatisfaction on certain matters, but the fact remains, and this is what the Public Accounts Committee were concerned with, that this excess expenditure actually occurred in the year 1936-37 and that in accordance with the constitutional practice of regular Governments we ought to regularize it and the Committee felt that this ought not to remain as an unliquidated blot on the financial history of this country, and they recommended that this House should be asked to vote this small excess grant. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : If the demand has been rejected by the House, can the Honourable Member ask for it again ?

Sir George Spence : Sir, may I submit that the only bar to reconsideration of a matter such as this is that contained in Standing Order 31, which says that :

"A motion must not raise a question substantially identical with one on which the Assembly has given a decision in the same Session."

In this case, the decision was given in an earlier Session.

Mr. Lalchand Navalrai : Sir, I would like to know from the Honourable Member when there was some dissatisfaction and displeasure shown by a Party.....

Mr. President (The Honourable Sir Abdur Rahim) : The Standing Order referred to says that the same motion cannot be made in the same Session ?

Sir George Spence : Yes.

Mr. Lalchand Navalrai : Sir, what I would submit is this that the House is already very thin and some Members of the House are anxious to see the House become vacant soon. But I submit that the point should be considered by the House. The House not having accepted the grant

[Mr. Lalchand Navalrai.]

and having shown some displeasure over it, is it right that the same matter should have been brought up before a Committee and sanction got there, and then an excess grant presented to the House? This will be wholly illegal. Nothing has been shown and no Standing Order has been quoted to show that this demand can come before the House now when it was rejected once.

Mr. President (The Honourable Sir Abdur Rahim) : This will be held over.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

INSERTION OF NEW SECTION 42B.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B), as reported by the Select Committee, be taken into consideration.”

If Honourable Members will look at the Bill and the Select Committee's report, they will see that four amendments have been made by the Select Committee, but all these are of a formal character, so that the Bill comes before us again substantially in the form in which it left the House. The report of the Select Committee is, I am glad to say, unanimous, and I hope the Bill will have the unanimous support of the House.

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

“ That the Bill further to amend the Indian Railways Act, 1890, for a certain purpose (insertion of new section 42B), as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Andrew Clow : Sir, I move :

“ That the Bill, as reported by the Select Committee, be passed.”

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

“ That the Bill, as reported by the Select Committee, be passed.”

The motion was adopted.

THE REPEALING AND AMENDING BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move :

“ That the Bill to amend certain enactments and to repeal certain other enactments, as reported by the Select Committee, be taken into consideration.”

Sir, the Select Committee has made only three or four formal changes in the Bill which are set out in the report and which are perfectly clear. No explanation of these changes is necessary. Sir, I move.

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

“ That the Bill to amend certain enactments and to repeal certain other enactments, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

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

“ That the First Schedule stand part of the Bill.”

Sir George Spence : Sir, I move :

“ That in the First Schedule to the Bill, after the heading ‘ Acts of the Indian Legislature ’ the following entry be inserted, namely :

1922 XI The Indian Income-tax Act, 1922.	In sub-section (1) of section 17, for the word and figures ‘ section 17 ’ the word and figures ‘ section 27 ’ shall be substituted.”
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Sir, section 17 of the principal Act, as amended by the amending Act of 1934, contains a reference to a British subject as defined in section 17 of the British Nationality and Status of Aliens Act, 1914. Actually, the definition of ‘ British subject ’ in that Act is contained not in section 17 but in section 27. The reference to section 17 was presumably the result of a misprint. It was not detected at any stage and it attracted notice only the other day after the Select Committee had reported. I am moving this amendment to correct this mistake.

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

“ That in the First Schedule to the Bill, after the heading ‘ Acts of the Indian Legislature ’ the following entry be inserted, namely :

1922 XI The Indian Income-tax Act, 1922.	In sub-section (1) of section 17, for the word and figures ‘ section 17 ’ the word and figures ‘ section 27 ’ shall be substituted.”
--	--

The motion was adopted.

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

“ That the First Schedule, as amended, stand part of the Bill.”

The motion was adopted.

The First Schedule, as amended, was added to the Bill.

The Second Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

“ That the Bill, as amended, be passed.”

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

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

The motion was adopted.

STATEMENT OF BUSINESS.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, it is not proposed to bring any business before the House tomorrow and I, therefore, request that tomorrow's sitting may be cancelled. As I have already submitted, when presenting the report of the Select Committee on what is briefly known as the Defence of India Bill, on Thursday a motion will be made to proceed with the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 14th September, 1939.

LEGISLATIVE ASSEMBLY.

Thursday, 14th September, 1939.

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

MEMBER SWORN.

Mr. C. M. G. Ogilvie, C.B.E., M.L.A. (Defence Secretary).

STARRED QUESTIONS AND ANSWERS.

†161*—165*.

RECORDING OF WEATHER CONDITIONS AT NAUSHERO IN SIND.

166. *Mr. Lalchand Navalrai : (a) Will the Honourable the Communications Member be pleased to state which officer is responsible for making weather reports in India specially in the Sind Province ?

(b) Who takes the readings of temperature at Naushero in Sind, and are these temperature taking stations in Sind inspected by any higher official ? If so, by whom and at what intervals ?

(c) Are Government aware that Naushero in Sind records almost always the highest temperature in India even more than Jacobabad, the known hottest place ? If so, what are the reasons for it ?

(d) Are Government aware that misgivings have been expressed as to the correctness of the record of the temperature and the instrument used at Naushero, and do Government propose to verify the temperature there through an expert officer to satisfy the public ?

The Honourable Sir Andrew Clow : (a) The Meteorological office at Poona issues an All-India Weather Report and two regional weather reports covering Peninsular India and Central India. Weather reports in respect of north-east India and north-west India (including Sind) are issued by the Alipore and Karachi Meteorological offices, respectively.

(b) The Sub-Post Master, Naushero, who is a part time Meteorological observer. The observatories in Sind are inspected at intervals of one to two years either by the Inspector of Observatories or by a gazetted officer of the Meteorological Department.

(c) Yes. Naushero is nearer the Thar Desert than Jacobabad and is less windy. It is one of a number of desert observatories where temperatures higher than those at Jacobabad are frequently recorded.

(d) No. The thermometers installed at Naushero are exposed in the standard Stevenson screen and have been found on test to record temperatures correctly : the readings are regularly scrutinised by the Meteorologist, Karachi.

Mr. Lalchand Navalrai : Was this inspection conducted after notice of this question was sent ?

†For these questions and answers, see pages 534—540 of these debates.

The Honourable Sir Andrew Clow : I have explained that they are subject to tests at periodic intervals. I do not think any inspection would have taken place since the Honourable Member tabled this question.

Mr. Lalchand Navalrai : When was the last inspection made ?

The Honourable Sir Andrew Clow : I have not got particulars here.

Mr. Lalchand Navalrai : May I tell the Honourable Member that Jacobabad is very much far away, about 75 miles away from Naushero ? How is it going to be said that the temperature is rising because it is near Jacobabad ?

The Honourable Sir Andrew Clow : I said it was higher.

Mr. Lalchand Navalrai : Why was it higher ?

The Honourable Sir Andrew Clow : I cannot accept responsibility for the high temperature.

DRAMA BROADCASTED FROM LAHORE ON THE OCCASION OF THE CENTENARY CELEBRATIONS OF MAHARAJA RANJIT SINGH.

167. **Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : (a) Will the Honourable Member for Communications please state whether Government are aware that the broadcasting station at Lahore broadcasted a drama on the 25th June, 1939 on the occasion of the Centenary celebrations of Maharaja Ranjit Singh containing certain references about the Maharaja to which strong exceptions have been taken by the Sikhs throughout the Punjab ?

(b) Are Government aware that Sikh Associations have passed resolutions against the management of the broadcasting station at Lahore ?

(c) Is it a fact that the Director of Broadcasting Station subsequently issued an explanation ?

(d) Are Government aware that this explanation did not satisfy the Sikhs ; if so, do Government propose to make inquiry into the matter ?

The Honourable Sir Andrew Clow : (a) Yes. Exception was taken by some Sikhs.

(b) Yes.

(c) and (d). Two explanations were broadcast by the Station Director,—on the 18th and the 29th July,—and so far as I am aware, Sikh opinion was satisfied after the second explanation.

Mr. Lalchand Navalrai : May I know if the Sikh Association said that they were not satisfied with the first explanation ?

The Honourable Sir Andrew Clow : I think there was some feeling that the first explanation was not adequate.

CERTAIN INFORMATION IN RESPECT OF BROADCASTING STATIONS AT DELHI AND LAHORE.

168. **Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : Will the Honourable Member for Communications be pleased to lay on the table of the House the following information in respect of the broadcasting stations at Delhi and Lahore :

(a) the number of employees giving their designation and community and the salary each drew on the 1st of July, 1939 :

STARRED QUESTIONS AND ANSWERS.

(b) the total number of artistes, musicians, speakers and others employed to give their performances during the period from 1st January, 1939, to 30th June, 1939, and the emoluments paid to each and the community to which they belonged ; and

(c) the time allotted to each community for propagation of religious views ?

The Honourable Sir Andrew Clow : (a) and (b). Two statements are laid on the table. Information about the fees paid to individual artists is confidential and cannot be disclosed.

(c) No time is allotted for 'propagation' of religious views as this is not permitted. Items of religious interest were, however, included in the programmes in response to requests from listeners.

STATEMENT I.

Statement showing the designation, community and pay of staff (excluding the inferior staff) employed at the Delhi and Lahore Stations of All-India Radio on the 1st July, 1939.

Designation.	Delhi Station.		Lahore Station.	
	Community.	Pay. Rs.	Community.	Pay. Rs.
Station Director ..	1 Hindu ..	750	1 Muslim ..	525
Assistant Station Director ..	1 Hindu ..	350		
Director of Programmes ..	1 Hindu ..	260	1 Muslim ..	260
Programme Assistants ..	4 Muslims ..	160	2 Hindus ..	150
		each.		each.
	2 Muslims ..	150	2 Muslims ..	150
Announcer, Indian ..	2 Muslims ..	100	1 Muslim ..	100
		each.		each.
	1 Anglo-Indian ..	100		
Station Engineer ..	1 Hindu ..	460	1 Hindu ..	265
Assistant Engineer ..	1 Muslim ..	220	1 Hindu ..	210
	1 Hindu ..	220		
	2 Hindu ..	210		
		each.		
	1 Hindu ..	200		
Technical Assistant ..	7 Hindus ..	100	1 Hindu ..	120
		each.	2 Hindus ..	100
	3 Muslims ..	Do.		each.
Mechanic ..	1 Hindu ..	39	1 Hindu ..	33
	1 Muslim ..	33	2 Muslims ..	33
	1 Hindu ..	33		each.
Motor Driver ..	1 Hindu ..	46	2 Muslims ..	40
	2 Muslims ..	40		each.
		each.		
Accountant ..	1 Hindu ..	142 +	1 Hindu ..	140
		(Special pay Rs. 8).		
Clerk, Grade I ..	2 Muslims ..	103 each.		
Clerk, Grade II ..	2 Hindus ..	46	2 Muslims ..	40
		each.		each.
	1 Muslim ..	43	1 Hindu ..	40
	1 Muslim ..	40		
	1 Hindu ..	43		
Stenographer ..	1 Hindu ..	50 +		
		Compensatory Allowance Rs. 30.		
Telephone Attendant ..	1 Muslim ..	40	1 Hindu ..	40
	1 Hindu ..	40		

STATEMENT II.

Statement showing the number of artists employed at the Delhi and Lahore Station of All-India Radio during the period 1st January to 30th June, 1939, their community and the total payments made to them.

	Muslims.	Hindus.	Europeans, Anglo- Indians and Indian Christians.	Sikhs.	Others.	Total No.	Total fees paid.
							Rs. A. P.
Delhi ..	241	176	68	2	..	487	42,002 0 0
Lahore ..	184	132	55	31	2	404	32,342 8 0

Mr. Lalchand Navalrai : With reference to part (b), may I know whether these artists are selected in consultation with some Committee or with any officer ?

The Honourable Sir Andrew Clow : I do not think the Advisory Committee actually selects the artists, because that depends upon giving auditions and there will be other difficulties in the way.

Mr. Lalchand Navalrai : Are they selected at any time in any manner ?

The Honourable Sir Andrew Clow : Individual artists ?

Mr. Lalchand Navalrai : The artists that are taken up ?

The Honourable Sir Andrew Clow : I have not got the proceedings of the Committee, I am afraid.

HOOLIGANISM ON THE RAILWAY PREMISES.

169. *Mr. Lalchand Navalrai (on behalf of Sardar Sant Singh) : (a) Will the Honourable the Communications Member please state if the attention of Government has been drawn to the paragraph published in column number 6 at page 6 of the *Tribune*, dated the 27th July, 1939, under the head "Hooligans Mob Gandhi's Compartment" ? If so, do Government propose to explain how these hooligans got admission to the railway platform and state the number of platform tickets sold on that day as compared with the number of platform tickets sold on each day during the previous week ?

(b) What steps do Government propose to take to stop such hooliganism on the railway premises in future ?

The Honourable Sir Andrew Clow : (a) Yes. I understand the article grossly exaggerated the incident and that there was no hooliganism or mobbing of Mr. Gandhi's compartment. The number of platform tickets sold on the date in question was 1938, which is about 600 more than the daily average for the previous week.

(b) Does not arise.

ENQUIRY AGAINST CERTAIN MUSLIM EMPLOYEES OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.

170. *Shaikh Rafiuddin Ahmad Siddiquee : When reference to the reply to my starred question No. 1580, dated the 29th November, 1938, asked in this House, will the Honourable the Railway Member be pleased to state :

- what were the findings of the enquiry set up against a certain set of Muslim employees of the Ticket Checking Branch under the Superintendent, Watch and Ward, Eastern Bengal Railway, who were accused of offences relating to agitation subversive of discipline and provocative of communal discord ;
- whether any kind of explanation sheet or charge sheet was served upon the said Muslim staff before starting an enquiry ;
- how many Hindus were either affected or offended by this agitation ;
- how many witnesses were examined from both the communities to form an opinion that only one community was at fault ; and
- whether Government are prepared to face facts in a public enquiry about their statement embodied in their reply ; if not, why not ?

The Honourable Sir Andrew Clow : (a) The enquiries to which reference was made in the information laid on the table in response to the Honourable Member's question of 29th November, 1938, and printed in the debates of this House for 10th March, 1939, were not enquiries made for the purpose presumed by the Honourable Member, but were made by Sir Thomas Stewart in response to a request made by certain Members of the House. I have no information of any formal enquiry of the kind suggested by the Honourable Member having been set up.

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

(c) I am quite unable to say.

(e) No. No punishment was imposed on the employees and there is no reason for reviewing the case.

Mr. Muhammad Nauman : With reference to part (a), may I know whether membership of the Muslim League or of any national association amounts to promoting communal discord by members of the railway staff ?

The Honourable Sir Andrew Clow : It does not seem to relate to this question at all. I was answering question No. 170.

Mr. Muhammad Nauman : I am putting this supplementary question with reference to part (a).

The Honourable Sir Andrew Clow : This refers to a particular ticket checking branch. What has the supplementary question got to do with that ?

Mr Muhammad Nauman : If a member of the railway staff joins the Muslim League or any National Association, will it amount to promoting communal discord, because my information is that it was on this principle that warnings were issued to the staff on the Eastern Bengal Railway ?

The Honourable Sir Andrew Clow : This has no relation to the question which I have answered.

ENQUIRY AGAINST CERTAIN MUSLIM EMPLOYEES OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.

171. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state the names, designation and status of the Muslim staff of the Ticket Checking Branch under the Superintendent, Watch and Ward, Eastern Bengal Railway, on whom notices of warnings have been served as a result of creating the agitation referred to in the reply to my starred question No. 1580, asked in this House on the 29th November, 1938 ?

The Honourable Sir Andrew Clow : These particulars were not supplied to Government in response to the enquiries to which I referred in the answer to the Honourable Member's previous question, and I do not think it would be desirable to disclose the names of the individuals.

ALLEGED FAVOURITISM TO HINDU STAFF OF THE TICKET CHECKING BRANCH OF THE EASTERN BENGAL RAILWAY.

172. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state whether Government are aware of the fact that Hindu staff of the Ticket Checking Branch of the Eastern Bengal Railway, who have been tried or are under trial in the Courts of Law under sections 354 and 342 of the Indian Penal Code, were not even suspended departmentally, and the Hindu staff, who were detected carrying passengers without ticket are reinstated or are still retained in service ?

The Honourable Sir Andrew Clow : I understand that only one case of the nature referred to in the first part is traceable and that this case which was not instituted by the railway is now *sub judice*. The employee has not been suspended as in the opinion of the Administration, such action is not called for.

No case of the kind referred to in the latter part of the question can be traced, but the Honourable Member has possibly in mind the removal from service of a Hindu crewman for alleged fraudulent behaviour in connection with ticketless passengers. On appeal, he was given the benefit of the doubt and reinstated.

Mr. Muhammad Nauman : Is the Honourable Member aware of one case of a Crew Inspector, Mr. Sinha, who was stationed at Lalmonir Hat on the Eastern Bengal Railway and was guilty of outraging the chastity of a Muslim woman and the case was reported to Government through telegrams by many people, one telegram being sent by myself ?

The Honourable Sir Andrew Clow : If the Honourable Member is referring to a case which is *sub judice*, obviously I cannot tell him anything about it.

Mr. Muhammad Nauman : It is not *sub judice*.

The Honourable Sir Andrew Clow : I am afraid I cannot recollect any such case.

FRAUD BATCH OF THE TICKET CHECKING BRANCH, EASTERN BENGAL RAILWAY.

173. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) what is the strength of the "Fraud Batch" of the Ticket Checking Branch, Eastern Bengal Railway, by communities ; what are the dates of appointment, rate of pay, grades and qualifications of the staff ;
- (b) whether the question of seniority is considered in selecting the staff for the said Fraud Batch ;
- (c) what income they have increased from the period they have been working in comparison with the period before they were deputed to work in the Fraud Batch ; and
- (d) how many Muslim staff on the Eastern Bengal Railway have been reported against adversely by the said Fraud Batch with the result that their services have been terminated ?

The Honourable Sir Andrew Clow : (a), (b) and (d). Government have no information but I am making inquiries regarding the strength of "the Fraud Detection and Espionage Branch" to which I presume the Honourable Member is referring, and regarding the method of recruitment to this branch.

(c) It is not possible to frame an estimate of this as the main effect of activity in detecting frauds, so far as financial advantage is concerned, is deterrent.

APPEALS OF THE MUSLIM STAFF ON THE EASTERN BENGAL RAILWAY.

174. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) why the appeals of the Muslim staff on the Eastern Bengal Railway against their removal from service during the period from 1935 to 1939 have never been considered according to the rules regarding Rights of Appeal and Enquiry by non-gazetted staff ;
- (b) if the reply to part (a) above be in the negative, whether Government will be pleased to state what findings in the cases of appeals by Muslim staff have been recorded by the Appellate authorities ; and
- (c) why the appeals from Muslim staff are returned to their Executive Officers for remarks who were originally responsible for their removal from service or inflicting various punishments ?

The Honourable Sir Andrew Clow : (a) I have no reason to believe that the facts are as stated by the Honourable Member.

(b) I regret that Government cannot undertake the research necessary to provide these particulars. The conclusions in an appeal are communicated to the individuals concerned.

(c) I would refer the Honourable Member to rule 20 of the Rules referred to by him in part (a) of the question.

Mr. Muhammad Nauman : With reference to part (c) of the question, is it considered right or equitable that a man who is responsible for dismissing a certain employee should practically sit as a judge, and, on his explanation of facts, action should be taken ?

The Honourable Sir Andrew Clow : There is no question of his sitting as a judge. The appeal has normally to go through him, and obviously if statements are made in the appeal, on which he is in a position to comment, it is his duty to do so.

Mr. Muhammad Nauman : Is it not on his report that action is taken after the appeal is submitted ?

The Honourable Sir Andrew Clow : It is the duty of the appellate authority to form his own judgment.

Mr. Lalchand Navalrai : After the report is called for, what is the opportunity given to that applicant to contradict what the officer has said ?

The Honourable Sir Andrew Clow : There is no question normally of reports being called for, because the appeal has to be presented through the officer in question. We cannot continue the process indefinitely of the officer and the individual appealing replying to each other.

Mr. Lalchand Navalrai : The point is, if any remarks are made in forwarding an appeal, how are they to be met by the applicant ?

The Honourable Sir Andrew Clow : They can be checked by the appellant. If they relate to observations of opinion, obviously the appellate authority can give what weight he thinks proper to such opinions. If they involve new statements of fact, on which there is no evidence, the appellate authority would obviously disregard them or call for the evidence.

Mr. Lalchand Navalrai : Is that procedure being followed by the appellate authorities in the case of appeals ?

The Honourable Sir Andrew Clow : There are hundreds of appeals, and I cannot say exactly what happens in every appeal.

Mr. Muhammad Nauman : Is it possible that some appeals are not forwarded at all by these officers when they are prejudiced against the individual ?

The Honourable Sir Andrew Clow : No officer has a right to withhold an appeal if an appeal lies.

Mr. Muhammad Nauman : Will the Honourable Member make inquiries and find out if there are such cases ?

The Honourable Sir Andrew Clow : How can I make inquiries without knowing any such case ?

CHANNEL OF PROMOTION FOR MARKERS EMPLOYED IN THE KARACHI DIVISION OF THE NORTH WESTERN RAILWAY.

175. ***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that some matriculates are employed in the Karachi Division of the North Western Railway in the commercial service as markers ; if so, what channel of promotion is provided for them ;
- (b) whether it is a fact that the Divisional Superintendent, North Western Railway, Karachi, has made repeated representations to the General Manager, North Western Railway, Lahore, to provide some channel of promotion for this class of employees ; if so, what objection there is to permit the Divisional Superintendents to promote such persons as Relief Clerks, Grade I Guards, or some such posts, on the occurrence of vacancies in their own Divisions ; and
- (c) whether Government are aware of the relevant paragraph in the Railway Board's *communiqué* on the discussions between the Railway Board and the deputation of the All-India Railwaymen's Federation which took place in November, 1937, wherein the Board had promised to do something for the markers, and state what action they propose to take in the matter ?

The Honourable Sir Andrew Clow : (a) to (c). I would refer the Honourable Member to the reply I gave to Mian Ghulam Kadir Muhammad Shahban's starred question No. 22 on the 30th August, 1939.

Mr. Lalchand Navalrai : Are there any avenues in which these markers will rise ?

The Honourable Sir Andrew Clow : I suggest that the Honourable Member might study the reply which I gave. It was in detail and referred to channels of promotion.

RULES FOR OUT-STATION INDIAN APPRENTICES OF WORKSHOPS ON THE NORTH WESTERN RAILWAY.

176. ***Mr. Lalchand Navalrai :** With reference to my starred questions Nos. 1451 and 1452, asked on the 31st March, 1939, in this House will the Honourable Member for Railways be pleased to give the following further information :

- (a) whether the rules applicable to out-station apprentices employed at Sukkur Workshops of the North Western Railway in April, 1926, were altered at any time prior to their discharge in 1931 ; if so, when ; and whether Government propose to lay on the table of the House a copy of the old and revised rules applicable to these men ;

- (b) whether Government propose to lay on the table of the House a copy of the communication addressed to these out-station apprentices by any officer of the Railway Administration bringing them under the revised rules ;
- (c) whether these out-station apprentices at the time of their appointment were warned or made to sign an agreement, that they were likely to come under the revised rules to be issued later ; if so, whether Government propose to lay on the table of the House a copy of such a warning to, or agreement executed by the out-station apprentices ;
- (d) if the reply to first part of part (c) above be in the negative, how could the Railway Administration be justified in bringing the out-station apprentices under the revised rules ;
- (e) whether Government propose to lay on the table of the House a copy of the letter No. P.C.3140, dated the 6th April, 1931, from the Works Manager, Sukkur, to the address of the Superintendent, Mechanical Workshops, North Western Railway, Lahore ; and
- (f) whether the letter referred to in part (e) above gives an indication that the out-station apprentices were discharged because of the general retrenchment campaign in 1931, under which the quota of this class of staff for the Workshops was reduced ; if not, why should the out-station apprentices be deprived of the privilege of old scales of pay admissible to retrenched hands ?

The Honourable Sir Andrew Clow : (a) I would refer the Honourable Member to the reply given to his question No. 1451, which appears in the debates of the 30th August, 1939. I lay on the table a copy of the rules issued in 1921.

(b) I am not aware of any such communication. As, however, the apprentices drew the increased rates of stipend admissible under the 1926 rules, it is presumed they accepted these rules.

(c) The reply to the first part is in the negative and the second does not, therefore, arise.

(d) I understand that two apprentices who had started work some months before the revision of the rules were brought under the rules when revised. If they had felt that this was not justified, they would have made a protest. So far as I know they did not do so, and they accepted, throughout the remaining $4\frac{1}{2}$ years of their apprenticeship, the financial benefit accruing under the revised rules.

(e) No.

(f) The letter recommended that in consequence of reduction of staff the services of one apprentice should be terminated at the close of his apprenticeship. The latter part of the question does not arise.

Rules for out-station Indian Apprentices (English speaking).

1. The candidate for engagement as a Literate Apprentice will be required to read, write and cypher in English, he must understand and be able to explain a passage he has himself read from an English book.

2. He must be between 15 and 18 years of age. If he is considered sufficiently literate, which will be decided after an interview with the District Locomotive Superintendent, he will have to appear before the Railway Doctor at the station of employment for medical examination, and if he passes, he will be required to execute an agreement as a bound Apprentice affixing thereto a five rupee stamp.

3. He will be paid a daily wage and will be granted an increase at the close of each year, provided he has given satisfaction, as follows :

First year	..	..	..	..	Rs. 0-14-0 per diem.
Second year	..	..	..	..	Rs. 1-0-0 per diem.
Third year	..	..	..	..	Rs. 1-2-0 per diem.
Fourth year	..	..	..	..	Rs. 1-4-0 per diem.
Fifth year	..	..	..	..	Rs. 1-6-0 per diem.

4. While employed in the Workshops, he will be bound by all the Departmental Rules which may be in force at the time.

5. Apprentices will be allowed 15 days casual leave in one calendar year not exceeding 10 days at a time if they are employed in a shed, but if employed in a shop they will be allowed 16 holidays (fixed) on full pay in a year and all time lost in excess of 23 days will have to be made up before each annual increment is passed. Annual increments may be further deferred for unsatisfactory work or misconduct.

6. Apprentices at the end of their indentures will not be retained in the service unless their work, conduct and time keeping have been satisfactory. Those who are retained will be started as mechanics on Rs. 1-8-0 per day.

J. H. SMELLIE,

Loco. Superintendent.

Mr. Lalchand Navalrai : With reference to part (f), were these persons, who were discharged on account of retrenchment and re-employed given the old scale ?

The Honourable Sir Andrew Clow : I was not aware that they were taken in, but I am prepared to take it from the Honourable Member.

RAILWAY SERVANTS' RIGHT OF CROSS-EXAMINATION OF WITNESSES IN DEPARTMENTAL ENQUIRIES.

177. ***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether a provision exists in the Rules Regulating Discipline and Rights of Appeal of non-gazetted railway servants, issued under the Government of India (Railway Department) letter No. E-34/R.G.6, dated 22nd January, 1935, for cross-examination of the witnesses appearing against an employee, during the course of a departmental enquiry ; if not, why not ;
- (b) whether Government propose to refer to rule 34 of the Railway Services (Classification, Control and Appeal) Rules framed by the Secretary of State for India, and state why a similar provision has not been made for the non-gazetted railway servants by the Government of India ;
- (c) whether Government propose to revise the rules to concede to an accused railway servant the right of cross-examination of witnesses in a departmental enquiry ; and

- (d) if not, how Government propose to ensure justice to the employees, in case the evidence against them cannot be tested by cross-examination ?

The Honourable Sir Andrew Clow : (a) There is no specific provision to this effect, but Rule 7 of the Rules referred to requires all reasonable facilities to be given for the conduct of a railway servant's defence.

(b) The rules for non-gazetted railway servants were not modelled on the Railway Services (Classification, Control and Appeal) Rules, but on the rules previously in force.

(c) The suggestion will be examined.

(d) Does not arise.

PROMOTION OF LOCOMOTIVE STAFF ON THE NORTH WESTERN RAILWAY.

178. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

(a) whether Grade III Locomotive staff, who are mostly Indians are given Locomotive Foreman's and Locomotive Inspector's posts on the North Western Railway ; if not, why not ; and

(b) whether it is a fact that promotion to Locomotive Foreman's post was made last year but the Indian incumbent was reverted although his successor passed T-13 course (Locomotive Foreman's course) after him ?

The Honourable Sir Andrew Clow : (a) They are eligible for promotion to the posts referred to, provided they have passed Course T-13 in the Walton Training School ; the other criteria being suitability and seniority.

(b) Yes, the reversion was due to his being junior to the driver who took his place. The date of passing a course does not affect seniority which is based on the date of confirmation.

Mr. Lalchand Navalrai : Is there any rule that no discrimination is to be made between Indians and non-Indians if they are equally efficient ?

The Honourable Sir Andrew Clow : It is the practice of Government ; I am not aware of any particular rule.

INDIANS HOLDING LOCOMOTIVE FOREMAN'S AND INSPECTOR'S POSTS ON THE NORTH WESTERN RAILWAY.

†179. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

(a) the number of Indians who are holding Locomotive Foreman's and Locomotive Inspector's posts on the North Western Railway ;

†Answer to this question laid on the table, the questioner having exhausted his quota.

(b) whether it is a fact that in 1937-38, promises for due consideration of the cases of Indians were made ; if so, why they are being deprived of these posts ; and

(c) whether it is a fact that 33 vacancies of Grade III Running staff (firemen and shunters) were held in abeyance on the North Western Railway (for promotions to shunters and drivers) but some vacancies in Grade IV were given to Anglo-Indians, although they were already in excess of their quota ?

The Honourable Sir Andrew Clow : (a) Locomotive Foreman—one, Locomotive Inspectors—three.

(b) I am not aware of the promise to which the Honourable Member refers, but in accordance with the undertaking given by Sir Thomas Stewart in his reply to Mr. N. M. Joshi's unstarred question No. 80 on the 18th March, 1938, the General Manager, North Western Railway was asked to examine allegations of discrimination and to take whatever steps were necessary to give effect to the policy of Government. As regards the latter part of the question, the particulars I have given in reply to part (a) do not indicate that there has been any deprivation.

(c) 33 vacancies in grade III held in abeyance in 1934 have been recently restored. Vacancies in drivers grade IV were filled automatically by the promotion of Shunters grade IV.

PROMOTION OF LOCOMOTIVE RUNNING STAFF ON THE NORTH WESTERN RAILWAY.

†180. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

(a) whether in certain Divisions, viz., Karachi and Lahore, European drivers are making 70 to 80 days overtime per month ; if so, why more drivers are not put to work to bring the overtime to 30 days per month ; whether this does not tell upon the efficiency of the job ;

(b) whether it is a fact that Grade III Locomotive Running Staff belonging to the educated class are working as firemen for the last 15 to 16 years but have been debarred from promotion for one reason or other irrespective of vacancies in their grade ; and

(c) whether it is a fact that numerous appeals, memorials and representations have been put in by the Locomotive Running Staff, Grade III, for promotion ; if so, what action has been taken on them ?

The Honourable Sir Andrew Clow : (a) Information is being called for and will be laid on the table of the House in due course.

(b) and (c). I have no particulars of the length of service of men in this grade, but understand that an examination of the position, consequent on the representations received by the Administration, resulted in the restoration of the 33 posts to which reference is made in the reply I have just given to part (c) of the Honourable Member's last question.

†Answer to this question laid on the table, the questioner having exhausted his quota.

ALLEGATIONS AGAINST THE CHIEF CLERK IN THE EASTERN BENGAL RAILWAY OFFICE AT CALCUTTA.

181. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that the chief clerk at Calcutta has been stationed in that office by the Eastern Bengal Railway for about fifteen years ;
- (b) whether it is a fact that the officers who normally issue orders without any enquiry from the employees are guided by the remarks of the said chief clerk made in the personal files of the employees ;
- (c) whether Government are aware that some original chits written by the said chief clerk with a view to use his undue influence were sent to the General Manager, by the questioner ;
- (d) if the reply to part (c) above be in the affirmative, what is the result of enquiry and who conducted the enquiry ;
- (e) whether it is a fact that the General Manager of the Eastern Bengal Railway received a representation from some Muslim members of the Local Advisory Committee to the effect that Muslim employees do not feel security of service under the present chief clerk at Calcutta ; and
- (f) if the reply to part (e) above be in the affirmative, what steps Government have taken or propose to take to satisfy the Muslim employees ?

The Honourable Sir Andrew Clow : (a) I have no particulars of the length of service of this clerk.

- (b) I am not aware of officers issuing orders without inquiry.
- (c) No.
- (d) Does not arise.
- (e) I had not heard of this representation.
- (f) Does not arise.

Mr. Muhammad Nauman : May I point out that on my giving the particulars mentioned in part (c) of the question, the Agent of the Railway wrote to me under D. O.-9-Confidential, dated 3rd November, 1938, that he was glad to have them and would have a very thorough inquiry made into the matter ?

The Honourable Sir Andrew Clow : I did not cast any doubts on the Honourable Member's words, and I am indebted to him for the information. All that I said was that I was not aware of what he had put down in his question.

Mr. Muhammad Nauman : Will the Honourable Member make inquiries and find out what has been done in the case ?

The Honourable Sir Andrew Clow : The Honourable Member appears to be already in possession of the facts.

Mr. Muhammad Nauman : I do not know what action has been taken. I only had a promise from the Agent that he would make an inquiry.

The Honourable Sir Andrew Clow : Then I take it he will do so. I did not give any such promise.

GRADES OF ASSISTANT STATION MASTERS ON THE EAST INDIAN RAILWAY.

182. *Mr. H. M. Abdullah (on behalf of Mr. Muhammad Azhar Ali) : Will the Honourable Member for Railways please state :

- (a) the grades of Assistant Station Masters in the East Indian Railway ;
- (b) whether the East Indian Railway has provided all the Assistant Station Master's grades in the Lucknow Division ; if the reply to the above be in the affirmative, what are the names of the stations in which the III and II grades are ;
- (c) whether Government propose to place on the table of the House a copy of the total strength of Travelling Ticket Examiners, Guards, and Assistant Station Masters in the Lucknow Division together with their percentages in the higher grades in the respective branches ; whether it is a fact that the percentage for each branch is not fixed equally ;
- (d) whether the East Indian Railway is following a discriminatory policy in the matter of representation in the higher grades or whether it has some definite and fixed policy for all the branches alike ; and
- (e) whether Government propose to fix ten per cent. for the Assistant Station Master in each higher grade to remove congestion in the lowest grade ?

The Honourable Sir Andrew Clow : (a) I lay on the table a statement giving the information required.

(b) I have no particulars of the distribution of the posts into grades on any particular division, the latter part does not arise.

(c) The answer to the first part is in the negative. As regards the latter part the allocation into grades is not based on any arbitrary rule but on the requirements of the service, and this does not necessarily give the same percentage of higher posts in each class of appointment.

(d) I have no reason to believe that any consideration other than the interests and requirements of the service influence the Administration's policy.

(e) No. The grading of posts is dependent on the degree of responsibility attaching thereto. The extent to which a modification in the number of higher grade posts may be made, which incidentally will provide for a reasonable flow of promotions, is being examined by the Administration.

Statement showing the grades of Assistant Station Masters on the East Indian Railway.

	1928 scales.	1934 scales.
Grade I ..	Rs. 260—10—280	Rs. 230.
Grade II ..	Rs. 120—10—230	Rs. 200.
Grade III ..	Rs. 100—5—110	Rs. 180.
Grade IV ..	Rs. 70—5—95	Rs. 65—5 2—85.
Grade V ..	Rs. 40—4—68	Rs. 30—3—45 5—60.
Relieving Grade V	Rs. 40—4—68	Rs. 30—3—45 5—60.

EXCLUSION OF MUSLIMS FROM THE EFFICIENCY SECTION OF THE MOGHALPURA WORKSHOPS.

183. *Mr. H. M. Abdullah : With reference to his reply to part (c) of my starred question No. 1653, replied on the floor of this House on the 12th April, 1939, will the Honourable Member for Railways please state :

- (a) whether no additional educational, academic, technical or engineering qualifications or workshop apprenticeship condition is necessary for the appointment of chargemen and foremen to the Efficiency Section of the Production Branch of the Locomotive Shops, Moghalpura ;
- (b) what are the educational, academic, technical, engineering qualifications or period of apprenticeship undergone by the present incumbent of the Foreman in charge of this Section ;
- (c) whether it is a fact that all posts of chargemen and foremen in this section are exclusively manned by non-Muslims ; and
- (d) if the reply to part (c) above be in the affirmative, what the reasons are for excluding Muslims from this section when no special qualifications are required for these jobs ?

The Honourable Sir Andrew Clow : (a) Technical and educational qualifications and a period of apprenticeship are desirable, but lack of them may be more than compensated for by natural aptitude and experience in the application of the piece-rate system, job costing and workshop statistics.

(b) He is a matriculate and was specially trained for the post under the Production Engineer.

(c) Yes.

(d) I understand that no suitable Muslims were available when the vacancies occurred.

Mr. Muhammad Nauman : What efforts were made to procure Muslim candidates at that time ?

The Honourable Sir Andrew Clow : I have no particulars.

RETURNS SHOWING THE ANNUAL COMPOSITION OF STAFF RECRUITED ON RAILWAYS.

184. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that periodical returns showing the annual composition of staff recruited direct by the various Railway Administrations are received in the Office of the Railway Board ;
- (b) whether mistakes and irregularities are sometimes detected by the Railway Administration and later even by the Railway Board in the figures contained in these returns ;

- (c) whether it is a fact that the check is in reality incomplete inasmuch as there is no material available with the Railway Administrations or the Railway Board to make sure that the figures showing the number of appointments made are correct ;
- (d) whether returns are prepared mostly by non-Muslim staff who have a hand in making the appointments ; and
- (e) whether Government propose to consider the desirability of issuing necessary orders to ensure that these returns are prepared as far as possible by Muslims and are checked by Muslim Inspectors ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) Mistakes are liable to occur in all statistical compilations, but such checks as are practicable are made to ensure accuracy.

(d) I have no details showing the communal composition of the staff compiling the returns, and have no reason to believe that their accuracy or otherwise is thereby affected.

(e) No.

Mr. Muhammad Nauman : May I request the Honourable Member to consider the desirability of entrusting this working of checking the percentage to Labour Inspectors who have got very little work and who have been recently appointed on the different railways ?

The Honourable Sir Andrew Clow : I am not sure that Labour Inspectors will be suitable, but I am prepared to consider whether the accounts staff can pay some attention to the matter.

FUNCTIONS OF THE ASSISTANT SECRETARY TO THE GENERAL MANAGER, NORTH WESTERN RAILWAY.

185. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) what the functions of the Assistant Secretary to the General Manager, North Western Railway are ;
- (b) whether it is a fact that postings, transfers, confirmations, promotions, etc., of Headquarters staff are controlled by the Assistant Secretary and that he performs all the duties of a Divisional Personnel Officer so far as Headquarters establishment is concerned ; and
- (c) if the reply to part (b) above be in the affirmative, why this post was not counted amongst Personnel Officers in reply to part (b) of my starred question No. 1698, replied in this House on the 12th April, 1939 ?

The Honourable Sir Andrew Clow : (a) His duties are to assist the Deputy General Manager in all matters relating to the staff and the organisation for the disposal of work generally in the Headquarters office.

(b) Yes, subject to certain limitations and reservations in regard to the exercise of disciplinary powers, etc.

(c) The term " Personnel Officer " on the North Western Railway applies only to officers who are solely employed on establishment work.

OFFICE SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

186. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether the duties and scales of pay of the office superintendents of Divisional, Extra-Divisional and Headquarters offices are the same as those of the Superintendent, Lost Property Office, on the North Western Railway, Lahore, and whether these posts are interchangeable ; and
- (b) if the reply to part (a) above be in the negative, what the reasons are for including the post of Superintendent, Lost Property Office, in the posts of Office Superintendents so far as interpellations in this House are concerned, as was done in reply to part (d) of my starred question No. 1652, replied in this House on the 12th April, 1939 ?

The Honourable Sir Andrew Clow : (a) No.

(b) Part (d) of the Honourable Member's question No. 1652, referred both to Office Superintendents and to Superintendents in the Headquarters Office. The Superintendent, Lost Property Office, is included in the latter category.

HEAD CLERKS IN THE PERSONNEL BRANCHES OF DIVISIONAL OFFICES ON THE NORTH WESTERN RAILWAY.

187. *Mr. H. M. Abdullah : Will the Honourable Member for Communications please state :

- (a) the number of permanent head clerks in the Personnel Branches of the various divisional offices of the North Western Railway on the 30th June, 1938, and 1st July, 1939 ; and
- (b) whether 60 per cent. vacancies in the establishment branches of the North Western Railway are filled by Muslims direct recruited in accordance with the Home Department Resolution of July, 1934 ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Eleven, both on the 30th June, 1938, and on the 1st July, 1939.

(b) No. The communal proportions apply to the railway as a whole.

RECRUITMENT OF MUSLIMS ON THE NORTH WESTERN RAILWAY.

188. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable the Railway Member please state :

- (a) whether instances of non-observance of the orders of the Government of India, Home Department Resolution No. F.IX/17-B/33-Establishment, dated the 4th July, 1934, about recruitment of 60 per cent. Muslims on the North Western Railway, have come to the notice of the Railway Board and the General Manager, North Western Railway, Lahore, through the annual returns, through public bodies and through the press ;

- (b) if the reply to part (a) above be in the affirmative, in how many instances action has been taken in accordance with paragraph 10 of the Supplementary Instructions, Government of India, Home Department, Resolution No. F.IX/17-B/33-Establishment, dated the 4th July, 1934 ;
- (c) if no action has been taken, why not ; and
- (d) if the action has not been taken in a single instance, whether the Government of India propose to see that the orders of Government are carried out ?

The Honourable Sir Andrew Clow : (a) The annual returns indicate a strict observance of the orders to which the Honourable Member refers.

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

Mr. Muhammad Nauman : With reference to part (c), if the Government orders are ignored like this, what is the constitutional position of these orders ? Do Government propose to ask for an explanation from those agents for not having accepted those instructions or suggestions ?

The Honourable Sir Andrew Clow : They have no reason to suppose that they are ignored.

Mr. Muhammad Nauman : The position of the Muslims here is not improving on the whole, and, therefore, it appears that the orders are being ignored in practical working.

The Honourable Sir Andrew Clow : I do not agree that they are not improving on the whole.

MUSLIM PERSONNEL OFFICERS, ETC., ON THE NORTH WESTERN RAILWAY.

189. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable the Railway Member please state :

- (a) whether it is a fact that on the 8 divisions of the North Western Railway
 - (i) there is not a single Muslim Divisional Personnel Officer ;
 - (ii) there are only two Assistant Personnel Officers ;
 - (iii) there is not a single Muslim Office Superintendent ; and
 - (iv) there is only Head Clerk, Personnel ;
- (b) how this position compares with the position existing in 1932 ; and
- (c) what steps, if any, Government propose to take to see that an adequate number of Muslims is appointed to these posts in the Personnel Branches of the various Divisional Offices of the North Western Railway ?

The Honourable Sir Andrew Clow : I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with Mr. H. M. Abdullah's starred question No. 1567, asked on the 5th April, 1939.

Mr. Muhammad Nauman : With reference to part (c) may I propose, in order to expedite the adjustment of communal proportions, that they should appoint a Committee including Sir Henry Gidney, Sir Zia-uddin Ahmad and Bhai Parma Nand to look into this and find out whether the Government orders are being followed ?

The Honourable Sir Andrew Olow : The Honourable Member appears to be moving a Resolution and not asking for information.

INCREASE IN THE PERCENTAGE OF MUSLIMS IN THE LOWER GAZETTED SERVICE AND SENIOR SUBORDINATE SERVICE OF RAILWAYS.

190. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Railways please state :

- (a) what action, if any, has been taken or is proposed to be taken to increase the percentage of Muslims in the Lower Gazetted Service and Senior Subordinates Service as a result of the cut motion of Rs. 100 under the head "Railway Board" adopted by this House unanimously on the 22nd February, 1939 ;
- (b) whether it is a fact that the ways and means to achieve this were discussed at the Annual General Meeting of the All-India Railway Muslim Employees Association and copies of the Resolutions passed in the meeting were forwarded to the Railway Board by the General Secretary of the said Association for necessary action ;
- (c) whether it is a fact that the Railway Board forwarded copies of the Resolutions to the General Managers of State Railways, etc., for information and such action as they may consider necessary ;
- (d) whether it is a fact that the General Managers, particularly of the North Western Railway, have taken no action in the matter ; and
- (e) if the replies to parts (b) to (d) above be in the affirmative, what other means are proposed to be adopted to give the Muslims their due share in the Railway services ?

The Honourable Sir Andrew Olow : (a) I would refer the Honourable Member to Sir Thomas Stewart's speech in reply to the cut motion to which the Honourable Member refers, which indicates the steps taken and the orders in force to ensure adequate representation of Muslims in direct recruitment to Railway services. The Lower Gazetted Service and senior subordinate posts are normally filled by promotion. The orders regarding communal representation apply only to direct recruitment.

- (b) I have seen a copy of the resolutions passed at the meeting.
- (c) Yes.
- (d) I am not aware of what action was taken.
- (e) Does not arise, in view of my reply to part (a).

MUSLIM OFFICE SUPERINTENDENTS AND HEAD CLERKS ON THE NORTH WESTERN RAILWAY.

191. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that the following undertaking was given to the Muslim Members of the Central Legislature, *vide* note referred to in paragraph 1 (ii) of the Railway Board's letter No. 3966-E., dated the 2nd November, 1931 :
 "Undertaking No. 5 :—That the suggestion to place Muslims in the posts of Office Superintendents or Head clerks in the Offices of the Divisional Superintendents will be considered." ;
- (b) whether it is a fact that in connection with the above undertaking the following action was taken by the Railway Board, *vide* their letter No. 917-E.G. :
 "The Agents have been instructed to bear in mind the desire of the Board for the employment of an adequate number of Muslims as Office Superintendents or Head clerks in making appointments to such posts....." ;
- (c) whether it is a fact that at present there is not a single permanent Muslim Office Superintendent or Superintendent out of about 18 such posts on the North Western Railway ;
- (d) whether it is a fact that the position has deteriorated rather than improved since the above undertaking was given ;
- (e) whether it is a fact that the number of Muslim Head clerks also is still far from being adequate ; in any case what are the comparative figures for 1932 and 1939 : and
- (f) whether Government propose to state the number of vacancies in these cadres which have occurred since the undertaking was given and the number of Muslims appointed to these vacancies in deference to the desire of the Railway Board ?

The Honourable Sir Andrew Olow : (a) and (b). Yes.

(c) to (e). I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with Mr. H. M. Abdullah's starred question No. 1567, asked on the 5th April, 1939.

(f) No : I have no information regarding the number of vacancies but am prepared to ascertain what difficulties have stood in the way of the appointment of more Muslims.

Mr. Muhammad Nauman : Is it a fact that there is not one Muslim Office Superintendent on the E. I. R., the E. B. R. or the G. I. P., or any other line as a matter of course. Have Government any information to that effect ?

The Honourable Sir Andrew Olow : I think if the Honourable Member will refer to the statement, to which reference was made in my reply to part (c), he will get the information he desires.

EMPLOYMENT OF INSPECTORS FOR CERTAIN PURPOSES ON RAILWAYS AND CHECK ON IRREGULARITIES IN RECRUITMENT OF MINORITY COMMUNITIES.

192. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Communications please state :

- (a) whether it is a fact that the Government of India have appointed Inspectors to see that the provisions of
 - (i) Pass Rules,
 - (ii) Hours of Employment Regulations, and
 - (iii) Payment of Wages Act.
 are being observed by all concerned ;
- (b) whether it is a fact that as a result of these checks, many irregularities are being detected and action taken as provided for in the rules ;
- (c) whether any Inspector has been appointed to check and bring to notice irregularities committed on the Railways in carrying out the instructions and rules laid down by the Government of India for the recruitment of minority communities ; and
- (d) if not, whether Government propose to see that some machinery is employed to ensure that the rules laid down by the Government of India for the direct recruitment of minority communities are correctly carried out on Railways ?

The Honourable Sir Andrew Clow : (a) Yes, except as regards the Pass Rules.

(b) Irregularities have been noticed, but these are comparatively few.

(c) No.

(d) No. Government have no reason for supposing that there are any substantial inaccuracies in the returns submitted to them.

APPOINTMENT OF ACCOUNTANTS ON THE NORTH WESTERN RAILWAY.

193. *Maulvi Muhammad Abdul Ghani : Will the Honourable Member for Railways please state :

- (a) the number of permanent vacancies of accountants on the North Western Railway that have been filled during the years 1937-38 and 1938-39 ;
- (b) the number of Muslims and non-Muslims separately who were appointed as accountants in these vacancies ; and
- (c) whether it is a fact that all these vacancies have been filled by promotion mostly of non-Muslim staff in service ?

The Honourable Sir Andrew Clow : (a) Three and one, respectively.

(b) Muslims—none, Non-Muslims—four.

(c) Yes.

Mr. Muhammad Nauman : Is it a fact that most of the vacancies are filled by promotion as tactics to eliminate Muslims who might otherwise have met the demand ?

The Honourable Sir Andrew Clow : The answer to the first part is in the affirmative.

Mr. President (The Honourable Sir Abdur Rahim) : The answers to the next three questions of Mr. H. M. Abdullah will be laid on the table as they are in excess of his quota.

FUNCTIONS OF THE ESTABLISHMENT SECTION OF THE MOGHALPURA WORKSHOPS.

†194. *Mr. H. M. Abdullah : With reference to his reply to part (b) of my starred question No. 1653 replied to on the floor of this House on the 12th April, 1939, will the Honourable Member for Railways please state what the functions of the Establishment Section are and whether a section which deals with the payment of piece work and has to report as to whether the workmen are efficient or inefficient, may or may not be considered as an establishment section ?

The Honourable Sir Andrew Clow : The functions of an Establishment Section are to maintain the personal records of the staff, including the regulation of their emoluments and service conditions, the preparation of salary bills and similar cognate matters. As regards the latter part of the question, the Honourable Member will observe from the extract from the North Western Railway Mechanical Workshop Manual I laid on the table, in reply to the question to which he refers, that the functions of the Efficiency Section are materially different from those of an Establishment Section.

RECRUITMENT OF MUSLIMS AS LABOURERS, ETC., ON THE NORTH WESTERN RAILWAY.

†195. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) the number of Muslims and non-Muslims recruited direct by the Sub-Divisional Officers Nos. 4, 5 and 6 at Lahore and Moghalpura in the following categories during the last six months :

- (i) Coolies,
- (ii) Semi-skilled artisans, and
- (iii) Skilled artisans ;

- (b) whether the minimum percentages reserved for the minority communities in the direct recruitment of inferior staff, *vide* the General Manager, North Western Railway, Lahore, letter No. 813-E.281/III, dated the 18th September, 1935, and labourers, apply to each of the above categories separately or as a whole ;

- (c) if the percentages are intended to apply to each category, whether Government propose to ask the General Manager, North Western Railway, Lahore, to issue clear instructions on the point to all subordinate offices ; and

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (d) if not, whether Government propose to issue necessary instructions on the subject to meet the grievance of Muslims that their claims are overlooked in the recruitment of semi-skilled and skilled labourers and that they are recruited mostly as coolies ?

The Honourable Sir Andrew Clow : (a) I have called for the information required in regard to the recruitment by the Sub-Divisional Officers Nos. 4 and 5 and will lay a statement on the table when it is received. There is no officer designated "Sub-Divisional Officer No. 6" either at Lahore or at Moghalpura.

(b) The percentages apply to each category separately.

(c) I understand that necessary instructions have been issued by the Administration.

(d) Does not arise.

WORKING OF THE METER SHOP IN THE POWER HOUSE, MOGHALPURA WORKSHOPS.

†196. ***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- what is the monthly expenditure incurred by the North Western Railway for Meter Shop in the Power House, Moghalpura ;
- what was the monthly output of the Meter Shop for the month of July ;
- what is the average repair charge for each meter ;
- whether it is a fact that the outturn for the month of July is nil ; and
- whether the work of this shop has been job-analysed by the Deputy Agent, Organisation ; if not, whether Government propose to direct the North Western Railway Administration to look into the working of this shop and reduce expenditure in accordance with the actual outturn ?

The Honourable Sir Andrew Clow : (a) Rs. 1,600 approximately.

(b) 106 meters were repaired, calibrated and tested.

(c) Rs. 3-8-0.

(d) and (e). No.

MUSLIMS RECRUITED IN THE ENGINEERING DEPARTMENT OF THE EAST INDIAN RAILWAY.

197. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- the total number of employees in the Engineering Department of the East Indian Railway, in Grade I, (Rs. 525—25—600), Grade II, (Rs. 325—25—500) and Grade III (Rs. 160—20—300) ;

- what is the number of Muslims in each of those grades ; and

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (c) what is the number of total recruitment in this Department on the East Indian Railway between January, 1934 and June, 1939, in Grade III and what is the number of Muslims recruited during this period ?

The Honourable Sir Andrew Clow : (a) Grade I				..	25
Grade II					74
Grade III					72
(b) Grade I					1
Grade II					Nil.
Grade III					4

(c) Grade III is not filled by direct recruitment, but by promotion. The number promoted to this grade during the period specified was 17, of whom two were Muslims.

Mr. Muhammad Nauman : Are all these recruitments made by promotion or directly ?

The Honourable Sir Andrew Clow : I believe it is by promotion entirely.

ABSENCE OF MUSLIM OFFICE SUPERINTENDENTS ON THE EAST INDIAN RAILWAY.

198. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

- whether it is a fact that a list of selected candidates for the post of Office Superintendents has been prepared and kept at the Head Office of the East Indian Railway ;
- whether it is a fact that no name of Muslims is included in that list ; and
- whether it is a fact that there are no Muslim Office Superintendents on the East Indian Railway ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Yes, for such posts in Divisional offices.

(b) Yes.

(c) There is a Muslim Office Superintendent in one of the Divisional Offices.

Mr. Muhammad Nauman : What is the procedure for maintaining these lists of selected candidates ?

The Honourable Sir Andrew Clow : I suppose the object is to give the officer selecting a list from which to choose when a vacancy occurs.

Mr. Muhammad Nauman : Is it done by a Committee or certain officers or by the Divisional Superintendent ?

The Honourable Sir Andrew Clow : I am afraid I do not know how the list is prepared.

SIGNAL AND PERMANENT WAY INSPECTORS ON THE EAST INDIAN RAILWAY.

199. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state :

(a) the total number of Block Signal Inspectors, Permanent Way Inspectors and Signal Inspectors in the East Indian Railway on the 30th June, 1939, and the number of Muslims in each grade with their graded pay ;

(b) who were the officers who sat for selection during the recruitment to the posts mentioned in 1937 and 1938 ; and

(c) whether the Muslim quotas were recruited for these posts ?

The Honourable Sir Andrew Clow : (a) The total number is 102 of whom four are Muslims. The latter are all Permanent Way Inspectors in Grade III which carries a pay of Rs. 165—15—375.

(b) and (c). Government are not aware of any recruitment for these posts in 1937 and 1938. These posts are normally filled by promotion, and communal quotas apply only to direct recruitment.

Mr. Muhammad Nauman : With reference to part (b), is it not possible for the Honourable Member to give the names of any Muslims sitting on the Selection Board ?

The Honourable Sir Andrew Clow : I said that, so far as I am aware, there was no direct recruitment in those years.

Mr. Muhammad Nauman : They were all by promotion ?

The Honourable Sir Andrew Clow : I said the posts were normally filled by promotion.

TRANSFERRED QUESTIONS AND ANSWERS.†

INDIAN TROOPS SENT ABROAD.

161. ***Sardar Sant Singh :** (a) Will the Defence Secretary please state if it is a fact that Indian troops have been moved out of India ? If so, what is their number and the place to which they have been sent ?

(b) Which country will bear the expenses of the transport of the troops and the emoluments they receive during the period they serve outside India ?

†The meeting of the Assembly that was to be held on the 13th September, 1939, having been cancelled, the answers to starred questions for that day were, in pursuance of convention, laid on the table of the House today.—E. of D.

(c) Has any extra allowance been sanctioned for such troops during such period ? If so, what ?

Mr. C. M. G. Ogilvie : (a) Yes, to Egypt and Malaya and Aden. It is not in the public interest to reply to the remaining part of the question.

(b) Normal charges are being borne by the Government of India with the exception of the Indian troops in Aden, the whole expenditure on whom is being met by His Majesty's Government. The question of extra costs is still under consideration.

(c) Yes, Field Service Scale of Rations and expatriation allowance.

USE OF FOREIGN MONEY TO CREATE INTERNAL TROUBLE IN INDIA.

162. ***Sardar Sant Singh :** Will the Honourable the Home Member please state :

(a) whether it is a fact that foreign money is being used in India to create internal trouble if and when war breaks out in future ; if so, who are the persons who are being paid and by which Governments ; and

(b) whether Government are prepared to publish the names of such receivers of foreign monies in the public interest ?

The Honourable Mr. J. A. Thorne : (a) and (b). While there is evidence to the effect that certain forms of propaganda in India are being financed from external sources, it is not in the public interest to divulge the nature of that evidence.

STEPS TAKEN UNDER THE REGISTRATION OF FOREIGNERS ACT.

163. ***Sardar Sant Singh :** Will the Honourable the Home Member please state the steps taken under the Foreigners Registration Act together with the following information :

(i) the nationalities of the foreigners who have been registered ;

(ii) the number of foreigners of each nationality so far registered ; and

(iii) foreigners exempted from registration and the reasons for exemption ?

The Honourable Mr. J. A. Thorne : I would refer the Honourable Member to the Registration of Foreigners Rules, 1939, and to the Declarations of Exemptions made under section 6 of the Act on the 21st June and 28th July, 1939, of which copies have been placed on the table of the House.

(i) and (ii). I lay a statement on the table.

(iii) The principal exemptions are of subjects of His Majesty and of Asiatics belonging to States which have a common boundary with India. The main ground for these exemptions is that there are at present no sufficiently strong economic or political reasons for maintaining registers of such persons.

Country.	Provinces.													Total			
	Madras.	Bombay.	Bengal.	C. P.	Punjab.	Bihar.	C. P. & Berar.	Assam.	N. W. F. P.	Orissa.	Sind.	Delhi.	Coorg.		Ajmer-Merwara.	Baluchistan.	Panch Piploda.
Europe.																	
Belgium	71	19	81	Nil	61	68	4	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	304
France	413	45	68	10	5	2	74	2	7	7	4	2	Nil	43	2	Nil	684
Germany	189	641	254	145	64	110	20	1	8	27	28	21	Nil	2	Nil	Nil	1,520
Greece	9	31	33	2	1	Nil	Nil	Nil	Nil	Nil	6	Nil	Nil	Nil	Nil	Nil	82
Holland	84	65	65	24	6	9	21	1	2	2	39	2	Nil	Nil	1	Nil	321
Italy ..	223	127	193	76	44	26	7	20	Nil	Nil	8	15	Nil	1	Nil	Nil	740
Poland	5	38	10	4	3	Nil	1	Nil	Nil	Nil	2	Nil	Nil	Nil	Nil	Nil	63
Portugal	7	20	Nil	Nil	1	Nil	1	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	30
Romania	1	7	11	Nil	5	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	24
Russia	5	42	55	8	10	1	Nil	Nil	47	Nil	5	Nil	Nil	Nil	Nil	Nil	173

Sweden	102	42	28	32	2	8	21	1	Nil	Nil	Nil	Nil	2	Nil	Nil	Nil	238
Spain	20	110	20	2	1	6	Nil	Nil	Nil	Nil	25	Nil	Nil	Nil	Nil	Nil	184
Switzerland	71	129	62	16	16	Nil	16	2	Nil	Nil	1	19	1	Nil	Nil	1	334
Czechoslovakia*	Nil	60	116	5	8	5	Nil	2	1	1	Nil	5	2	Nil	Nil	Nil	204
Hungary	4	46	30	2	13	1	1	1	Nil	Nil	Nil	3	1	Nil	Nil	2	104
Denmark	Nil	Nil	13	4	1	10	1	1	Nil	Nil	4	3	2	Nil	Nil	Nil	39
Yugoslavia	5	4	18	1	Nil	4	1	Nil	1	1	Nil	Nil	Nil	Nil	Nil	Nil	34
Bulgaria	Nil	2	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	2
Other European countries including Luxembourg, Latvia, Esthonia, Lithuania, Finland, Danzig, Norway, etc.	4	8	31	2	2	14	Nil	Nil	Nil	Nil	Nil	1	Nil	Nil	Nil	Nil	62
America	347	442	261	346	90	110	137	53	4	11	79	15	Nil	6	3	Nil	1,903
Asiatic Subjects of--																	
France	3	22	1	Nil	1	1	Nil	Nil	Nil	Nil	Nil	1	Nil	Nil	Nil	Nil	29
Russia	Nil	71	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	4	Nil	Nil	3	Nil	Nil	78
Saudi Arabia	3	162	3	Nil	Nil	Nil	Nil	Nil	Nil	Nil	14	Nil	Nil	1	Nil	Nil	183
Turkey	1	55	15	1	Nil	Nil	Nil	Nil	Nil	Nil	1	Nil	Nil	Nil	Nil	Nil	73
Iraq ..	6	641	243	2	2	Nil	Nil	Nil	Nil	Nil	56	Nil	Nil	Nil	Nil	Nil	950
China	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	2	Nil	Nil	Nil	Nil	Nil	Nil	2
Japan	21	350	275	2	4	1	2	Nil	1	Nil	35	Nil	Nil	Nil	Nil	Nil	691

Country.	Provinces.													Total.			
	Madras.	Bombay.	Bengal.	C. P.	Punjab.	Bihar.	C. P. & Berar.	Assam.	N. W. P.	Orissa.	Sind.	Delhi.	(Coor.		Ajmer-Merwara.	Baluchistan.	Panth Piploda.
Other States	2	136	20	Nil	1	Nil	Nil	Nil	Nil	Nil	3	Nil	Nil	Nil	Nil	Nil	162
Stateless	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	2	Nil	Nil	Nil	Nil	3
African subjects of—																	
Egypt	3	8	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	12
France	Nil	2	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	7	Nil	Nil	9
Italy	Nil	1	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	1
Portugal	Nil	3	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	3
TOTAL	1,600	3,329	1,906	685	341	376	317	84	72	79	316	65	Nil	62	9	Nil	9,241

*The Czechoslovakians seem to have been registered as "Germans" in some Provinces.

PAY OF PEONS IN THE UNITED PROVINCES INCOME-TAX DEPARTMENT.

164. *Mr. Muhammad Azhar Ali : Will the Honourable the Finance Member be pleased to state :

- whether it is a fact that the peons in the Income-tax Department in the United Provinces are paid only Rs. 10-8-0 as pay and one warm coat for uniform once in four years ;
- whether it is a fact that a number of peons in the Income-tax Department have come from the Revenue Department (Collectorate) ;
- whether it is a fact that the rates of pay for peons mentioned in part (a) above were the same as were granted to the peons in the Revenue Department ;
- whether it is a fact that the Revenue Department in the United Provinces have recently given increments to the peons at Re. 0-8-0 in two years up to a maximum of Rs. 14 and Re. 1 to Rs. 2 as city and bill allowances, and have given these increments retrospective effect ; and
- whether Government have considered or propose to consider the advisability of granting increments similar to those of the United Provinces Government to the peons of the Income-tax Department and give them some relief ?

The Honourable Sir Jeremy Raisman : (a) The pay of office peons in the Income-tax Department, United Provinces, is Rs. 10-8-0 and Rs. 12 per mensem and their cold weather liveries are renewable after every third year.

- Yes.
- It is understood that the pay of the peons attached to Deputy Collectors was Rs. 10-8-0 per mensem.
- Yes.
- The matter is under consideration.

INDIAN CLERKS EMPLOYED IN THE ROYAL AIR FORCE UNITS.

165. *Bhai Parma Nand : Will the Defence Secretary be pleased to state :

- the total number of Indian clerks employed in the Royal Air Force Units ;
- the total number of Upper Division clerks employed in the Royal Air Force Units ;
- whether it is a fact that British clerks are designated as Upper Division clerks ; and
- if the reply to part (c) above be in the affirmative, the position the Indian Upper Division clerks retain in the office in comparison with the British clerks ?

Mr. O. M. G. Ogilvie : (a) 116.

(b) Six.

(c) British clerks are not designated Upper Division Clerks but are considered to be the equivalent of Upper Division Clerks.

(d) Does not arise.

THE INDIAN OATHS (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I present the Report of the Select Committee on the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose.

THE INDIAN AIRCRAFT (AMENDMENT) BILL.

The Honourable Sir Andrew Olow (Member for Railways and Communications) : Sir, I move for leave to introduce a Bill further to amend the Indian Aircraft Act, 1934, 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 Indian Aircraft Act, 1934, for certain purposes."

The motion was adopted.

The Honourable Sir Andrew Olow : Sir, I introduce the Bill.

THE PANTH PIPLODA COURTS (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I move for leave to introduce a Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose.

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

"That leave be granted to introduce a Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose."

The motion was adopted.

The Honourable Mr. J. A. Thorne : Sir, I introduce the Bill.

THE DEFENCE OF INDIA BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move :

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, be taken into consideration."

Sir, in the Select Committee several changes were made in the Bill, and most of them were material changes. I am extremely sorry to observe in the minute of dissent appended by Sardar Sant Singh to the Report,—for which, incidentally, I may say, I had to pay extra postage as it was sent to me by post underpaid,—he makes a grievance that most of the amendments sought to be moved by the Nationalist Party and the Muslim League Party were defeated in the Select Committee by the exercise of my casting vote. I do not say that ordinarily there would be any harm in that, but I am afraid that is a misstatement. In the Note appended by the two Honourable Members from the Muslim League Party in the Select Committee, they say :

"We are glad that the Select Committee was able to see its way to accept most of our amendments."

Sardar Sant Singh wrote his note of dissent in a running train, and I am prepared to make allowances for the misstatement in his minute. I shall, Sir, draw the attention of the House to some of the amendments that have been effected in the Bill by the Select Committee and which, from the point of view of Honourable Members, are distinct improvements in the Bill. May I first draw attention to paragraph (iii) of sub-clause (2) of clause 2 where a very material amendment has been made? The paragraph originally ran :

"preventing any attempt to tamper with the loyalty of persons in, or to dissuade persons from entering, the service of His Majesty";

The amendment made is that the dissuasion should be "otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents". That must be recognised to be a very material change in this clause. Then, sub-paragraph (b) of sub-clause (4) originally ran thus : "acquisition, possession and publication of information likely to assist the enemy", and a material change has been made here by the Select Committee. It now runs "acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy". A similar restriction has been introduced in paragraph 5 of the same sub-clause of clause 2 where the spreading of false reports has been restricted to "spreading without lawful authority or excuse", but a more material change in that paragraph is the addition of the explanation which has been taken from section 153-A of the Indian Penal Code to the effect that, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty's subjects does not amount to promoting such feelings within the meaning of this clause."

With regard to paragraph (xxx) of the same sub-clause, a point was raised that this paragraph was too general, and in deference to the wishes of some Members of the Committee, an assurance was given that the rules issued under the paragraph would be restricted in a certain manner and the amended rules have already been gazetted. A similar restriction has been introduced in paragraph (xxxi) of this clause which originally ran "preventing or controlling the use of uniforms, flags and insignia and of anything similar thereto". The amended paragraph now runs as follows :—"preventing or controlling any use, calculated to prejudice the

[Sir Muhammad Zafrullah Khan.]

public safety, the maintenance of public order, the defence of British India or the prosecution of war, of uniforms, flags and insignia and of anything similar thereto". Later on, with regard to the composition of Special Tribunals, there have been material changes. Originally the relevant clause, clause 8 (3) proposed, that at least two members of the Special Tribunal shall be persons who are qualified either under clause (a) of sub-section (2), or under clause (b) (i) of that clause. That has now been split so as to ensure that at least one member shall be a person who is qualified to be a High Court Judge, and another member shall be qualified as laid down in paragraph (b) (1) of sub-clause (2) of clause 8. And the most important concession which even Sardar Sant Singh acknowledges is that, whereas originally clause 13 provided that there shall be no appeal or revision against any sentence passed by a Special Tribunal and that any sentence passed by a Special Tribunal, shall not require the confirmation of any authority, it is now provided that against a sentence of death or transportation for life there shall be an appeal to the High Court within whose jurisdiction the sentence is passed, and, consequently, the provision that a sentence passed by a tribunal shall require no confirmation of any authority has been deleted.

These, Sir, are some of the changes which the Select Committee has made. Another very important change was made with regard to the jurisdiction of the Special Tribunals. Originally clause 9 provided that a Special Tribunal might try any offence or class of offences which the Provincial Government might notify as being triable by a Special Tribunal. Now, that power has been restricted to trying offences under any rule made under section 2 or offences punishable with death, transportation or imprisonment for a term which may extend to seven years.

Sir, I venture to think that the House will find that from the point of view of Honourable Members who were anxious to have the matter referred to a Select Committee, very material improvements have been made in the Bill. I, therefore, hope that Honourable Members will find it possible to implement the assurances conveyed on behalf of the various Parties in the House—that this Bill will be treated as a special measure after it emerges from the Select Committee and that no very considerable time will be spent on passing it in this House. Sir, I move.

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

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, be taken into consideration."

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, as a matter of fact, there is war. That being so, we must have some emergency measures to control the situation. During the last war also we had a similar measure, the Defence of India Act of 1915. In spite of some improvements made by the Select Committee—it would be ungracious for me to say that there were no improvements made by the Select Committee,—there have been some improvements—in spite of those improvements, my grievance is this that there are

a good many provisions still which go beyond the exigencies of the war; the restrictions proposed in the Bill are more drastic than necessary to meet the war situation. I want to prove my contention in this way.

Let us compare this emergency measure with the Defence of India Act passed in 1915. I want to show two things. In the first place, the circumstances under which the Act of 1915 was passed were quite different. There were special circumstances which rendered it necessary to pass such an emergency measure, and those circumstances do not exist now. My second point is that, even apart from the non-existence of those circumstances, the provisions of the present Bill are far more comprehensive, far more drastic, far more severe than the provisions of the Act of 1915.

What are the circumstances which led to the Defence of India Act of 1915? That Act was not the result of the outbreak of war only. That legislation was introduced about nine months after the outbreak of the war. For nine long months that measure was not considered necessary at all in India. Why was the measure introduced? It was because there was organised lawlessness at that time in different parts of India. Those disturbances came into existence after the outbreak of the war. That was the state of things which led the Government to introduce emergency legislation nine months after the outbreak of the war.

The Honourable Sir Muhammad Zafrullah Khan : Does the Honourable the Deputy President think that we should have introduced this legislation in the next Session?

Mr. Akhil Chandra Datta : Is that the only conclusion that the Honourable Member can draw from the statement that I have made?

The Honourable Sir Muhammad Zafrullah Khan : No, that is one. It would not have made much difference because Ordinances are in force.

Mr. Akhil Chandra Datta : If the Honourable the Leader of the House will have some patience during the time I make my point, he will see.

The Honourable Sir Muhammad Zafrullah Khan : I do not think the Honourable the Deputy President will ever succeed in making his point.

Mr. Akhil Chandra Datta : That is a matter of opinion. Even if I succeed in making my point, even then my Honourable friend will never admit it. I am quite sure about this. I shall read only a portion of the speech of the Home Member at the time which he made on the 18th March, 1915, when he introduced the emergency Bill. He said :

"Certain disturbers of the general tranquillity in a few parts of the country have taken advantage of the opportunities which the state of war has created to break the peace."

Then, he said :

"This party, which may be conveniently described as the Ghadar party, saw in the Great European War their best opportunity for attempting to translate their doctrines into action."

But what is very important is this :

"Large numbers of deluded men intoxicated with this poison have been returning to India during the last few months...."

[Mr. Akhil Chandra Datta.]

Nine months after the outbreak of the war, this was said.

Then, he said :

" But some of these, together with their sympathisers already in the country, have been committing or attempting to commit acts of violence, and it is therefore of the greatest importance that this mischief should be most promptly suppressed....."

—he was speaking about the Punjab.

Then, about Bengal, he said :

" Closely akin to this movement is the anarchist movement in Bengal....and at the present time there has, as the Council is aware, been a severe recrudescence. These two movements in the Punjab and Bengal are more closely connected than might be supposed. They may attract different kinds of followers and they may pursue slightly different methods ; but their ultimate aims are the same, and the security of loyal India requires that they should be suppressed."

The Home Member proceeded :

" Thirdly, we come to a class of disorder which has characterised recent disturbances in the Western Punjab."

Then, Sir, after describing at length the state of lawlessness which prevailed in India a few weeks before this legislation was introduced, the Honourable the Home Member says this :

" These, My Lord, are the causes which have led the Government to introduce this legislation. The disturbances have developed rapidly during the last few weeks and power to check them and to stamp out at once this lawless spirit has become a matter of great urgency."

I do not think it will be pleaded by anybody in this House that that state of things exists now in India. There is no internal disturbance, no lawlessness and no anarchist movement now in India to justify this measure.

Then, Sir, it is significant, as I have already submitted, that the Bill was introduced nine months after the outbreak of the war. What is the present position ? The proclamation under section 102 of the Government of India Act was made and published by His Excellency the Governor General on the 3rd September. The Ordinance issued by His Excellency the Governor General is dated the 3rd September. The rules under the Ordinance were published in the Gazette on the 3rd September. War was declared on the 3rd September. The rules are contained in pages 15 to 72 of the Gazette of India. So, it is perfectly clear that it must have taken a lot of time to prepare these things, if at all any human agency was in charge of it. These rules had to be drafted and printed. There is no doubt that all this must have been done before the war. This reminds me of a saying in our part of the country that the life of Rama was written before the birth of Rama. I have told the House the conditions that prevailed in India at the time of the passing of the last Act and the conditions that prevail now are quite different.

My point is that the last Act was not introduced simply because of the war but because of internal conditions which existed then and which do not exist now. Apart from that, my second point is that the present Bill, as reported by the Select Committee, is more drastic than the Act of 1915. The most glaring instance is to be found in sub-clause (2) of clause 2 which gives power to the Central Government to empower any authority or person to make orders providing for all or any of the matters enumerated here. This is really giving a blank cheque to the

Executive. Another important thing is the provision relating to the time when the Act will come into operation. I would refer in this connection to sub-clause (3) of clause 1 of the previous Act. The present provision is that it shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf. In the previous Act the provision was that sections 1 and 2 shall come into operation at once but the Governor General in Council may by notification in the Gazette of India direct that the rest of the provisions shall come into operation in any Province or part thereof on such date as may be specified in the notification. I have already submitted that the provisions of the old Act, other than those in sections 1 and 2, were provisions which had not so much to do with the War as with the recrudescence of lawlessness in Bengal and the Punjab and, therefore, obviously, it was not necessary that those provisions should come into operation in all parts of India at once. On this point, may I again refer to the speech of 1915 :

" The Judges of the Chief Court of the Punjab have themselves authorised the Lieutenant-Governor to say that, in the opinion of the Judges, the ordinary judicial machinery will not be equal to dealing with the heavy cases which the outbreak of lawlessness in parts of that province has entailed. Furthermore, the greatest check upon the spread of crime of this kind is the prompt punishment of the offenders.... The Council will readily recognise that the ordinary machinery of law and order in this country is based upon the average volume of crime ; when crime increases considerably, that machinery is strained ; if the increase is still larger, the machinery may break down. Justice is proverbially slow and the system which has grown up in this country by its nature interposes so large an interval between crime and its punishment that the ordinary procedure is quite unequal to the suppression of violent crime whenever crime threatens to become of an epidemic character."

All these things have nothing to do with the War but with the outbreak of lawlessness in Punjab and Bengal. Therefore, you will find that the rules framed under the old Act in almost every case began with these words—wherever the Governor General in Council by any direct or special notification thinks it necessary that any particular rule shall come into operation and so on.

Another departure from the old Act is to be found in the provision

12 Noon. to which reference has been made by the Honourable the Leader of the House, that is part (b) of sub-clause (iv) of sub-clause (2) of clause 2—" acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy". The words " without lawful authority or excuse " have been added by the Select Committee. My submission is that even with the addition of these words, this is a dangerous innovation. Before I proceed further, may I point out what the provision in the old Act was ? That was the very first rule under clause 2 (1) :

" preventing persons from possessing or obtaining information which may be used for that purpose....."

Not mere possession of information, but obtaining information. Here also the word " obtaining " is there though the word actually used is " acquisition ", and to that has been added the word " possession ", the possession of any information.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is dealing too minutely with the clauses.

Mr. Akhil Chandra Datta : Sir, my contention is that the provisions are more drastic in this Bill than in the previous Act.

The Honourable Sir Muhammad Zafrullah Khan : Surely it is admitted that this Bill is a considerable improvement upon the Act of 1915 ?

Mr. Akhil Chandra Datta : Yes, from your point of view, i.e., more drastic than that of 1915. It is some improvement on the original Bill, that is true, but even as it is amended by the Select Committee, it is far more reactionary than the corresponding Act of 1915. Well, Sir, I shall not deal with all that at this stage but apart from all this, there is a more fundamental objection, and that is that provision has been made under this Bill for the efficient prosecution of the war, as it appears from clause 2 (1). My submission is this that in fact all these provisions for the efficient prosecution of the war are really outside the scope of this Bill which is a Bill for the defence of British India. It was suggested in another place when I raised this point that the defence of India involves the efficient prosecution of the war. That, Sir, is a fallacious contention. If it really is so, then why have it in addition ? There are five distinct subjects mentioned under which these rules are to be enacted. Of them the very first one is the defence of British India. No. 2 is "public safety". No. 3 is "maintenance of public order". No. 4 is "the efficient prosecution of the war". No. 5 is "maintaining supplies and services essential to the life of the community".

Now, if it is suggested that the defence of India involves the efficient prosecution of the war, why then there is here the expression "the efficient prosecution of the war" in addition to "the defence of British India", and separated by two other objects ? Sir, I shall deal with all this also later on. I shall draw the attention of the House to this fundamental departure from the Act of 1915. There was no such provision in the Act of 1915. Therefore, Sir, I have a misgiving that some of these provisions may be enforced drastically,—it may be quite unwittingly, it may be not deliberately, it may be in their over-anxiety to maintain peace and order in this country, but all the same I do apprehend that under the cloak of a war measure some of these provisions are calculated to make a serious invasion upon the private rights of citizens which may be abused by the irresponsible bureaucracy to put down our constitutional activities in prosecution of the freedom movement and the movement for the rehabilitation of the economic structure of our country. I shall conclude with this observation, Sir, that no doubt measures which are really *bona fide* war measures must be taken ; we have no quarrel with that, but it is equally important that care must be taken that they do not go beyond the necessities of the situation.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh : Muhammadan Rural) : Mr. President, we have to realize that this legislation is intended to provide for special measures to ensure public safety and the defence of British India. Sir, I have read very carefully the four Notes of Dissent and I will deal with those Notes of Dissent first. But before I proceed to deal with those four Notes of Dissent, I want to give a short answer to my Honourable friend, the Deputy President, who, I find, is not in his seat here.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not carry on conversations like that.

Sir Abdul Halim Ghuznavi : Sir, the Deputy President stressed one point, namely, why have you brought forward this measure immediately—why did you not wait for nine months, as you did in 1915 ? Nine months had passed, said he, and it was only after that that this emergency legislation was brought forward ? Why is it that you bring in this legislation immediately the war is started ?

Mr. Akhil Chandra Datta : You have not understood a word of mine.

Sir Abdul Halim Ghuznavi : You did not make your point clear, how can I understand your point ?

Mr. Akhil Chandra Datta : I have not made my point clear to you only.

Sir Abdul Halim Ghuznavi : Sir, in 1914, Great Britain did not know that the war was coming. They were not prepared.

Mr. N. M. Joshi (Nominated Non-Official) : How do you know that ?

Sir Abdul Halim Ghuznavi : I know because I suffered most on that historic day, the 4th of August, 1914. When the war was declared, I know what it cost me. They were not prepared, they never knew.

An Honourable Member : What was your grievance ?

Sir Abdul Halim Ghuznavi : You will hear me in the lobby.

Sir, a certain Duke was murdered, and then the great Emperor of Germany started that war.....

Mr. President (The Honourable Sir Abdur Rahim) : The House does not want the history of that war.

Sir Abdul Halim Ghuznavi : Sir, I have to mention that war because of the nine months which the Deputy President has been stressing from the very beginning.....

Mr. President (The Honourable Sir Abdur Rahim) : It is not necessary to go into that.

Sir Abdul Halim Ghuznavi : Sir, as soon as the war broke out, we were not in a position to realise the requirements of the situation, and it took the authorities a little time to do that. Mr. Deputy President said that the condition of 1914 is not the condition of 1939. My answer is that the present condition is worse than what it was in 1914.

Mr. N. M. Joshi : No.

Sir Abdul Halim Ghuznavi : You will hear it now. That Hitler of Germany.....

Mr. N. M. Joshi : He has not come to India.

Sir Abdul Halim Ghuznavi : He wants also to come here, and I want you to go there.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had better address the Chair.

Sir Abdul Halim Ghuznavi : So, I have disposed of his one objection about nine months. His next objection was that the measure is more drastic than what it was in 1914. It is more drastic because this war has created a tremendously more difficult position.

Mr. N. M. Joshi : Where is the war ?

Sir Abdul Halim Ghumnavi : You will see it if you take off your glasses. We do require drastic measures to meet the contingency.

I will now deal with the minutes of dissent. My Honourable friend, Mr. Joshi, as usual, will never be serious. On principle, he opposes the Bill. He said the same thing when the Bill was introduced and he has written the same thing in his note of dissent. But the House agreed with the principle of the Bill when it committed the Bill to the Select Committee. Therefore, that opposition does not hold good any longer.

Mr. N. M. Joshi : Join the Muslim League now.

Sir Abdul Halim Ghumnavi : There is no question of joining the Muslim League now. Surely one can share their view on a particular occasion without joining the League.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Do you agree with the first part of the minute of dissent also ?

Sir Abdul Halim Ghumnavi : I agree with that part where they say :

"We regret we could not get the following amendments accepted : (1) The deletion of the provision in sub-clause (2) of clause 2 of the Bill to empower any 'person' with authority to legislate."

This is a serious matter.

Sir Muhammad Yamin Khan : Where is that in the Bill ?

Sir Abdul Halim Ghumnavi : You are empowering any person to legislate. That is a very serious matter, and I hope the Government will consider that point.

Their second amendment was :

"The deletion of the provision in sub-clause (2) of clause 10 that 'it shall not be necessary to take down the evidence at length in writing'."

You have given the power of appeal and yet you will not allow the evidence to be recorded in the first instance. What is the use of that appeal ? How will the accused person be able to defend himself before an appellate court when the evidence as adduced in the case is not in writing.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member had better read the original clause and he will know what the provision is.

Sir Abdul Halim Ghumnavi : This is what sub-clause (2) of clause 10 says :

"In trials before a Special Tribunal it shall not be necessary to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal, and shall form part of the record."

That is exactly what I object to. Of what use is the substance recorded according to the discretion of the Judge ? That does not help the accused person. The Appellate Court must have before it the evidence in full with a view to understand the significance or the bearing

of it. Therefore, I do hope that the Government will accept the suggestion that has been made in the note of dissent of my Honourable friend, Syed Ghulam Bhik Nairang and Mr. Essak Sait.

Then, there are two other notes of dissent, one by my Honourable friend, Sardar Sant Singh, and the other by my Honourable friend, Mr. A. C. Datta. Mr. Datta's objection is that the 18th March, 1915, was the first day when that legislation was introduced. Why have you introduced this legislation now immediately after the war ? His next objection is that it is too drastic. I have already dealt with them. Then, of course, he says that the provisions which are unduly severe under the cloak of a war measure are calculated to make serious inroads upon the primary rights of citizens. I wish he had seen the provision that has been made by the Nazi Government and then he would have realised that this legislation is nothing at all in comparison with the provisions of the Nazi Government made for the Nazi people there. There, the provision is to shoot you down straightaway : nothing short of that. That is the Nazi rule and not the trial and appeal and all those sorts of things. They believe in direct action and thus end the whole thing. That is the rule. So, in comparison with that rule, this Bill is not at all drastic. Sardar Sant Singh has sung the same song and he has also said in his note of dissent that the Bill is drastic and premature. In his opinion also nine months ought to have elapsed and the conditions of 1939 are not the same as those of 1914. But for these four notes, Members are all agreed.....

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Who says that ?

Sir Abdul Halim Ghumnavi : The report of the Select Committee says that.

Sir, every Member of the House should realise that we are passing through very serious and critical times. There is no question of haggling, no question of raising technical objections such as this law will not fit in or that law won't apply. It must be remembered this is a war measure. We know it is a drastic measure, but we cannot help it. One has of course to realise the seriousness of the position and one must understand that at a time when there is a war of the present dimensions, we shall have to submit to many things which we would not otherwise have done. Otherwise we cannot go on prosecuting successfully the war that is on us.

One thing I would say that India whole-heartedly supports Great Britain in this war. There is not a man, Hindu or Muslim, Congress or non-Congress, but he stands by the British Empire in this great crisis, and the evidence for the same is accumulating day in and day out. Look here what Bengal has done. Bengal stands by the British Empire. Bengal pleads, "give us the right to fight side by side with the British soldiers."

Mr. N. M. Joshi : Will the Bengalis get it ?

Sir Abdul Halim Ghumnavi : They will.

An Honourable Member : They are a non-martial race.

Sir Abdul Halim Ghumnavi : That question does not arise. Who says that Bengalis are a non-martial race ? I challenge and dispute that proposition.

Mr. N. M. Joshi : Ask the Government of India.

Sir Abdul Halim Ghuznavi : The Government of India overlook the fact, as to who defended Bengal and who fought on the side of Clive. Did the Punjabis come and fight on either side? They fought on the five-rivers of the Punjab and defended the gates on the west. Circumstances have made it necessary that the Eastern Frontiers bordering on Bengal and Assam should be more closely guarded and efficiently defended. Who will do it? The people of Bengal and Assam. What do they say today? Give us the right to enlist and you will see hundreds and thousands of Bengalis coming forward to join your regiment. What do we find today? The Bengalis all want to join the army and be trained practically, intensively in all arms of the war.

An Honourable Member : What about Mr. Akhil Chandra Datta?

Sir Abdul Halim Ghuznavi : Even though he does not join the army, his sons will join.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had better address himself to the motion before the House.

Sir Abdul Halim Ghuznavi : We have in Bengal a University Training Corps and the 5th Urban (Bengal) Infantry. The latter is a unit of the Indian Territorial Force. These boys in the Territorial desire to render effective service and are anxious to have the intensive training of a soldier—handling of the machine gun, anti-aircraft machinery, etc., so that they can play the role of an effective defence force just as their brethren in the Auxiliary Forces who are being given all this training.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go into all that. It has nothing to do with the motion before the House.

Sir Abdul Halim Ghuznavi : I will conclude my speech by wholeheartedly supporting this Bill and at the same time I would ask the Government to give Bengal the right to fight effectively side by side with the British soldiers for their King and the land of their birth.

Mr. President (The Honourable Sir Abdur Rahim) : Sir Muhammad Yamin Khan. But before the Honourable Member addresses the House, the Chair wishes to point out that the Muslim League Party have not given the Legislative Assembly Office any seating arrangements for their own Members. It is the parliamentary practice that Members can address the House only from their seats, and if any Party does not allot seats to its Members, it will be very difficult for the Chair to call upon any Member of that Party to address the House. The Chair hopes that the Muslim League Party will lose no further time in giving notice of the seating arrangement for their Members. All other Parties have given such notice.

Sir Muhammad Yamin Khan : Sir, we are faced with a serious situation when we are dealing with this Bill. My Party has given full and unconditional support to this measure. We have already promised that we will not move any other amendments after the amendments which we suggested the other day were fully considered by the Select Committee. We stand by that pledge. We do not want to change the undertaking given by the spokesman of our Party on a former occasion. We only want

now to contribute towards the general discussion and support this Bill in the light of our previous declarations. It is always necessary on such occasions that the Executive should be armed with full powers to deal with emergencies that arise from time to time. We do not think that the Government will use all these powers at once that are embodied in the provisions of this Bill. I do not think they will use all the drastic rules and regulations which they may make under this law, because, I find that at present the situation has not arisen when Government will be obliged to have recourse to that action. But we fear that when the House is not sitting, there might arise the necessity when the Government may be confronted with a serious situation in the country when they may require such drastic powers in order to protect India and to maintain law and order. When a serious situation does actually arise, it may not be possible for a representative House like this to meet and give powers to the Government.

We see that great improvement has been made in the Select Committee and the Bill as it has emerged from the Select Committee is a great improvement, it is a great advance on the original Bill that was introduced in the House. I find that two amendments have been suggested by Honourable Members of my Party. They deal with two different questions. I am sure that my Party will not press the first point, namely, the deletion of the provision in sub-clause (2) of clause 2 of the Bill to empower an authority to legislate. I think this proposed amendment was tabled under some misunderstanding. We find that there is no power to legislate given to any authority. The only power that is given under that rule is to make orders providing for that. So, that power is not given to make legislation but the word 'person' is ambiguous. With regard to the other point I think Government were guilty of culpable neglect in not seeing that law proposed to be made is consistent. Under the original clause 13 the evidence was not required to be taken down. But having accepted an amendment giving the right of appeal in cases of death or transportation for life orders, they should have been consistent and ought to have said that in cases involving these punishments the evidence should be recorded in full. Of course, in cases where the punishment falls short of death or transportation for life it is not necessary to record it because no appeal lies and it will be mere waste of time to record the evidence. But this will be a kind of summary trial. The Honourable the Law Member said that the tribunal will consist of a man who is fit to be a High Court Judge. I see the force of that argument but a judgment has to be written and unless the case is finished in one day and the evidence remembered, any human being is liable to forget what was said ten days before. If the trial is protracted for a month or more it is not fair that the procedure for summary trials should be laid down for these cases where the punishment may be death or transportation and an appeal has been agreed to. It may be that after a month particular judges may differ in their impression of the evidence; who is to decide which of them is right and which is wrong?

The Honourable Sir Muhammad Zafrullah Khan : A memorandum of the substance of the evidence will be made at the time when the witness is deposing.

Sir Muhammad Yamin Khan : That may be so; but the procedure that is being laid down is the procedure for summary trials.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not discuss particular clauses in detail now. He can move amendments when individual clauses are taken up.

Sir Muhammad Yamin Khan : I am not discussing the clauses but my point is that the Judges should not be brought into a conflict if the trial goes on for some time and one Judge remembers the evidence in one way and the other Judge remembers it in another way. This is a loophole left by the Select Committee which should be rectified by this House, and if there is no amendment brought forward by the Members, Government themselves should move an amendment that in cases punishable with death or transportation for life, the evidence should be recorded in full. Sir, I hope the Bill will be speedily gone through and passed into law as quickly as possible.

Mr. N. M. Joshi : Sir, the Honourable the Leader of the House has explained the changes made by the Select Committee in the original Bill. I feel that most of the changes are improvements ; but they are changes of detail and they have not changed the principles of the Bill. Therefore, my objection to this Bill remains. In my speech when the Bill was sent to the Select Committee, I pointed out that there was need for some kind of special legislation after the declaration of war, such as legislation for controlling prices and some other provisions. I would go further and state that if the provisions of this Bill had been restricted only to matters of defence I would not have objected to this Bill. But the Bill, original and as amended by the Select Committee, goes beyond matters of defence. It provides for ordinary safety, maintenance of order : it provides for controlling of meetings and processions ; it provides for control over the press ; and I feel that these restrictions placed upon the citizens of this country, at a time when the country is peaceful, are unjustified. I fear that these restrictions will be used against the citizens of this country in such a way that their ordinary avocations of life will be circumscribed.

It is admitted on all hands that the powers given by this Bill are extremely wide, and they are given at a time when their need is not obvious. These powers will be conferred upon officers of the Government of India and of the Provincial Governments and, as a matter of fact, on any person on whom the Government of India choose to confer these powers. Generally speaking, it is the experience of us all that when powers are conferred upon officers, when they are not needed, whether there is occasion for the use of those powers or not, the powers are used. There is a temptation to those people on whom these powers are conferred to use those powers even when their use is not justified. It is like the vernacular saying about the unemployed barber. The barber is accustomed to use his skill every day ; and when he is not employed he feels tempted to use it on somebody. If he uses his skill on some inanimate object, his action may not be mischievous ; but if you confer powers on officers of the Central and Provincial Governments and on anybody whom the Government of India choose, and if there are no proper occasions for the use of these powers, then I am sure they will feel tempted to use these powers on innocent even when there is no need.

In my speech on the last occasion, I have stated that the working classes of this country will be the first to suffer from the provisions of this legislation.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : They were the first to benefit at least by control of prices !

Mr. N. M. Joshi : I would like the Honourable Member for Labour to listen to what I am going to say.

I have stated that on account of this war the prices will go up—the cost of living will go up. Wages will not rise in proportion to the cost of living. There will be agitation by the working classes notwithstanding the Ordinance and the Bill which we are considering just now ; and I have no doubt in my mind that the officers of the Government of India and of the Provincial Governments and all those on whom these powers will be conferred may utilise those powers to prevent the working classes getting their due. Last time I made a prophecy. I said that the first use of the Ordinance will be against the working classes of Digboi ; and my prophecy has come true. I do not know if it was actually the first or second use but as soon as the Ordinance was proclaimed it was used at Digboi. At the time I spoke I did not know exactly what was happening there. But the next day I got a letter from Digboi from which I shall read one or two sentences. This is from the Secretary of the Labour Union at Digboi :

“ This is to advise that emergency Ordinance and also section 144 of the Criminal Procedure Code have been promulgated here and at Tinsukia this morning by the special magistrate of Digboi. The strikers are now prohibited from holding meetings, wearing any uniforms and gathering together on the roads in batches of five : they have also been debarred from picketing, moral persuasion, etc., etc.”

The prophecy which I had made was based upon my experience of the Government of India and the Provincial Governments and their officers. I also prophesied that day that the next turn would come to Cawnpore and after that Bombay. I am sorry that my prophecy has gone wrong a little bit—instead of Cawnpore coming second, Bombay has come second.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : May I ask the Honourable Member whether he has received information from the Secretary of the Digboi Labour Union that the Labour Union passed resolutions whole-heartedly supporting the Government in its endeavour to prosecute the war ?

Mr. N. M. Joshi : My surprise is that in spite of that resolution the Ordinance is promulgated against them. That shows how dangerous it is to give powers to a Government which has not got the ordinary decency not to use these powers against people who go out of their way to show their loyalty to the Government. I stated that Bombay would come third, but it has come second.

Yesterday, I received a letter from Bombay from one of my colleagues who is working among the seamen of Bombay. This is what he writes :

“ I hope you are aware of the demands made by the Bombay seamen in connection with their signing on during war time. The demands are not met and ships are being held up in port. There were persistent rumours throughout the last week that drastic steps would be taken against the Seamen's Union in general and against one of our workers in particular. They have now subsided, but after all one does not know. Some say that the Government are waiting for the publication of the official policy of the Congress on this issue.”

[Mr. N. M. Joshi.]

If the Congress orders the Bombay Government to abdicate, then there is no necessity for taking action on their part :

" Our ordinary trade union activities are being associated with a camouflaged anti-war propaganda and it is said that Government also would take the same view if the Union goes on at this rate."

You know, Sir, that if seamen go on ships at this time, they are taking grave risks. Not only has the cost of living gone up, but on account of the war, if they go on ships they take grave risks. It is quite natural that they should ask for better conditions of work and service at this time. Instead of understanding the need of the working classes, the employers who know all the tricks of the trade say that all the agitation that is carried on by the Union is anti-war propaganda so that the Government of India should take notice of this. Sir, at present among the seamen in Bombay there is great excitement, and it is feared that the Government of Bombay would take action against those who are helping the seamen of Bombay. Sir, in the first place those people who work among the working classes, ordinarily, always take risks. It is easy for the employers or the officers of Government to call people communists and try to hang them. They do so, and they are doing so in this instance also ; but in this particular case of the seamen, there is a special difficulty.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go into details.

Mr. N. M. Joshi : I shall not deal with it very long.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the motion before the House.

Mr. N. M. Joshi : My point of criticism is this, that this Bill will be abused and misused, and I am giving an instance.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has mentioned that instance, but he cannot discuss it in detail.

Mr. N. M. Joshi : All right, Sir ; I shall not deal with this matter further, but I would like the Government of India to consider this matter very seriously. On account of this war, I am sure, whatever be the result,—whether the British win,—I hope they will win,—or the Germans win, there are some classes of people who will gain. The other day my friend, the Leader of the European Group, said that some people who are self-seeking try to exploit the poorer classes and make profits ; but I have no doubt in my mind that during the present war, as it was in the previous war, there are some classes of people who will profiteer more than any others. Whatever may be the result, the people whom my friend, the Leader of the European Group, represents will not be poorer but will be richer at the end of the war. It is a prophecy which will come true, and I make it based upon past experience. Mr. President, the working classes. I have no doubt in my mind, will suffer on account of this war, but there are classes, even of Government officers, who have begun to make some profit on account of the war. New departments are being created,

and people who were getting a thousand rupees are given jobs on Rs. 1,500, people who were getting Rs. 4,000 are now provided with jobs on Rs. 5,000.....

Mr. President (The Honourable Sir Abdur Rahim) : What has that got to do with the motion before the House ?

Mr. N. M. Joshi : This Bill is intended to check profiteering.

Mr. President (The Honourable Sir Abdur Rahim) : Does that include the salaries of officials ?

Mr. N. M. Joshi : My point is that although Government may try to check profiteering, there are some classes of people who will profiteer, who will make money out of this war.....

The Honourable Sir Muhammad Zafrullah Khan : That is an argument for making the provision more drastic.

Mr. N. M. Joshi : The only classes of people who are likely to suffer are the working classes.....

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : What percentage of increase did the working classes get during the last war ?

Mr. N. M. Joshi : I would suggest to the Government of India to keep a close watch, and I would suggest to the Honourable Member in charge of the Department of Labour that he should keep a close watch and try his best to help the working classes in their efforts to prevent exploitation. The working classes of this country have not got sufficient protection. They themselves are not educated ; want of education prevents their organizing themselves. If there are people who try to help them, they are being libelled and difficulties are placed in their way. I would, therefore, like the Government of India to consider that it is their duty to protect these classes. Efforts will be made by some people who are interested in exploiting them, to call them names, to make an appeal to the Government saying that the agitation of the working classes is anti-war agitation. But I would like the Government of India to consider this, that on account of the cost of living going up and the wages not going up proportionately, it is the natural human right of the working classes to fight and see that they will not lose.

Mr. President, I do not wish to deal with the other aspects of the Bill, but before I close, I must say that I have a great fear that this Bill, instead of doing any good to the people of this country, will do a great deal of harm. It provides a weapon to the officers of Government to use their powers when they are not needed, and they may misuse or abuse these powers. That itself will create discontent in the country. I also fear that if the officers of Government, provincial or Central, begin to make use of these powers in an unjustifiable manner, the poor people in this country will be terrorised. I hope, Sir, it is not the intention of the Government of India to produce that result. Mr. President, I am afraid I cannot support this Bill.

Mr. F. E. James (Madras : European) : The two main arguments used by my Honourable friend, the Deputy President of the House, appear to me to be based upon a complete fallacy. His first argument was that there was no urgent need for

[Mr. F. E. James.]

this measure and he supported it by the fact that the Defence of India Act of 1915 was only introduced, nine months after the outbreak of the war and for the ostensible reason of dealing with unrest in the country. But he must surely be aware, and I think the period which has elapsed since the last war will make it easier for me to say this, in public—he must be aware that the history of the Government of India during the last war was one of unpreparedness, incompetency and muddle. As my Honourable friend, the Leader of my Party, said in his speech the other day, we are glad that on this occasion the Government of India certainly cannot be accused of being unprepared. There is no particular virtue in the period of nine months. I would rather have preparations made on the day the war is declared than wait for trouble to arise in the country. I would point out to my Honourable friend that he appears to have forgotten the story of Munich a year ago which gave a year's clear indication, not only to this country but practically to the whole world, that every country in the Empire and every country prepared to fight for democratic principles would have to prepare against the inevitable day of war.

Mr. Akhil Chandra Datta : A word of personal explanation, Sir. I never intended to suggest and I never suggested that this legislation ought to have been introduced nine months after. What I want to say, all I did say was this, that all the provisions of that Act were due not merely to the outbreak of the war but the lawlessness which were going on in the country—in the Punjab, in Bengal and so on. That was all my contention. I have never said that it was too early and that it should have been postponed eight or nine months.

Mr. F. E. James : My answer to that is, why wait till lawlessness breaks out ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member's argument was that we should have devised a remedy only after the mischief had arisen.

Mr. F. E. James : There is also one further point which I should like to make and that is this. Conditions have enormously changed since 1914. My Honourable friend, the Deputy President, appears to have been asleep during the last 24 years like Rip Van Winkle and to have suddenly wakened up to the fact that we are now in the midst of another emergency ; he turns suddenly to what happened in the last emergency which happened 24 years ago and says that what we are doing now is different from what was done then and is a mistake. But, if I may say so, that is an argument which cannot hold water. The world has travelled fast since 1914, and the present war is an entirely different war from the last war. It is waged by a totalitarian nation, and, as has been pointed out more than once, when a totalitarian nation goes to war it can only be fought by equally totalitarian methods. There is the further point referred to by my Honourable friend, the Deputy President of the House, and that is as to the exact meaning of the phrase, "defence of India". It appeared to me that he argued that these powers in the Bill were so extensive that they went beyond the necessities of the case so far as the defence of India was concerned. In his Minute attached

to the Report of the Select Committee, he argues this particular point at considerable length. He says :

"If an efficient prosecution of the war is brought within the scope of the Bill, then it becomes in effect a Bill for defence of the British Empire and all the allied countries. It becomes a Bill for the defence of United Kingdom, France, Poland, Canada, Egypt and Iraq and several other countries in the different parts of the globe."

What about the Defence of the Realm Act passed by the House of Commons recently ? Is that not a Bill for the defence of India also ? What about the Defence of the Realm Acts passed in all the Dominions in much less time than this Bill takes to pass through this Assembly ? Are they not equally Bills for the defence not only of their own country but of India ? Let me tell my Honourable friend that in this matter the defence of the Empire, in fact, the defence of the democratic countries is one and indivisible ; it cannot be divided. I would ask him to study more carefully the appreciation of the situation, which is far more real than it is in his case, of eminent persons in this country like Mahatma Gandhi and Dr. Rabindranath Tagore who have seen the point. And in this matter it is not the defence of one particular country that counts, it is the defence of principles that are common to many countries. We are not fighting for Poland ; we are fighting for something bigger than that. Therefore, the defence of India must be interpreted in its widest possible aspect.

Now, I come to my Honourable friend, Mr. Joshi. He dislikes this Bill root and branch ; he opposed its reference to a Select Committee ; he sat on the Select Committee ; now he opposes the consideration of the Bill. But one can respect his views. No one has ever denied that the powers given under this Bill are very wide indeed, and if they were sought to be given either to the Central Government or to the Provincial Governments in times of peace, some of the strongest opponents to that would be on these Benches. But we believe that the emergency which the war has created has justified the handing over of very wide powers to the executive either of the Central Government or of the Provincial Governments. And let me remind the House that a very large proportion of the powers which this Bill gives to the executive is given to the executive under the control of Provincial Governments. Many of the arguments used by my Honourable friend, Mr. Joshi, should have been directed in the first instance to some of the Provincial Governments, and, particularly, the latter part of his argument to the Provincial Government of Bombay. I hope that he will see that his words are understood and appreciated by that Government. Mr Joshi said that the need for this Bill was not obvious. I find it very difficult to argue with anybody who takes that view at this stage. War has broken out and war has created the need and any one who denies that is hiding from himself the actual realities of the situation. Mr. Joshi is living in a fool's paradise.

Now, Sir, he apprehended that the powers conferred by this Bill might be used particularly against the working classes of this country. That was an apprehension based upon absolutely no foundation except speculation.

Mr. N. M. Joshi : Experience.

Mr. F. E. James : Experience of the last war certainly did not show that to be the case. As a matter of fact, in India and the United Kingdom, the working classes during the last war registered an enormous advance both in the level of wages and in conditions of labour.

Mr. N. M. Joshi : Not without fight.

Mr. F. E. James : And if we are to go by experience, then Mr. Joshi's argument is really of no account. He referred, for example, to profiteering in time of war. Of course, there is profiteering ; but he made the unpleasant suggestion that the people who profiteered most were the people who were represented by the Leader of the European Group. I absolutely deny that suggestion. My Honourable friend, the Leader of the European Group, represents a general European constituency. Who have been the first to volunteer for active service in this war ? It is the European community who will suffer most in the way of casualties if the war is continued. It is true that there is profiteering. In every war there is bound to be. It is not confined to one community only. Nor is it limited to one class. The working classes profiteer just as much as the capitalist, and we are quite prepared to see even more stringent provisions put in this Bill, if Mr. Joshi wants to curtail the opportunities for profiteering in this country. My Honourable friend referred to Digboi. I am sorry he referred to Digboi.

Mr. N. M. Joshi : Why ?

Mr. F. E. James : Because if there is one instance of a labour dispute in this country where labour has been thoroughly exploited, it is Digboi. If Mr. Joshi really wants to inquire into the position in Digboi, let him go there and use his undoubted influence in the direction of a satisfactory settlement. This is the one dispute that I have known in recent months which has proved what the Honourable the Labour Minister in Madras recently said—that the greatest enemy of labour is not the capitalist but those who exploit labour for their own personal ends.

Finally, I say that as far as our Party is concerned, we support this Bill. We share the view expressed by the Muhammadan Members in the Select Committee that the greatest amount of care should be exercised on the part of the Central Government and the Provincial Governments in framing the rules and sanctioning action under the very wide powers given to them by the provisions of this Bill. We have already had one assurance from the Honourable the Leader of the House in that regard. We welcome that assurance and we hope that that assurance will be carried into effect not only by the Central Government but also by the Provincial Governments in the months that are to come. With that assurance, we are prepared to give these wide powers in the hope that their wise use will lead to the efficient prosecution of the war and the triumph of the cause in which every one believes.

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.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, the Bill, as it has emerged from the Select Committee, does not appear to me to be satisfactory. The very fact that four notes of dissent have been appended to the report is a proof that the Select Committee report has not given satisfaction to the different Parties in the House. Sir, if we look at the notes of dissent, what do we find ? We find that Mr. N. M. Joshi, the leader of the labouring community, takes a fundamental objection to the principles of the Bill. The two representatives of the Muslim League Party also raise very important objections to this Bill. They say that the greatest amount of care on the part of the Central Government and the Provincial Governments should be taken in framing the rules and sanctioning action under the very wide powers given under this Bill. They also make further suggestions for the deletion of certain clauses. But the two notes of dissent which appear in the names of Sardar Sant Singh and Mr. A. C. Datta go very much further. They enter into details of the Bill and point out the various provisions of the Bill which are likely to cause mischief in the country. Sardar Sant Singh says that the Congress Nationalist Party and the Muslim League Party urged many important amendments but they were not accepted. He adds :

“ The Bill confers powers on the executive, both Central and Provincial, vast powers of legislation, power to supersede the jurisdiction of ordinary civil courts of the land, to create new offences, power to radically change the normal procedure in the trial of such offences, power to set up new Tribunals with powers to pass any sentence authorised by law without the safeguard of appeal or revision or full record of evidence of the witness and power to curtail liberties of people in almost all spheres of human activity.”

Sir, you in your note of dissent say.—I mean my Honourable friend, Mr. Akhil Chandra Datta, in his note of dissent, says :

“ Apart from this fundamental objection, the provisions go very much beyond the exigencies and requirements of the war. The provisions are far more comprehensive, far more repressive and restrictive, far more drastic and severe than those of the corresponding Act of 1915, though the internal condition of India is absolutely peaceful now.” He further observes : “ The Bill proposes to give the Central Government power to empower any authority (civil, military or police) to make orders providing for those identical matters for which the Central Government themselves are empowered to make rules. Not only this, even a single individual, whether a public servant or not, is invested with that dictatorial power.”

In concluding his note of dissent he says that this Bill is :

“ Calculated to make a serious invasion upon the primary rights of citizens and that the powers may be abused by the irresponsible bureaucracy ”.

Sir, this shows that the representatives of the different Parties are not satisfied with the Bill as it has come out of the Select Committee.

Now, what are the reasons for this unsatisfactory character of the report of the Select Committee ? It appears to me, in the first place, that the Select Committee acted in too much of a hurry. Only one day was devoted to the consideration of such an important Bill. I do not know what was the cause of this undue haste. In this connection I may be permitted to point out that the remarks which fell from my Honourable friend, Mr. Akhil Chandra Datta, who is now in the Chair, have been misunderstood and misinterpreted. He said that nine months elapsed after the commencement of the war before the Defence of India Act of

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1915, was passed, and he made certain other remarks with regard to the provisions of that Act. Now, Sir, it has been interpreted,—I am sorry to say ‘misinterpreted’,—that it was his intention to say that we should wait for nine months before taking any legislation in hand. He did not suggest anything of that kind. What he suggested was that there should not be any undue haste in rushing this Bill through the Select Committee and through this House. That was a very justifiable point to take up. Then, another point he emphasized was that the circumstances in which the Act of 1915 was passed were very different from the circumstances which exist at the present moment. His third point was that even then the provisions of the Act of 1915 were not so drastic as the provisions of the present Bill are. Now, these were the three points urged by Mr. Datta, and I think there is full justification for holding these views.

Sir, the second reason for which the Select Committee was unable to produce a satisfactory report was the unbending attitude of the Government.

The Honourable Sir Muhammad Zafrullah Khan : Certainly not.

Dr. P. N. Banerjee : Sir, when I sought to move an amendment the other day to the effect that this Bill be referred to a Select Committee, the Honourable the Leader of the House took exception to it. He said that he would object to that motion. When the proposal came from the Muslim League Group the Honourable the Leader of the House was then also not in a mood to accept the proposal. But, he softened when the proposal was supported by the European Group.

The Honourable Sir Muhammad Zafrullah Khan : I was given an assurance that reference to the Select Committee would save time and that was my main object.

Dr. P. N. Banerjee : But you did not ask for any assurances from the other Parties in the beginning. So, it comes to this that when a proposal emanates from the European Group, the Government are very anxious to accept it ; but when the same proposal emanates from the Congress Nationalist Party or from the Muslim League Party, the Government lend a deaf ear to it.

The Honourable Sir Muhammad Zafrullah Khan : On a point of personal explanation, Sir. I think the Honourable speaker has forgotten what really happened on that morning. He has said that when he sought to move an amendment, I said I would oppose it. Nothing of the kind happened. He never sought to move any amendment at all. In my opening speech I did deprecate the moving of amendments of that kind from any side of the House. The amendment was actually moved by Mr. Abdur Rasheed Chaudhury to begin with. Then, there was another motion moved from the Muslim Group. During the course of the discussion it was made perfectly clear that all Parties in the House desired that there should be a reference to Select Committee and they were unanimous in giving expression to the view that if there was a reference to the Select Committee, every endeavour will be made to save time. That was quite satisfactory to me. I accepted those assurances and agreed to the Bill being referred to the Select Committee. It had absolutely nothing whatever to do with whether the motion for reference to Select Committee was moved by Mr. Abdur Rasheed Chaudhury or whether it was made

on behalf of the Muslim League Party or was supported by the European Group or the Nationalist Group.

Dr. P. N. Banerjee : The Honourable the Leader of the House does not deny that in his opening speech he deprecated the moving of a motion for referring the Bill to the Select Committee. That is an admission and it serves my purpose. That showed his attitude at that moment. I, therefore, say that the attitude of the Government from the very beginning was one of not acceding to the proposals which might emanate from the Opposition.

I do not know what transpired in the Select Committee and I am not expected to know it. But here, I find in the Note of Dissent submitted by one Member of the Select Committee that the Government's attitude was unbending and that when voting took place, the Chairman of the Committee, who is no other person than the Leader of the House, defeated some of the motions by giving his casting vote.

The Honourable Sir Muhammad Zafrullah Khan : Is there anything wrong about that ?

Dr. P. N. Banerjee : I did not say that. The Chairman was perfectly entitled under the law to act as he did. But that showed that the attitude of the Government was unbending.

Mr. F. E. James : No. I can say, as another Member of the Select Committee, that I entirely deny that statement of Sardar Sant Singh.

Dr. P. N. Banerjee : Sardar Sant Singh is not here, and I am sure if he had been here he would have given the proper replies to the remarks which fell from the Honourable the Leader of the House and from my Honourable friend, Mr. James. But whatever might have been the discussions in the Select Committee, is it not right to say that if the Government had adopted a more conciliatory attitude,—a more reasonable attitude,—a larger number of amendments would have been accepted by the Select Committee. They had notices of amendments before them and if they had taken up an attitude of conciliation,—an attitude of sweet reasonableness,—they would have accepted many more of those amendments. I do admit that one great improvement has been made in this Bill, namely, that the amendment to the effect that there should be an appeal against a sentence of death or transportation was accepted by the Government. A few other amendments of a minor character were also accepted. But I do maintain that improvements which have been made in the Bill have not gone far enough. The obnoxious character of the Bill still remains to a very large extent.

This Bill gives very large powers to the executive. Indeed, the provisions of the Bill are of a very drastic character. In this country, even at the present moment, civil liberties are on a very low level, and it is sought to make serious inroad on these civil liberties. This cannot be accepted with equanimity by Members sitting on this side of the House. From our experience we know that when wide powers are vested in the executive and proper safeguards are not provided against an abuse of these powers, it often happens that the executive misuse these powers. In this Bill we find that it is not merely the Provincial Government or the authorities under the Central Government who are entrusted with the exercise of vast powers but that powers may be entrusted under the rules to any persons whether they be in the service of the Government or not. This Bill pro-

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vides for the enactment of rules, and I believe those rules will be on the lines of the rules which have been made under the Ordinance that has already been enacted. If that be so, then you will find that these rules will, in effect, cover all the aspects of the normal life of the people of India. I strongly protest against the desire of the Government to put undue restraint on the activities of the people of this country. Is there any guarantee in this Bill or in the rules that constitutional activities will not be put down in the existing situation of the country? Is there any guarantee that freedom of association, freedom of speech and freedom of the press will not be unduly curtailed under the rules framed under the Act?

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) : It must be.

Dr. P. N. Banerjea : My Honourable friend suggests that whatever little freedom we enjoy at the present moment—I must emphasize once again that the freedom which we enjoy is very little—even this limited freedom is to be curtailed under the provisions of the Act and the Rules to be made thereunder.

Sir Cowasji Jehangir : What is the war fought for? Is it for the freedom of the press or the freedom of the individuals?

Dr. P. N. Banerjea : I should like the Honourable the Baronet from Bombay to enlighten this House as to what he means by the objective of this war. He evidently suggests that this war is to be conducted in the interest of freedom. And what else? What was this war for?

Lieut.-Colonel Sir Henry Gidney : This war was for "Warsaw"! Liberty, equality and fraternity.

Dr. P. N. Banerjea : These are mere catchwords. We heard similar words between the years 1914 and 1918. In those days we heard a good deal about freedom and self-determination. But when the time came for the application of those principles to India, what happened? We had the Jallianwala Bagh massacre, we had the Rowlatt Act.

Mr. Deputy President (Mr. Akhil Chandra Datta) : We need not go into all that.

Dr. P. N. Banerjea : It was not my intention to go into all that, but the interruptions of my Honourable friend the Baronet from Bombay and my Honourable friend Col. Gidney urged me to refer to them.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member should not be so easily upset by these interruptions.

Dr. P. N. Banerjea : I am not at all upset, but what I think it necessary to do is to give a suitable reply to these Honourable Members.

Sir, I strongly urge that the provisions of the Bill should be less rigorous and more restricted in scope, and that safeguards should be provided in the Bill itself and in the rules framed thereunder in order to prevent abuse of powers which are vested in the executive. That is my proposition. I want to make it quite clear that if this is not done and if the powers are misused, there is likely to be a great intensification of the discontent which already exists in the country. From that point of view the Government should do everything in their power to limit the exercise

of the powers vested in the Central as well as the Provincial Governments. I strongly urge that the Indian D. O. R. A. should not be more cruel or more oppressive than her sister in Britain.

Before I conclude, I wish to ask a question of the Honourable the Leader of the House. Is it the wish of the Government that there should be willing co-operation on the part of the people? Or, do the Government want to force co-operation on them?

An Honourable Member : Force co-operation.

Dr. P. N. Banerjea : My Honourable friend belonging to the Muslim League Party suggests that there is to be forced co-operation. Is it the intention of the Government to get co-operation at the point of the bayonet or by force?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : No; by persuasion.

Dr. P. N. Banerjea : If it be the desire of the Government to secure the willing co-operation of the people, they should revise their present policy and their present attitude. But if it be the desire of the Government to force co-operation on the people, I feel bound to say that that way lies disaster.

Lieut.-Colonel Sir Henry Gidney : Sir, I desire to refer to some of the remarks made by the last speaker, Dr. Banerjea. The last speaker made three important statements among many very unimportant ones. One question he asked was : what is the need of this haste? I am sure that if Hitler or the German army had been behind him, he would have finished this Bill in less than one day and even then he would have said the Bill was not put through with enough haste. The next question was : "what was this war fought for?" Of course, he should realise that the "war" was fought for Warsaw.

The next point he talked about was discontent throughout India. Where is this discontent? Does it truly exist in India? Perhaps it exists within Dr. Banerjea's fold of acquaintances or political friends who hail from that part of India—Bengal—about which it was once said "What Bengal thinks today, India does tomorrow". But which would today more truly be said : "What bombs Bengal makes today India is given to fire off tomorrow"; again I ask, where is the discontent he talks of? Why does he introduce into this debate this virus of discontent? It is all moonshine and is to be found in the imagination of Dr. Banerjea. If there is real discontent, the Congress would have said so by now. They have not, and so the Congress is apparently satisfied with this Bill; the Muslim League is satisfied with it. Why does Dr. Banerjea, because he has nothing else to say, indulge in his usual slang against Government and cry discontent? Surely, this is not the time to create this false alarm and give the public and the world this feeling of discontent amongst us. As my Honourable friend, Mr. James, rightly said, this is the time when every community should unite and pull together. We want to show to the rest of the world what India feels towards this arch-miscreant Hitler and his crowd. We want to show to the rest of the world that India is united as it certainly is and is definitely on the side of Britain in the war.

Dr. P. N. Banerjea : I only want to prevent discontent by asking the Government to change the policy which they have pursued hitherto.

Lieut.-Colonel Sir Henry Gidney : I agree, prevention is better than cure, but why imagine a disease ?

Now, I wish to refer to the remarks made by my Honourable friend, Mr. Joshi, who, I am sorry to see, is not in the House. My Honourable friend, Mr. James, referring to Mr. Joshi said that he was living in a "Fool's paradise". I would say that Mr. Joshi is living in a Joshi-Hitler's paradise—a Paradise Lost. We all know and we all appreciate very much the great services which my Honourable friend, Mr. Joshi, has done for labour. At the same time, I may tell the House that I am also a representative of labour. I am a representative of labour of more associations than most people in the House realise. I am a representative of seven or eight labour associations out of which some are entirely Indian. Therefore, I feel I can talk with some authority on the feelings of the labourer to this Bill. I should like to know from my Honourable friend, Mr. Joshi (if he were here), what union with which he is connected has passed a single Resolution decriing and objecting to this Bill. If he had that support, one would listen to him today with some authority. I am yet to know what authority, except his personal views, he has to state before the House that labour would be oppressed and labour unions would be greatly prejudiced if this Bill were passed.

Now, Sir, the House must know that the newspapers are full of meetings of various labour unions. Only yesterday
3 P.M. there was a large meeting held in Calcutta of the Indian Telegraph Association containing many Indian members which passed a vote of full confidence in Government including this Bill. There have been frequent other resolutions passed by other labour unions such as the North Western Railway Labour Union, etc. So I am really surprised, much as I admire Mr. Joshi's representation of labour in this House, that he should come and introduce this element into this Bill. He emphasised two points. One was that if this Bill were passed, it will be ill-used and abused as far as labour is concerned. When this Bill was discussed the other day, he specifically referred to the effect it would have as an antidote to railway strikes. But, I ask, Sir, what sane Government during a war would allow any strike to take place ? I care not who occupy the front Benches, but would they allow a labour strike of any nature to develop when they were in a state of war ? This Bill will certainly have a deterrent effect on discontents, not only of Dr. Banerjee's type, but certainly against labour strikes. On the other hand, I realise that if labourers put forth their grievances in a constitutional manner, Government would not be so foolish as to take exception to it or gag it. But, is a strike on railways, impeding the movements of troops, a constitutional move ? This privilege to strike was at the very bottom of Mr. Joshi's argument the other day, and may I tell him, this Bill has been introduced to stop such strikes. I know very well that this Bill will ultimately affect the freedom in normal times, of the press, of the labourer and the red flag public orator, but it is the bounden duty of Government to stop these when it is at war. But even these can be tactfully stopped and, without creating any hostility and feelings of discontent. But Dr. Banerjee forgets that this control of labour, this demand for orderly Government by the people, will devolve on the Congress Governments in the eight provinces which they control today and not on the Central Government that has promulgated the Bill. It is one thing to order, another thing to carry out.

The Central Government will pass a law which the Provincial Governments will administer, and, I ask in all seriousness, will any Congress Provincial Government accept any Bill that oppresses the labourer or the freedom of the people ? Mr. Joshi stated that the salaries of the labour people are today very inadequate and they are agitating, and quite rightly agitating, against this ruthless cutting down of salaries by Government especially when faced with a rise in prices of food stuffs. I entirely agree with him in denouncing Government on this matter. I call this cutting down of salaries dishonest economy on the part of Government. Most Labour Unions are agitating now against this, and I know this Bill will prevent them from agitating or threatening a strike as has recently been announced by the Federation of Railway Unions, because that will be a non-constitutional movement. But let us take the history of the past war. What happened then ? Was there any agitation about salaries ? There was none, and, yet, the salaries were 50 per cent. lower than they are today. These salaries remained the same till about two years after the war started when they were increased by about 20 per cent. The prices of food-stuffs grew higher and it was not till 1921 or 1922 that the salary of every one in every department was raised from 50 to 120 per cent. These are the rates of salaries that are now being cut down to their pre-war level, although the cost of living today remains about 47.5 per cent. of the 1914 prices. Sir, this fear of labour being oppressed and prejudiced in any constitutional demands and movements and that this Bill will be ill-used against the labourer is more imaginary than real. But apart from all else this control of labour is one of the essential terms of this Bill, because Government must have their lines of communication safe for the movement of troops, etc., and so it must have the power to stop strikes.

The other matter Mr. Joshi talked about and, with great emphasis, was profiteering. In doing so, he turned round and blamed the Leader of the European Group that, as the labour would suffer, so the European community would profit. I have no brief for the European community or those who profit ; but who in this House will deny that all commercial people profit during such times ? They profit honestly or dishonestly, but how does that affect the labourer and labour unions ? Does the labourer go to the European Group or firms for his daily commodities ? He certainly does not. He goes to the *bania* and the small holder ; he goes to the small shops that sell him his foodstuffs, and it is these *banias* who will fatten as they always do by profiteering. But how can this be stopped ? There are two very easy ways and the Bill provides for it. The Government of India will certainly issue a warning to the Provincial Governments advising them to exercise this Bill with moderation and yet with firmness. That is what Dr. Banerjee wanted, and I do not doubt that the Government of India will do it, because they surely could not carry on a war in which India will be implicated, very deeply in time, without the co-operation of all communities. This will be one of the ways in which undue oppression and curtailment of present day privileges will be stopped, and the other is for the Government of India and all Provinces to take immediate and drastic action to stop profiteering in the whole of India. Profiteering, as we are witnessing it today, even in Simla, is a disgrace and a crime. The profiteering that is going on today in the chemicals and medical supplies is a downright disgrace.

[Lieut.-Colonel Sir Henry Gidney.]

What is Government doing to stop this inhuman profiteering on the life and death of the sick people? If Government are prepared to help the people against this oppressive and cruel profiteering and to eradicate any fears from the minds of the labourers, it is in their hands effectively to do so and I submit this must be done at once. We know that certain drugs manufactured in and coming from Germany will not be procurable, and, therefore, they will be sold at higher prices. But with respect to the commodities of ordinary life and other medicines to save life it is in the hands of Government to stop these mal-practices and I am sure Government will take this action. These are the two objections that Mr. Joshi mentioned against this Bill. In any case, I do not believe that in the present India,—and we are living in the year 1939—not in 1914,—there will be any misuse of power permitted. I have this belief because I know that India today is more democratic than it was ever before. There was a time when in our efforts to mix democracy with autocracy in disproportionate quantities, the precipitate was inevitably hypocrisy. In my belief there is no such fear today; because India is more democratic, and nothing, not even this Defence Bill, can stem this wave of democracy.

Dr. P. N. Banerjea : In the Central Government there is hypocrisy still.

Lieut.-Colonel Sir Henry Gidney : May be it is to be found in the narrow limits of a Province called Bengal from which Dr. Banerjea hails. In my own mind I have no fear that any Government servant will misuse these powers given in this Bill, because, after all, who are our Government servants, I mean operating officials, today? In the Railways, of those below ten years of service, nearly 90 per cent. of the officials are Indians. Take the total railway officials today and you find that 76 per cent. of these are Indians. The same applies to almost all services, particularly Provincial services. With this condition, surely the small microscopic number of English officials are not going to misuse these powers. They won't be allowed to do so especially by Congress Governments? So, why anticipate oppressive action on the part of your own people—Indian officials? It is all a canard and has no foundation in fact, except in the imaginations of certain well-known Members of this House. The chief object of this Bill, as I said a little while ago, is to prevent strikes, and to give Government the power to control unconstitutional discontent and action, and if it effectively accomplishes this alone, it deserves the united support of this House. For, no Government can function during a war unless it has power to prevent such disturbances, particularly in the protection of its lines of communications, railways and posts and telegraphs.

Sir, I support the Bill whole-heartedly.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, I rise with a sense of great responsibility to speak on this Bill. My Party has already signified full support to it and have stated the views that we hold on this Bill.

This Bill has been necessitated by the emergency under which we are today and we share the anxiety of the Government : it is time for action rather than for words as the Premier of England said the other

day. I shall not take much time in dealing with the points in detail. War has overtaken the world, or at least a major part of it and a feeling of insecurity has been created in the minds of people everywhere, even in those places where shells and bombs have not begun to destroy humanity. Some friends have argued that this Bill is too early because India is not in any state of emergency as yet. But when totalitarianism and brute force are having their sway there is no knowing which country can be considered safe : and, as such, when the British Government have decided to enter the war, we are at war with Germany, and when all the Dominions are legislating on practically the same lines as has been proposed here, I think we have to keep pace with the Dominions and do what they are doing. The Honourable the Leader of the House has made it absolutely clear that the powers given under this Bill are wide and extensive—he has made no secret of it. Defence measures are necessarily such as cannot be tolerated at other times. But as we are placed the time is of emergency and the situation demands it. There may be differences of opinion but the majority of the people think the situation warrants this legislation and the Government have to be armed with these exceptional and extensive powers. It is a painful thing to have to resort to such measures, but I am glad that the Bill as reported by the Select Committee is better than the original one. I am not suggesting that the amended Bill as it has emerged from the Select Committee is something ideal and that no more improvements could be made ; but looking to the time that we devoted to it, we have done the best we could and every Member was sincere in giving co-operation and doing his best to make the Bill as good as it was possible under circumstances.

Dr. Banerjea who spoke just before me has remarked that Government did not adopt a conciliatory attitude and did not show their willingness to refer the Bill to a Select Committee when he or other Members of the Opposition suggested it. We ought to be a little more generous towards the Government and we should remember that if the Government, as constituted it is at present, did not desire it, the Opposition could not have compelled them to refer the Bill to a Select Committee. The Government certainly showed all possible anxiety to have our willing co-operation and not forced co-operation as somebody suggested during the debate. If at all we have to blame any one in this connection it is our own representatives : the Congress Group who knew the present emergency and have absented themselves purposely, with motives which they hardly can explain or justify to their constituencies or the country. Their absence is certainly deplorable and they have chosen to shirk their responsibility at a moment which is most important in the history of Assembly. I do not desire to say anything more but I hope they will realise that their absence has been responsible for no further improvements as they might have made some suggestions to improve the present Bill still better. I am certainly glad that the Government have not taken this opportunity to rush through the Bill against a weakly constituted opposition when the opposition does not possess ample strength and could not win in any division. Government have accepted all the good amendments we could suggest. Considering the importance of this Bill and the wide powers it proposes to give and dangers of the abuse of such powers by Provincial Governments and other authorities, the Muslim League and the Nationalist Group and the European Group suggested that the Bill should be referred

[Mr. Muhammad Nauman.]

to a Select Committee and the Government accepted the suggestion without a division as they sought willing co-operation and not forced co-operation of this House. If I had any idea that the Government wanted to get the forced co-operation of our people, I would say that this Bill should not have at all been brought before us and Government could make use of Ordinances.

The Report of the Select Committee contains four Dissenting Minutes. With all respect to Sardar Sant Singh and the Honourable Mr. Akhil Chandra Datta, I may say they have argued their point of view very well in the Dissenting Minutes of the Bill. It is not for me to justify or criticise what they have said—it is for the Government to justify their own position and criticise the Dissenting Minutes in reply. As the Honourable Sir Muhammad Zafrullah Khan pointed out this morning, the remark made in the Dissenting Minute by Sardar Sant Singh that all motions were defeated by the casting vote of the Chairman is no part of fact, I should think this is deplorable if it was at all a wrong statement. It was also denied by another Honourable Member, Mr. James, who was also a member of the Select Committee. The Muslim League Party feels that its important amendments have been accepted and as such we do not propose and will not probably move any amendments at all—we have only suggested amendments on the lines on which our Members have made comments in the Note of Dissent. In the first instance we are glad that our suggestions have been accepted and our advice appreciated with a full sense of co-operation and goodwill but, on the other hand, we hope that Government will accept two more amendments that may be proposed, and they should consider that we are doing it in absolute good faith and with full sense of co-operation to the Bill and with the defence policy of the Government of India. The members of the Muslim League Party have co-operated with the Government to the best of their ability, but we were compelled to append a Note of Dissent regarding the deletion of the provision relating to empowering “any person or authority to legislate, or to act on the rules so made”. In fact the deletion of this provision has been proposed this morning by other people also. Sir Abdul Halim Ghuznavi, who belongs to no Party, has supported us in this view, so also has Mr. James of the European Group though not to the extent that we expected him to do.

Then, the other thing which the Muslim League Party wanted is the deletion of the provision in sub-clause (2) of clause 10 “that it shall not be necessary to take down the evidence at length in writing”. The House will realise that both these amendments of ours are modest and reasonable. The delegation of this power to “any person” is not only dangerous but may even prejudice the feelings of a great majority of the population if that person exceeds normal limits, which people normally do. There are always personal equations working in the human mind which compels a man to abuse the powers delegated to him either for or against a certain individual. I hope the House does realise that the civil liberties of the people of this country should not be curtailed in a manner which may cause strong resentment in the country and its people. The mere fact that “a person” is authorised by legislation to use certain emergency powers is itself a sufficient

weapon for him to abuse the rules so made. The suggestion made by my Party for the deletion of this provision is not at all made in any hostile spirit, but in absolute good faith, and I do hope that the Government will be better advised to accept it.

Now, Sir, we do feel that the clauses of this Bill were not very closely sifted in the Select Committee and that is why we have been compelled to suggest the two more amendments. Other Parties too have suggested certain amendments, but I do not wish to speak about their merits at this stage, as I shall do so when they come up for discussion. My only submission is that the Bill as it has emerged from the Select Committee is certainly better than the one proposed and has come out in an improved form, and I appeal to the Government that our suggestion for the deletion of two clauses may be accepted. Sir, with these observations I take my seat.

An Honourable Member : The question may now be put.

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

“ That the question be now put.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan : Sir, there has been one general criticism levelled against the provisions of this Bill, namely, that the powers which this Bill vests in Government are too wide and drastic. I am afraid the mere repetition of a criticism like that does not invest it with any greater force or strength. It is admitted on all hands that the powers are wide, they are drastic, but they are wide and drastic in order to meet an emergency, the like of which has probably never arisen before.

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

The only reply that I can make to that criticism is to express the hope that those who will actually be invested with the carrying of these powers into effect will use them with discretion, and will use them humanely and in such a manner as to cause the minimum of inconvenience.....

Pandit Lakshmi Kanta Maitra : You are only expressing a hope, but you do not give an assurance.

The Honourable Sir Muhammad Zafrullah Khan : It is no use trying to satisfy people like the Honourable Member who has interrupted. He wants me to give an assurance. I gave an assurance as far as I could give it on the first day on which this Bill came before the House for discussion. But if by an assurance the Honourable Member means that I must here and now guarantee that nothing will be done to which anybody could possibly take any objection, it would not be honest of me to do so. All that I can say is that it is the intention of the Government and it is their desire that these powers should not in any manner be abused.

[Sir Muhammad Zafrullah Khan.]

Now, Sir, I pass on to the other criticisms of the Bill which do not relate to the drastic character of the Bill. It was first suggested that the Bill was premature, that on the last occasion.....

Mr. Akhil Chandra Datta : You may accept my word that I did not suggest it.

The Honourable Sir Muhammad Zafrullah Khan : I did not say that the Deputy President said that. I said that there has been criticism that the Bill is premature. If the cap fits him, he is welcome to it.

Mr. Akhil Chandra Datta : I don't mind that ; but I give the assurance that I never said it. There the matter ends.

The Honourable Sir Muhammad Zafrullah Khan : Sir, when he was speaking this morning, he advised me to be patient. I think he should have heard me fully before interrupting me and saying that he did not mean to say what I was going to say he had said....

Mr. Akhil Chandra Datta : I can only repeat.....

The Honourable Sir Muhammad Zafrullah Khan : I understood the criticism to mean that this is a kind of Bill which should not have been brought before the Legislature till the kind of emergency had arisen which necessitated the enactment of the Defence of India Act in 1915, and, so far as I could follow the Honourable the Deputy President, his line of argument was that it was not the mere fact of the war that necessitated special legislation on that occasion,—the war had been on for several months before the necessity of such legislation was felt,—that there were certain other factors which had arisen in the country which necessitated legislation on that occasion, and that therefore Government should have waited till those or similar factors had arisen on this occasion before this legislation was brought before this House. That, Sir, if I may say so, is a fair presentation of the case on that point as the Deputy President sought to make it. If that is so, then briefly put, the criticism is, why don't you wait till the mischief has arisen before enacting legislation of this character. I would say, Sir, that I am quite certain that the Deputy President will find himself in a very small minority on a question like that. He would advise Government that they should let the factors arise which caused all that mischief on the last occasion before trying to devise a remedy. I should have thought that the Government had deserved approval and praise for their action on this occasion, that they had not been so tardy as they had been on the occasion of the last war with respect to these matters, that they had taken power in time to prevent the mischief arising which necessitated legislation of the kind of the Defence of India Act, 1915. But, apart from that, I was sorry to observe that the Honourable the Deputy President had been entirely ignorant of the fact that before the Defence of India Act, 1915, was placed on the Statute-book several Ordinances had already been issued. There were, I think, at least six in 1914 alone after the outbreak of the war, and, therefore, though there was no legislation of that character, Ordinances issued by the Governor General were in existence to secure that certain kinds of mischief did not arise or that Government and its officers had certain powers which might be conducive towards the better prosecution of the war. Again, he forgets that today there are Ordina-

nances in force and that the mere fact that this Bill is brought in this Session instead of being brought in the next Session will not make any actual difference to the situation, except this that modifications which might be made in the Bill by this House will have the effect of modifying the Ordinances *pro tanto* in the sense that as soon as this Bill is brought into effect the Ordinances will be withdrawn, this Bill will replace the Ordinances, and to the extent to which the provisions of this Bill might be improved in this House, that would be a relief. Then his next criticism was that this Bill is wider than the Act of 1915. That is perfectly true. This Bill is designed to deal with an emergency and with conditions of a far different character than the emergency and the conditions with which the Act of 1915 had to deal. I really do not see what the point behind this criticism was. One specific instance given by the Honourable the Deputy President in that connection was that the Defence of India Act of 1915 was designed to secure the defence of India whereas this Bill goes much further and it is also designed to secure the efficient prosecution of the war. He objected to that both in his Minute of Dissent and in his speech here this morning. He says that the defence of India against direct aggression would be a perfectly legitimate object of legislation of this kind, but he does not see the necessity of having legislation of this kind the scope of which is wider, that is to say, the efficient prosecution of a war in which there may be several countries fighting on the side of Great Britain. He said in his Minute of Dissent :

“ If an efficient prosecution of the war is brought within the scope of the Bill, then it becomes in effect a Bill for defence of the British Empire and all the allied countries. It becomes a Bill for the defence of United Kingdom, France, Poland, Canada, Egypt, and Iraq and several other countries in the different parts of the globe.”

Even if that interpretation is to be given to the expression “ efficient prosecution of the war ”, I do not see what the real criticism is. I suppose the Honourable the Deputy President's idea is that India should be defended by doing whatever may be necessary to secure it against direct aggression, but we should permit activities to be undertaken in India which might cause direct injury to Great Britain, to other parts of the Empire and to the allies of Great Britain during the war. If that is the idea of the Honourable the Deputy President.....

Mr. Akhil Chandra Datta : That is not the idea.

The Honourable Sir Muhammad Zafrullah Khan : I am very glad that the Honourable the Deputy President has now amended his views on the matter.

Mr. Akhil Chandra Datta : No. I have not changed my views. I am still being misunderstood.

The Honourable Sir Muhammad Zafrullah Khan : I can only try to answer the criticism as it would be understood by people, who have some familiarity with the English language. I do not claim a very deep familiarity with it myself, and I would be glad to be set right on the matter. I have read out a portion of the Honourable the Deputy President's Minute of Dissent from the printed Report. The meaning is perfectly clear to me. The argument is, “ Do whatever is necessary to secure India against direct aggression, but the moment you proceed to do something which might help Great Britain or the rest of the Empire or the allies of Great Britain, then I object because that is not

[Sir Muhammad Zafrullah Khan.]

necessary for the defence of India". I suppose the defeat of Great Britain and the allies in the war, so long as during the war there was no direct aggression against India, would not affect the defence of India in the eyes of the Deputy President. However, I shall not labour the point any further.

Then he said, this Bill might be brought into force on such date as may be notified by the Central Government, and somehow he had some objection to that. He read out a section from the Defence of India Act, 1915, which I believe provided that sections 1 and 2 would come into force at once and the rest of the Act would be brought into force by notification of the Governor General in different parts of India on such dates as he thought fit. In the first place, there is really no practical difference between the two. The actual position is this. Suppose this Bill passes into law and then it is not brought into effect, say, for three months after it becomes law. What will be the practical result? The practical result of that will be that in the meantime the Ordinances will continue in force. I suppose the Deputy President would prefer that to the Act being brought into force at once.

With regard to the two matters which have been pressed very strongly upon the attention of the Government with regard to the provisions of the Bill, that is to say, the proposal to authorise any authority or person to frame rules with regard to matters which are set out in clause 2, and, secondly, with regard to the recording of the evidence *in extenso*, particularly in trials relating to offences in which there is a chance of appeal under the amended clause 13, Government are prepared to consider those sympathetically, and when we come to the clauses, I hope I shall be able to satisfy those Honourable Members who are interested in those two matters.

My Honourable friend, Mr. Joshi's speech really had no reference either to the principle of the Bill or its detailed provisions. All that he was concerned with was to fight out his battle with the European employers of labour, and as he was answered on their behalf it is not necessary for me to take up any of the points raised by him. He was also answered by Col. Sir Henry Gidney who incidentally claimed that he was a much better representative of labour than Mr. Joshi could claim to be.

I believe it is not necessary to take up any more time of the House at this stage. I do not think there was any Honourable Member, barring perhaps Mr. Joshi, who suggested that we should not proceed with the consideration of the clauses of the Bill. Therefore, it is not necessary for me to go into greater detail with regard to the clauses. Occasion for that will arise when amendments are moved.

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

"That the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee, 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."

Pandit Lakshmi Kanta Maitra : Sir, I move :

"That in sub-clause (1) of clause 2 of the Bill, the words 'the maintenance of public order or' be omitted."

Sir, the reason for this amendment is very simple. I am ready to concede that the duty of every civilised Government is to maintain law and order and public tranquillity, but we have already in this country a vast body of legislation ostensibly directed towards this very purpose. I cannot see why under the garb of this measure a fresh set of offences should be created in the trial of which jurisdiction will be ousted from ordinary courts and placed before special tribunals. There are comprehensive provisions in the Indian Penal Code and the Criminal Procedure Code dealing with public order. Under the Criminal Procedure Code there are substantive and preventive sections by which any menace to public order can be effectively checked. I say again that there is adequate provision in the ordinary law of the land and, therefore, we should see that there is no multiplication of statutes on the same subject. As the ordinary machinery of the Administration are enough, the hands of the executive should not be further strengthened with these powers. Sir, I move.

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

"That in sub-clause (1) of clause 2 of the Bill, the words 'the maintenance of public order or' be omitted."

The Honourable Sir Muhammad Zafrullah Khan : Sir, I oppose the amendment. This is a very essential part of the clause.

Mr. N. M. Joshi : I support this amendment; in order not to waste the time of the House and to secure economy of time, I did not want to move my amendment, but as a similar amendment has been moved, I rise to support it. This amendment is intended to make the officers of Government depend more upon justice and fair play than increase of penalties. I know public officers like to make their work very easy by having a Draconian Code of Law and very big penalties, but it is not right that we should make the keeping of public order so very easy by this method. If public order is to be maintained, it should be maintained by justice and fair play, not by the rule of the rod. I, therefore, feel that this amendment is a good amendment and should be accepted by the House.

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

"That in sub-clause (1) of clause 2 of the Bill, the words 'the maintenance of public order or' be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment No. 3 in Supplementary List No. 1 is the same as the one just now rejected. It is barred.

Mr. Akhil Chandra Datta : Sir, I move :

"That in sub-clause (1) of clause 2 of the Bill, the words 'or the efficient prosecution of war' be omitted."

There has already been some discussion on this. Before I proceed further, let me refer to the definition of war which has been given in the rules under the Ordinance. It says—any war in which His Majesty may for the time being be engaged. What I apprehend is this—though it may be remote possibility—yet it is not an impossibility—supposing

[Mr. Akhil Chandra Datta.]

there is a war started by Great Britain against any country other than Germany for capturing the market of that country or against a weak neighbour in pursuance of the Hitlerian policy of aggression and supposing there is no danger to India from that quarter, what will be the position? Under this definition of war, even in that case, India may be called upon to render active help for the efficient prosecution of the war. The definition given is too wide and too elastic. This war is bound to be long. The present estimate is three years or more. Supposing it lasts five or ten years and the resources of Great Britain are exhausted, under the present definition India may still be asked to give men and money in that hypothetical war which I have described above. Is it the intention of this Bill that we should give men and money for that war also and that compulsorily. It has been repeatedly said that "defence of India" involves automatically "the efficient prosecution of the war". I shall accept your interpretation. But may I in that case ask as why, in addition to the expression "the defence of British India" in clause 2 (1), there is also this expression, "the efficient prosecution of the war"? Sir, look at the structure of the sentence. The first object for which rules are to be made is "the defence of British India", the second is, "public safety", then "the maintenance of public order", and then, and not till then, comes this provision, "the efficient prosecution of the war". Therefore, my contention is that it certainly follows that "the efficient prosecution of the war" is something absolutely different from "the defence of British India". They are not convertible terms, and I say that there is an admission in the clause itself, by implication at all events, that the "defence of India" does not involve "the efficient prosecution of the war". The latter covers a larger ground than the former. Now Indians must be, naturally, inclined to make any amount of sacrifice in men and money for "the defence of India", but for "the successful or efficient prosecution of the war" in some other parts of the world not only in this war but in some other, well, there Indians will naturally feel disinclined to make any sacrifice. Now, Sir, I would like to say this that it is this definition of "war" which has been uppermost in my mind, and I think that if war is defined as "the war that is now going on"; such a definition would be less obnoxious and less offensive. Sir, I move.

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

"That in sub-clause (1) of clause 2 of the Bill, the words 'or the efficient prosecution of war', be omitted."

Pandit Lakshmi Kanta Maitra : Sir, I rise to a point of order at this stage. I want to submit that this particular phrase, "the efficient prosecution of war", is not relevant and is not permissible within the frame-work of this Bill. This Bill is designed to provide for special measures to ensure public safety and interest and for the defence of British India and for the trial of certain offences. That is all that is said at the top of the Bill. Now.....

Mr. President (The Honourable Sir Abdur Rahim) : The scope of the Bill is not to be judged merely from the preamble; the Honourable Member must look at the provisions of the Bill also. The Honourable Member must look at the whole of the provisions.

Pandit Lakshmi Kanta Maitra : Sir, from what is given in the Statement of Objects and Reasons, it would appear.....

Mr. President (The Honourable Sir Abdur Rahim) : That is not sufficient. We are not to be confined to that. The scope of the Bill is not to be judged from the Statement of Objects and Reasons alone, but from all the provisions of the Bill.

Pandit Lakshmi Kanta Maitra : Sir, you will be pleased to note that there is no provision in the Bill for the effective prosecution of war. All that the Bill provides is that certain emergent powers are to be conferred on the executive for meeting the emergency caused by the existing war and also how certain offences are to be tried. Throughout the Bill you will be pleased to see that there are provisions for certain powers to make rules covering almost every field of human activity, but there is no provision anywhere in the body of the Bill itself to indicate how the war is to be prosecuted on behalf of India, or how we are to help in the prosecution of the war; no legislative proposal in respect of that is made in any of the clauses and sub-clauses in the body of the Bill and this is the only isolated sentence occurring in clause 2. There is also the provision for trial of offences, the constitution of special tribunals, penalties. There is also a chapter dealing with supplemental provisions. In none of these is any reference or mention of "prosecution of war" to be found.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member means no military measures are provided for here?

Pandit Lakshmi Kanta Maitra : What I say is that it is not germane to the consideration of this Bill, because this Bill is apparently designed, as would appear from the Statement of Objects and Reasons and the Preamble, for the defence of India and public safety.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member's point. The Chair does not think there is any force in the point of order raised by the Honourable Member. There can be no doubt that the whole conception of this Bill is based on the fact that India is at the present moment at war, along with Britain and France, with Germany and it is in the design of the measure that is now before the House to ensure such conditions as will enable the country to successfully help in the prosecution of the war. The Chair holds that the clause is in order.

Pandit Lakshmi Kanta Maitra : Do I understand your ruling to mean that the phrase as it stands, "the prosecution of any war", is relevant?

Mr. President (The Honourable Sir Abdur Rahim) : Yes.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, I rise to support this amendment, and on this ground. Sir, after the exuberance of loyalty and spirit of co-operation, it is for the House to consider the gravity of these three words. Sir, do not be carried away too much by exuberance of loyalty and co-operation. I want to extend full co-operation in putting down Hitlerism, but, look here, if the clause is allowed to stand as it is, then the Governor General by notification can make any rules for the efficient prosecution of war.

[Mr. Suryya Kumar Som.]

Now, Sir, take this clause. Here, the Governor General is being

4 P.M. given the power to make an order like this that India should supply twenty lakhs of soldiers yearly or twenty crores of rupees monthly for the efficient prosecution of the war. Now, do you mean to do it? Do you seriously propose to give such a blank cheque to the Governor General? Sir, I remember in 1914 when the question of giving help to Britain to carry on the war successfully came up, there was a proposal, I believe, for granting one hundred and fifty crores or thereabouts to the war fund for the efficient prosecution of the war. There was a discussion for three or four days in which Pandit Madan Mohan Malaviya took a prominent part, and I think his speech took up the whole day. It appears he opposed that sort of grant, because, as he said, while he was quite prepared to grant some reasonable monetary help, he was not prepared to be able to afford help to that extent, and when he felt that it was carried by a bare majority, in disgust Panditji resigned the membership of the Assembly on that issue. And now I find that more general and more dangerous power is being given to the Viceroy. I think that this Government of India should not be invested with a power like this. If you invest the Government of India with powers like these, you had better cease to be Members of the Assembly. You can give a blank cheque to mortgage the whole of India for the prosecution of this war with which India is not directly but only indirectly connected. There might be some responsibility of the Indian people, because they like democracy.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the amendment before the House.

Mr. Suryya Kumar Som : I am speaking on the implications of the words contained in the Bill. I am asking the Members to realise what power they are giving to the Government.

Mr. President (The Honourable Sir Abdur Rahim) : That would have been a proper speech at another stage, but not now.

Mr. Suryya Kumar Som : I warn the Assembly not to give such a power to the Government. With these words, I support the amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, the words ‘ or the efficient prosecution of war ’, be omitted.”

The motion was negatived.

Dr. P. N. Banerjee : Sir, I beg to move :

“ That in sub-clause (2) of clause 2 of the Bill, the words ‘ or may empower any authority or person to make orders providing for ’ be omitted.”

Sir, the provision relating to ‘ empowering ’ does not occur in the Act of 1915 and I do not see any reason why in the present Bill we should give power to other persons to make orders. It is the Government which should give orders and the Government should not authorise other persons, who may or may not be connected with the Government, to give orders. As the provision did not find a place in the Act of 1915, I do not think there is any justification for inserting it in the present Bill.

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

“ That in sub-clause (2) of clause 2 of the Bill, the words ‘ or may empower any authority or person to make orders providing for ’ be omitted.”

Pandit Lakshmi Kanta Maitra : Sir, I rise to support this amendment. I do not really understand what is exactly meant by “ empowering any authority or person to make orders ”. What is exactly contemplated by this and what is meant by authority? Does it cover the Municipal authority, the District Board authority, the Union Board authority? They are all local authorities. Authority has not been defined anywhere. The Bill is notorious for its clumsy draftsmanship and I cannot imagine how the Government of India could bring such a momentous Bill drafted in such a clumsy manner before this House. A Bill like this was never introduced in the history of this Assembly before. This Bill has been drafted in a most slipshod manner. All sorts of words have been introduced in it without giving their definition. What is exactly meant by those words, we do not know. When we are moving amendments with regard to these particular parts of the Bill, it should not be understood that we are opposed to the Bill tooth and nail. What I mean to say is that the Bill has been drafted in such a clumsy manner that its expressions are not clear to us who are practising lawyers. I cannot support a measure whose terms are not clear and precise. What is exactly meant by the word ‘ empower ’? Is it meant by the Government that this Legislative Assembly will empower the Central Government with certain powers and they in their turn will delegate those powers to the Provincial Governments and they in their turn will delegate those powers not only to their own officers but also to the men in the street? There are loyalists who are in the good books of Government and who might be invested with these emergency powers and thus they will have enormous powers in their hands to make or mar the fate of this country. I do not understand what is seriously meant by the Government in investing or authorising private persons with these enormous powers. There should be some sense of decency even when they demand extraordinary powers. I therefore, ask the House to support this amendment because once the principle is accepted that the man in the street who carries favour with the officials can be entrusted with this tremendous power, we do not know where we will stop. Sir, I support the amendment.

Mr. Akhil Chandra Datta : Sir, it has already been pointed out by the Honourable the Mover of the amendment that these words do not find place in the old Act. It must be admitted that this is rather a sweeping departure from the old Act.

The Honourable Sir Muhammad Zafrullah Khan : It is an improvement on the old Act.

Mr. Akhil Chandra Datta : It is based on the lines of the old Act with certain adaptations to meet the present conditions, but it is very vague. We naturally thought that wherever there is a departure like this on a very fundamental point from the old Act, in view of the present conditions we would be enlightened by the Honourable Member in charge of the Bill what those present conditions are which should require the introduction of this new provision. The blank cheque which

[Mr. Akhil Chandra Datta.]

the Government want for themselves leads to this position. The Legislature delegates all the powers to the Central Government to make rules. Then, under sub-clause (2), the Government in their turn delegate practically all the identical powers to any undefined authority or to any person. Therefore, we have a right to know what those conditions are. In any case, this is giving practically a blank cheque to the executive and this is more than we can support. Sir, I support the amendment.

Mr. Muhammad Nauman : Sir, I support the amendment and I hope the Government will co-operate with us in this small matter as the Nationalist Party have also made it clear that the amendment has been moved with a full sense of co-operation and without any feeling of hostility. We only want an explanation of the word 'authority' so that the chances of abuse may not be so great as we imagine them to be. As it is, "the powers which are delegated to the Central Government will in due course be delegated to the Provincial Governments and then to any person or authority". This at least to our mind is somewhat ambiguous. I pointed this out in my speech today in the consideration stage as well. I hope the Honourable the Leader of the House will carefully consider this matter once again and meet our demand in this respect. Sir, I support the amendment.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am rather surprised to find that the Muslim League Party are fast receding from the assurance which they had given. To begin with the assurance was given by the Muslim League Party that if the amendments of which they had given notice were duly considered in the Select Committee—they would not press any other amendment. Then the Members of the Muslim League Party in their Minute of Dissent made certain suggestions and I indicated that I was prepared to accept those suggestions. Now they suggest that Government should co-operate by accepting an amendment of a much wider scope. Be that as it may, I must point out that the word 'authority' is essential. It does mean as one of the Honourable Members pointed out, a Municipal or District Board or a Union Board authority. It may also mean bodies like the Port Trusts which may have to be authorised to secure certain matters under these Rules. I am, however, willing to accept the amendment which stands in the name of my Honourable friend, Mr. Lalchand Navalrai, namely, to knock out the words "or person" which may, of course, mean 'private person', though the Government did not intend to authorise any private person to make rules—yet there may be that apprehension. I am quite willing to accept that amendment but I am afraid I must oppose the present amendment.

Mr. Muhammad Nauman : On a personal explanation, Sir. My explanation is that this was the very thing we of the Muslim League desired. It was in this spirit that I supported the amendment, that is, deletion of "a person".

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

"That in sub-clause (2) of clause 2 of the Bill, the words 'or may empower any authority or person to make orders providing for' be omitted."

The motion was negatived.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I beg to move :

"That in sub-clause (2) of clause 2 of the Bill, the words 'or person' be omitted."

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

"That in sub-clause (2) of clause 2 of the Bill, the words 'or person' be omitted."

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I move :

"That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word 'the', occurring in the sixth line, the words 'military or police' be inserted."

Sir, I am thankful to the Government for having slightly modified this provision in the Select Committee. My complaint however is still there. The clause as it is drafted in the Bill says :

"to dissuade.....persons from entering service of His Majesty."

This means any service of His Majesty. Whereas in the previous Act the words were "entering military or police service". That makes a lot of difference. The present provision is far more comprehensive. Supposing I advise my son not to accept such and such an appointment in a certain place where I think life would be very bad and where there will be danger to life.....

The Honourable Sir Muhammad Zafrullah Khan : That would be covered by the part of the clause added by the Select Committee.

Mr. Akhil Chandra Datta : We can very well understand and appreciate why it should be made an offence to dissuade people from entering the military or the police service. I do not understand the justification for making it a penal offence if a person dissuades another from entering the civil service. Sir, I move.

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

"That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word 'the', occurring in the sixth line, the words 'military or police' be inserted."

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am surprised that the Honourable the Deputy President cannot understand why it should be necessary to secure that the ordinary administrative machinery of Government should not be brought to an end during the war. Sir, I oppose the amendment.

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

"That in part (iii) of sub-clause (2) of clause 2 of the Bill, after the word 'the', occurring in the sixth line, the words 'military or police' be inserted."

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

“ That to part (iii) of sub-clause (2) of clause 2 of the Bill, the following proviso be added :

‘ provided that this rule shall not apply to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or any of his dependants.’ ”

The Honourable Sir Muhammad Zafrullah Khan : It is already there in the clause as amended by the Select Committee.

Pandit Lakshmi Kanta Maitra : But mine is more specific.

The Honourable Sir Muhammad Zafrullah Khan : The clause already contains this proviso.

Pandit Lakshmi Kanta Maitra : But the wording is different. Anyhow, I do not move the amendment.

Mr. Akhil Chandra Datta : Sir, I beg to move :

“ That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ‘ possession without lawful authority or excuse ’ be omitted.”

This is rather an important matter. In the previous Act these words were not there at all. The words there were “ acquisition and publication of information likely to assist the enemy ”. Here possession by itself is made an offence, of course with the qualification “ without lawful authority or excuse ”. Much depends on the definition of the words “ information likely to assist the enemy ”. We find that this is explained in Rule 34 (5) as “ any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated, directly or indirectly, to convey any information, whether true or false, with respect to any of the following matters.... ” Then follow various matters—I shall take one or two by way of illustration. One is “ the condition of His Majesty’s subjects or of any class thereof or the sympathies of such subjects or class as regards matters relating to the war ”. The words are as comprehensive as human ingenuity can possibly make it. If you analyse it it comes to this. Having regard to the very comprehensive nature of the words “ any information true or false, etc., etc. ”, suppose—I am in possession of the *Statesman* of yesterday—which contains the following information :

“ According to a Latvian journalist who has arrived in Riga, the entire route from Poland is marked by burning towns and villages and fleeing masses. Dense clouds of smoke indicated the sites of towns and villages now in ashes. The destruction caused by German incendiary bombs, he said, was terrible. The inhabitants are seeking sanctuary in the forests and village streets are strewn with dead.

The Commander of the Polish Army stated in a broadcast that on Sunday night Warsaw was raided fifteen times.... Passengers aboard an evacuation train from Warsaw were obliged to leave the carriages seventy-two times to take shelter from bombing.”

This is information which may very probably be interpreted to assist the enemy in that it will inevitably encourage and hearten the German people and damage the morale of their adversaries. It may certainly be construed to mean “ assisting the enemy ”. The wording of the rule is so very wide.

Then; as regards the word “ sympathies ” in this sub-rule, suppose a meeting was held at Simla expressing sympathy with Great Britain, I would ask any lawyer to tell me whether that will not be covered by the very comprehensive language used in this sub-rule. A complaint in regard to this was voiced yesterday by the *Statesman* which said :

“ We see in short the Empire’s leaders doing all in their power to awaken the world and the British Commonwealth of Nations to the great issues that are at stake, to steel our wills, and to prepare us for a long struggle and inevitable sacrifices, while a bureaucratic department in Simla is doing its misguided best to choke the channels.”

Information likely to assist the enemy must be prohibited. I accept that principle. But I would point out here what the Prime Minister has said yesterday in the House of Commons :

“ I have already declared the desire and intentions of government to give the fullest information to the public and to do all we can to prevent any feeling in the minds of the public that they will be kept in the dark. That is the principle to which through the ministry of information we shall seek to give effect.”

I only hope that that principle enunciated in the House of Commons will be accepted by the Government of India in making these rules.

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

“ That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ‘ possession without lawful authority or excuse ’ be omitted.”

Mr. Lalchand Navalrai : Sir, I must frankly say that I do not understand the meaning of this para. It reads like this :

“ Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority or person to make orders providing for, all or any of the following matters, namely :

acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy,”....

The Honourable Mr. J. A. Thorne (Home Member) : No.

Sir Muhammad Yamin Khan : This is not the rule : rules will be made for this.

Mr. Lalchand Navalrai : I am concerned only with this sub-paragraph (b). If these rules are going to be made in this sense, there will be very great difficulty. How is one going to assist the enemy unless what is in his possession is in writing or any thing which can be seen ?.....

Sir Muhammad Yamin Khan : That will not be possession which is merely in your mind. Possession means something which can be seen or felt.

Mr. Lalchand Navalrai : That may be your very clever reading of it. But I submit the clause is misleading.

If he is in possession of that information and publishes it I can understand it. If you refer to a certain document containing that information it would be clearer. But otherwise on the point of mere mental possession of any such information no rule can be made to make one liable and in that view of the case the amendment should be accepted.

Pandit Lakshmi Kanta Maitra : Sir, this phrase is certainly open to the interpretation which was put upon it by my Honourable friend, Mr. Lalchand Navalrai. It comes to this that for this first time we are going to legislate for possession *per se*; and this possession, not of any tangible or material thing but of something intangible, ethereal or transcendental, which cannot be predicted, in terms of matter, becomes an object of legislation. It may raise a smile here and there but we know the actual way in which such things are interpreted in summary courts. This is not the first time that summary courts are going to be installed in this country and when the ordinary judicial machinery of the country is going to be superseded. We have seen in the days of the Civil Disobedience Movement that judges were poor creatures who could not have their own say but were made to do things according to the dictates of police officers. So the suspicion is uppermost in the mind of every one of us that this will open the flood gates of the activities of the C. I. D. people. After all can anyone in the House tell me what is exactly meant by possession of information without lawful excuse? Is it like the possession of stolen goods or explosive material or some other material and tangible thing? It goes to the length of saying that if you happen to receive some information, some intangible thing, either from a friend or from a man in the street or from any one else, the possession of that information *per se* becomes an offence. If a man gets some information and by publishing it assists the enemy I can understand the purpose of the provision; but that has not been made clear. The clause as it stands has been drafted in such a way that it is open to that kind of interpretation and certainly we cannot be a party to this kind of provision. Therefore, I think the possession of an intangible thing of which the senses can take no cognisance should be eliminated from the purview of this all-comprehensive measure. After all they are going to legislate for our bodies and for all our actions of which cognisance can be taken by the senses, and certainly not for our thoughts and mental activities which do not find outward expression. It is a ridiculous thing and I, therefore, support the amendment.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am afraid there is some misapprehension. Honourable Members are treating these sub-clauses as if they were the actual rules but they are not. The offence will be the contravention of any rules which may be framed in order to give effect to these things and in order to secure these objects. This sub-clause merely lays down the object to be secured; and nobody can deny that mere possession, for instance, of plans or models of fortifications or harbours and such like things, unless they are kept with an honest motive or intention, may be a very dangerous thing. So that, the rules will clarify what exactly is prohibited under this paragraph; the paragraph must necessarily be couched in wide terms.

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

“ That in part (iv) (b) of sub-clause (2) of clause 2 of the Bill, the words ‘ possession without lawful authority or excuse ’ be omitted.”

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, after the word ‘ reports ’, occurring in the second line, the words ‘ knowing the same to be false ’ be inserted.”

I propose by this amendment to specifically lay down that the person or persons disseminating false reports should know them to be false. That is a principle which has been accepted and acted upon for nearly 75 years. It has found legislative embodiment in the Indian Penal Code which still holds the field. The expression “ without lawful authority or excuse ” is vague. A report may be received from a friend in the ordinary course; and in these war days all manner of people have become politicians, overnight, and they start talking international politics and indulge in a lot of political speculations which would not be done in normal times. In the course of such conversation, or discussion which may not at all be serious, something may crop up and some one may say something which may be construed as a report. If this report is false, the person making it may be penalized. Of course, if a man deliberately spreads a report knowing it to be false which might create a disturbance in the order of things, action may be justified. But it may eventually turn out that the report disseminated by a person is false but it was absolutely unintentional and without any motive on his part for spreading such report. In such a case action against him would not be justified. Therefore to fix a man with the guilt there should be that essential safeguard provided in the Indian Penal Code, *viz.*, the element of knowledge that the thing itself is false. This is a very essential safeguard and I hope the Leader of the House will accept it. Sir, I move.

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

“ That in part (v) of sub-clause (2) of clause 2 of the Bill, after the word ‘ reports ’, occurring in the second line, the words ‘ knowing the same to be false ’ be inserted.”

Mr. Akhil Chandra Datta : Sir, “ spreading without lawful authority or excuse of false reports ” knowledge is essential. A report may be false in point of fact, and yet it may not be false to his knowledge. Therefore, the words in the old Act are “ reports which he has no reasonable grounds to believe to be false ”. I don’t understand why the present Government should go a step further than what their predecessors had put in 1915. Sir, this is a reasonable amendment, and I support it.

Mr. Lalchand Navalrai : Sir, I don’t want to say much with regard to this amendment. I find the Government professes to seek the co-operation of the public in this matter of defence, but if they ignore the very first principle of justice and common sense, I do not think their desire to get our co-operation is genuine. The first principle of justice and common sense is that, if any man comes to know of certain information, he believes it, and there is no reason for him to suppose it to be untrue and knows it not to be false, if he happens to give out that information, he is not amenable, but according to this clause in the Bill this man will be punished. This will be against all canons of justice and common sense. Therefore, the amendment that it must be proved that the information he divulged was to his knowledge false must be accepted.

The Honourable Sir Muhammad Zafrullah Khan : I thought the Honourable the Deputy President referred to the old Act.

Mr. Akhil Chandra Datta : I referred to the old rule 25 (1) (a).

The Honourable Sir Muhammad Zafrullah Khan : So far as the rules are concerned, you may be sure that if there is any necessity for precautions to be taken, they will be taken. In any case "lawful excuse" would cover a good deal of what Honourable Members want.

Mr. Akhil Chandra Datta : May I have your assurance then that these words will be added in the rules ?

The Honourable Sir Muhammad Zafrullah Khan : I am prepared to consider that.

Mr. Akhil Chandra Datta : Thank you.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member want to press this amendment ?

Pandit Lakshmi Kanta Maitra : No, Sir, I withdraw it.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw his amendment ?

Some Honourable Members : Yes, yes.

The amendment was, by leave of the Assembly, withdrawn.

Pandit Lakshmi Kanta Maitra : Sir, I move :

"That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words 'likely to cause disaffection' be omitted."

Now, Sir, the word "disaffection" is one of the most difficult and much abused expression in Indian legal phraseology.....

The Honourable Sir Muhammad Zafrullah Khan : The amendment is to omit everything after the word "disaffection".

Pandit Lakshmi Kanta Maitra : I am coming to that. Sir, knowing as I do the trend of legal decisions from the earliest times down to the present day on the expression 'disaffection',—which has been variously interpreted by various High Court Judges, I have my doubts that it will, with the words that follow after it, be interpreted to the prejudice of the party concerned by these Special Tribunals. Sir, in order to leave it at the stage at which the interpretation of the expression has reached by recent judicial interpretations, I suggest this amendment. Sir, I move.

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

"That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words 'likely to cause disaffection' be omitted."

The Honourable Sir Muhammad Zafrullah Khan : I am afraid, Sir, I cannot accept this amendment, as it will make a very serious inroad into the object of this paragraph.

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

"That in part (v) of sub-clause (2) of clause 2 of the Bill, all the words occurring after the words 'likely to cause disaffection' be omitted."

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

"That in part (v) of sub-clause (2) of clause 2 of the Bill, the words 'or alarm' be omitted."

Sir, the word "alarm" is a very vague expression. It depends on the extent to which a class of people or a number of people get alarmed or frightened. It cannot be definitely laid down how and when a stage is reached when you can say that an alarm has been caused. It is a very vague and indefinite expression. It will not serve any useful purpose except that it will lead to abuse. There are other words which will serve the purpose which can be inserted. I, therefore, move for its deletion.

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

"That in part (v) of sub-clause (2) of clause 2 of the Bill, the words 'or alarm' be omitted."

The motion was negatived.

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

"That part (vi) of sub-clause (2) of clause 2 of the Bill be omitted."

This sub-clause gives Government the power to compel a newspaper to publish whatever news the Government want that paper to publish. It is quite possible, Sir, that Government in these days want the newspapers to publish false reports, and I do not wish to give power to Government to ask a newspaper to publish anything that the Government wants it to publish. It may ask a newspaper to publish an absolutely false thing. So in the interests of morality, I do not want to give this power to Government.

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

"That part (vi) of sub-clause (2) of clause 2 of the Bill be omitted."

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I move :

"That part (viii) of sub-clause (2) of clause 2 of the Bill be omitted."

That requires any person or class of persons to comply with any scheme of defence. After reading it several times, I could not understand the exact scope of this provision. You say "requiring any person or class of persons to comply with a scheme of defence",—what is that scheme that you are thinking of ? "Any scheme of defence" is the phrase used here like the words "any information" which incurs in another provision. Therefore, Sir, if we can get some idea as to what is exactly contemplated by them, we may be in a position to express our opinion on it. As the words stand, it is impossible to understand what is really contemplated by them. What is a scheme of defence ?

The Honourable Sir Muhammad Zafrullah Khan : Nobody can say what it may be.

Mr. Akhil Chandra Datta : If nobody can say, then what is the object of keeping such a sub-clause ?

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

"That part (viii) of sub-clause (2) of clause 2 of the Bill be omitted."

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

“ That part (xxiv) of sub-clause (2) of clause 2 of the Bill be omitted.”

Part (xxiv) reads :

“ the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof.”

The language of the part speaks for itself. I think it is difficult to beat this in point of its drastic and also its absolutely indefensible character. Do the Government think that by a resort to mere drastic provisions they can further the cause of the Bill? It is not really an occasion for running a competition between loyalists. It is rather an occasion for giving real support to the Government, giving real, substantial, intelligent support with as little disturbance to the normal life of the people as possible. If this provision is enacted into law, it may be operated by an unscrupulous man in any way he likes. Take the case of a Municipality, or a Union Board or a District Board. In our country these institutions may be dominated by one particular set of people. They may work havoc on those who are opposed to them.

The Honourable Sir Muhammad Zafrullah Khan : They must pay compensation.

Pandit Lakshmi Kanta Maitra : What compensation? If you take away my gold watch or my pen for which I may have a special attraction and you pay four annas for it, I am not adequately compensated. Supposing you are deprived of your present job and are paid a higher salary, elsewhere you will not be adequately compensated, because in your present position you are enjoying a unique status. I can imagine people coming to my house, or stationed about my house pretending that they are watching aerial raid, and so on their demand I must give them my belongings, and then you will give me four annas as compensation! Property—here means all manner of property, movable and immovable. You may demand of me my belongings, my bed, coat, shawl, typewriter, or anything else that I may possess on this earth. Do you really want that kind of power now for the defence of India? If you are called upon to exercise that kind of power you must realise what it will amount to and what it will mean for us. If you want us to make that hardest kind of sacrifice, you must do something other than mere propounding of some dictum in justification of what you will do. No, you will do well now to pursue the line of least resistance; if for military or naval purposes some such provision is necessary, then make it specific and we will give you that power, but certainly not in these indefinite and extravagant terms which will mean disaster to us. It is an absurd and outrageous provision and I want its deletion. Sir, I move.

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

“ That part (xxiv) of sub-clause (2) of clause 2 of the Bill be omitted.”

Mr. Akhil Chandra Datta : In this part (xxiv) power is given for the seizure of any property, etc., without mentioning the purpose for which this power can be exercised.

The Honourable Sir Muhammad Zafrullah Khan : The purpose is mentioned in the first part of the sub-clause.

Mr. Akhil Chandra Datta : The purpose is definitely specified in the earlier Act of 1915, and that purpose is “ naval or military purpose”. If the power is to be given without any qualification, without mentioning the purpose, that will be too much. You may have power to requisition all movable or immovable property including the bedding of my Honourable friend, Pandit Lakshmi Kanta Maitra. All that this amendment seeks is to restore the language of the old Act, nothing more, nothing less.

The Honourable Sir Muhammad Zafrullah Khan : The amendment is to omit the whole part. The purpose of these paragraphs is governed by the first sub-clause, which runs thus :

“ The Central Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community.”

You cannot requisition property for purposes other than these.

Mr. Akhil Chandra Datta : What is the harm in making it clear?

The Honourable Sir Muhammad Zafrullah Khan : We cannot make anything clear by omitting the paragraph.

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

“ That part (xxiv) of sub-clause (2) of clause 2 of the Bill be omitted.”

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

“ That for part (xxiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

“ for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof.”

This is a *verbatim* transcript from the provision in the old Defence of India Act and I do not think that any sensible objection can be taken to it.

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

“ That for part (xxiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

“ for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof.”

Mr. Akhil Chandra Datta : As to the object of this part there is no controversy. It is conceded by the Honourable the Leader of the House that the powers given are required only for naval or military purpose. If that be so, why not make it clear? It was made clear in the Act of 1915. In spite of the fact that there is no controversy about the intention, if it is still thought desirable not to remove the doubt—a doubt which we at all events on this side are feeling—then we begin to feel that there is some ground for the doubt about the intention itself.

The Honourable Sir Muhammad Zafrullah Khan : The whole difference amounts to this, that whereas the old Act confined itself to the defence of British India the present clause adds the efficient prosecution of the war. That must govern all these clauses. To that extent I have already admitted that these powers may be wider, but that applies to all these clauses. Otherwise, there is no practical difference between the amendment and the sub-clause as it stands.

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

“ That for part (xiv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

‘ for enabling any naval or military authority to take possession of any property, movable or immovable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof ’.”

The motion was negatived.

Dr. P. N. Banerjee : Sir, I move :

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

Sir, this part relates to prohibiting or regulating meetings, assemblies, fairs and processions. In India, at the present moment, we enjoy very few civil liberties and in the present situation we are going to give power to the rule-making authorities to make rules relating to the prohibition of meetings, assemblies, fairs and processions and so forth. Thus, the very slender rights which we possess at the present moment are going to be taken away from us. At least there is the apprehension that all these slender rights may be taken away. In this connection I beg to point out that a provision corresponding to this did not exist in the Act of 1915, because at that time it was thought proper and desirable to regulate meetings and associations and so on under the ordinary laws of the land. If you make this provision here, then a special method of trial will take place and the rights of citizens will be greatly jeopardised. Therefore, I move.

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

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

The Assembly then adjourned till Eleven of the Clock on Friday, the 15th September, 1939.

LEGISLATIVE ASSEMBLY.

Friday, 15th September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

REPAIRS TO THE TOMB OF TAJ MAHAL.

†200. ***Dr. Sir Ziauddin Ahmad :** Will the Secretary for Education, Health and Lands please state :

- whether Government have satisfied themselves that there are no cracks in the tomb of Taj Mahal and that it does not leak ;
- whether the marble veneering of the Taj Mahal tomb is safe and in good condition, and if not, what action Government have taken or propose, to take to safeguard the marble ; and
- whether Government are aware that the cost of repairs and replacements of marble slabs will amount to several lakhs if immediate repairs and replacements are not done ?

Mr. G. S. Borman : (a)–(c). A preliminary investigation of the dome of the Taj Mahal, which has recently been made, has disclosed the necessity for a more detailed inspection of certain points. Government have now under consideration the best means of enabling a thorough examination of the dome of the Taj Mahal to be carried out. I assure the Honourable Member that Government fully recognise the importance of undertaking with the least possible delay any repairs which may be necessary.

FUNCTIONS OF THE DEFENCE CO-ORDINATION DEPARTMENT.

201. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : (a) Will the Honourable the Leader of the House please state the functions of the Department for Defence Co-ordination in India ?

(b) What work has been done by this Department during the last six months ?

(c) What sort of relations have been established with the major industries in India and what are the industries with which the Department is under contract or is negotiating at present ?

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

The Honourable Sir Muhammad Zafrullah Khan : (a) The functions of the Defence Co-ordination Department are the co-ordination of the work of all departments of Government in relation to Defence and War.

(b) The Department since its inception on the 1st January, 1939, has been co-ordinating the work of other departments of Government, and has contributed very largely to the smoothness with which emergency measures were brought into operation on the outbreak of hostilities.

(c) The Department has been in constant touch with representatives of leading industries. The direct responsibility for all supply matters has now been taken over by the Department of Supply.

Mr. Lalchand Navalrai : May I know if any new industry has been created or is going to be created?

The Honourable Sir Muhammad Zafrullah Khan : That does not arise out of this question.

Mr. Lalchand Navalrai : I would like to ask how.....

Mr. President (The Honourable Sir Abdur Rahim) : It does not arise; the Chair does not want any argument.

Mr. Lalchand Navalrai : Is that the decision of the Chair, I ask?

Mr. President (The Honourable Sir Abdur Rahim) : Yes.

RATE WAR BETWEEN CERTAIN SHIPPING COMPANIES.

202. *Mr. H. M. Abdullah : Will the Honourable the Commerce Member be pleased to state :

(a) whether the Government of India have decided to take any steps to settle the rate war on the Konkan Coast and among Haj Shipping Companies :

(b) whether any informal conference is proposed to be convened by Government of the Companies interested to consider the situation arising from the prolonged rate war on the Konkan Coast and to attempt a settlement of the charges for Haj traffic to avoid rate cutting as usually happens at the time of Haj traffic ; and

(c) whether the conference has been held ; and if not, when it is proposed to be held ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : With the outbreak of the War, the position in respect of the Konkan coast trade and the pilgrim trade is expected to alter considerably and the situation will be watched for some time with a view to see if any action by Government is called for.

Syed Ghulam Bhik Nairang : With reference to the answer given by the Honourable Member, may I ask if the Haj passages have been entirely stopped ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I have no information on that so far.—no.

Maulvi Muhammad Abdul Ghani : Do Government propose to make an inquiry into the matter ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Yes.

SHORT NOTICE QUESTION AND ANSWER.

EXEMPTIONS UNDER THE REGISTRATION OF FOREIGNERS ACT.

Mr. F. E. James : Will the Honourable the Home Member please state :

(a) whether the attention of Government has been drawn to the editorial in the issue of the *Hindustan Times*, dated the 9th September, 1939, headed "Part of the Game" in which the Government of India is urged to amend the "Registration of Foreigners Act" so as to exempt Burmans from registration ;

(b) whether, as stated therein, the Bill as framed by Government excluded Afghans from the definition of foreigners but treated Burmans as aliens ; and

(c) whether the statement that Burmans have not been exempted from the operation of the Act is correct ?

The Honourable Mr. J. A. Thorne : (a) to (c). The statements are the exact opposite of the truth. The Bill as introduced by Government excluded Burmans from its scope, and did not exclude Afghans. An amendment was moved by a member of the Congress Party which had the effect of including Burmans in the definition of foreigners. This was carried in the face of Government's opposition. The Government by order, dated June 21st have exempted Burmans, along with other subjects of His Majesty, from all the substantial provisions of the Rules.

Mr. F. E. James : Am I to understand that according to the provisions of the Act Burmans can be included in the definition of foreigners ?

The Honourable Mr. J. A. Thorne : According to the definition in the Act as passed by this House in the face of Government's opposition, Burmans are included in the definition of foreigners.

Mr. F. E. James : In view of the provisions of the Bill, which is now, I believe, under consideration in Burma, will Government consider the advisability of amending their old Registration of Foreigners Act in consultation with the Government of Burma so that there can be reciprocal provisions in both Acts excluding the nationals of one country or the other from the definition of foreigners ?

The Honourable Mr. J. A. Thorne : Sir, the Honourable Member assumes that the Government of India have power to amend the Act. Our experience of this Bill shows that they have not the power to pass an Act. An Act as passed is the work of the Legislature. If my Honourable friend means—"will the Government consider introducing a measure for the amendment of the Act"—I am speaking entirely on the spur of the moment and without previous consultation—I must say that that will be considered, but I can hold out no sort of undertaking that Government will adopt any such procedure.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the following motion moved by Dr. G. V. Deshmukh on the 18th February, 1939 :

" That the Bill to give a right to divorce to Hindu women under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Mr. Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Mr. F. E. James, Mr. Suryya Kumar Som, Mr. Bhulabhai J. Desai, Shrimati K. Radha Bai Subbarayan, Sardar Jogendar Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, when this motion came before the House last, I was on my legs, and the House adjourned and the question was put to me by my friend, Sardar Sant Singh : " Was this Hindu Divorce Bill a salutary measure ? " Sir, every measure which is for the progress of a community must be called a salutary measure. It is salutary not only in one sense, but it is salutary from many points of view. If I may mention the fact, this Bill is for the emancipation of the womanhood and especially of the Hindu womanhood. Sir, the number of Hindu womanhood in this country is not small ; it is the womanhood of the very very large Hindu community. It is not only for the emancipation of womanhood, but it is also for their equality of rights with men.

Sir, this is an age when every woman of every nationality wants its own rights and its own privileges, and I see no reason why the rights and privileges which the womanhood of other nations can claim should not also be granted to Hindu women. Sir, if Muslim women's rights are protected, if Christian ladies' rights are protected, why not also should the Hindu womanhood claim the protection of its own rights ? Therefore, I would ask my Honourable friend if he were here to believe me that this is a very salutary measure. (Interruption.) I do not care whether my Honourable friend, Mr. Lalchand Navalrai, agrees with me or not. I am expressing my own views, and I am supporting the Bill which was moved in this House by my friend, Dr. Deshmukh. Sir, if this measure is adopted, and I am sure it will be, then that will be expressing the views of the advanced section of the Hindu community. Sir, the grant of this equality of rights to Hindu women should lead to this desirable result that it will be a great restriction upon polygamy, and, therefore, it is a very salutary measure. For these three reasons, I think I am right in saying that it is a very salutary measure.

Sir, I know there are two schools. There is the old school and there is the new school, and it is not a new thing for the Hindu community alone, it is a thing which exists in every other community at present. Amongst Mussalmans also there is a progressive community. I am sure, even amongst the Englishmen there are two communities, the progressives and the non-progressives. More freedom and more rights to womanhood are being given everywhere. Even in the present war, you will find that ladies are going to serve the country and the nation. The world has advanced very far enough, and, therefore, I think there is no point in saying that this is not a progressive age. It is a very progressive age and if the womanhood want to advance their own rights and influence, I see no reason why the Hindu women should not be given

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those rights. The fossils that remain in the Hindu society may talk as much as they like, but the times have changed and I am sure there will be a great advancement amongst the Hindu community. How can my Hindu friends stop civil marriages ? We find boys coming from Europe with European girls. How are these marriages tolerated by my Hindu friends when they cannot even give this much right of divorce to their girls in India ?

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Have you ever suffered ?

Mr. Muhammad Azhar Ali : I have never suffered, because none of my sons has brought a European or a Hindu woman, but I would not have been ashamed if my sons had come out with a wife of another nationality.

I am sure, many of my friends must have seen the opinions that have been received in support of this Bill, especially the opinions which have been received from my province, the United Provinces. From these opinions I find that but for such people and such Judges as do not keep themselves abreast with the present progressive condition of the country, every one else has expressed his opinion in favour of the Bill. Barring these few persons, I find that every Hindu Judge and practically every District and Sessions Judge has supported the Divorce Bill. Of course, there might be some modifications. They might have said that such and such restriction should be placed or such and such rights should be given, for instance, for maintenance and things of that sort. Still, I find that they have all supported this Divorce Bill.

I am very sorry, Sir, that there will be a voting on this Bill or there may not be any voting, but at least it will be put to the vote of the House. It is a pity that the Party to which Dr. Deshmukh belongs is not here, otherwise I am sure they would have carried out the Bill by a vast majority. If somehow the voting could be postponed, I would ask the Government to do so till we meet in Delhi when Dr. Deshmukh and his Party will be with us. With these words, I support the motion.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, it is my duty to announce the attitude of Government to this motion. The attitude of the Government towards the Bill was, in fact, declared last April by the late Leader of the House in no uncertain terms ; but it might be urged that some fresh announcement of the attitude of Government might be expected in view of the altered circumstances which have emptied this House of a large Party. That is a circumstance which has been duly considered : but I can say at once that it is not regarded as justifying any change in the attitude of Government towards this motion.

I was not present at the debate in April, but I have read very carefully the proceedings of that meeting and I have had the advantage of listening to the speeches that have been made during the present Session. What has struck me is that not a single Hindu with the exception of the Mover—I think I am right in saying that—has supported this Bill.

Mr. N. M. Joshi (Nominated Non-Official) : I have supported the Bill.

The Honourable Mr. J. A. Thorne : Mr. Joshi may think he supported the Bill, but I will deal with that presently. I will repeat that, to

[Mr. J. A. Thorne.]

my mind, not a single Hindu has supported this Bill. The only support it has received has been from Muslims; and they will excuse me if I say that the commendation of people who in no circumstances will be subject to the provisions of this measure is one which cannot, putting it mildly, receive as much consideration as the views of those who will be subject to it.

Now, Mr. Joshi wishes to be regarded as a supporter of this Bill. Well, I should say myself that to call him even a half-hearted supporter would be the grossest exaggeration. Let me read the relevant part of his speech the other day. He wants this Bill to go to the Select Committee because the Select Committee will change it. He goes on to say :

"I have seen Bills changed out of recognition by Select Committees in this House. If that wide direction is given by the House, as the House has several times done that, then the Select Committee will be free to change Dr. Deshmukh's Bill beyond recognition and make it a good Bill."

I do not think that I am over-stating the case when I say that, that is not support of this Bill, however much it may be regarded as support in some vague way for some general principle of divorce among one sex of Hindus. Really, everything that has been said by the class of people who will be subject to this Bill supports the view that was so forcibly stated by Sir Nripendra Sircar, that the Bill as it stands—and that is all we are concerned with—is an impossible Bill. It is not the function of a Select Committee to change Bills "out of recognition". The function of the Select Committee is to deal with a Bill and to change it, no doubt, to amend it, if necessary, but still to leave it as recognisably the Bill which was introduced in the House.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Are you for divorce or against it ? Let us hear that.

The Honourable Sir J. A. Thorne : So much for the views that have been expressed on this Bill. I have also to consider the views that have not been expressed but that might have been expressed if the Congress Party were present in this House. I am not a diviner and I cannot say what would have been said by the members of that Party if they were present here. So far as I know, there is no evidence whatever as to the view taken by the Congress Party as a whole of this Bill. Dr. Deshmukh, if I recollect, did not profess to speak for the Party. He spoke for himself and for a number of people who desire to reform the law applying to Hindu marriages. But so far as I know, I repeat, there is no indication whatever as to the views of the Congress Party : and that being so, I think we are entitled to suppose that those views if expressed in this House would show very much the same disparity of opinion as is shown in the views that have been collected in the course of circulation, that have been expressed in newspapers, and that have been uttered in this House. Therefore, I think I can claim that there will be no unfairness in maintaining today the attitude which was so vigorously expressed by the Leader of the House last April.

I have really nothing of substance to add to what Sir Nripendra Sircar then said. It would be a presumption for me to attempt to give the Bill any slight jab after that marvellous demonstration of the fine art

of parliamentary annihilation. I came across the other day a dictum of the late Lord Balfour in one of his philosophical books. He demolished one of his critics in a foot-note in these terms : he described the criticism as "a curious and interesting exhibition of bad philosophy, bad politics and bad manners". I should not dream of applying that expression to Dr. Deshmukh in its entirety. No one could impute bad manners to the genial Doctor ; but if I may parody that expression, I would say that his Bill and his speech in support of it were a mixture of bad history, bad logic and bad feminism. And in particular it is the defect of it as a feminist measure which I should myself wish to stress today. Sir Nripendra Sircar spoke as a sincere friend of Hindu women and he ended his speech with these words : "For Heaven's sake have a better champion than Dr. Deshmukh". While that was said not wholly in seriousness, I think myself that it is a view which can be seriously adduced ; and I hold that with this Bill out of the way, there is a better chance of a practical measure which will more effectively deal with those admitted evils which Dr. Deshmukh, if I may say so, in a rather slap-dash manner has attempted to remedy. His Bill has served to clear the air. We have collected a very interesting mass of opinion. We have at any rate achieved a negative result in that we have some indication of how *not* to proceed ; and if the reformers who have this cause so much at heart will now get down to a serious, considered and comprehensive measure which would deal with the whole subject of divorce among Hindus, I think I can at any rate say this, that Government would consider themselves in no way opposed to the principle of such a measure and would examine that Bill, as they have examined this Bill, strictly on its merits.

(Sir H. P. Mody rose to speak.)

Mr. President (The Honourable Sir Abdur Rahim) : Before the Honourable the Home Member was called upon to speak, the Chair looked round. Nobody rose to speak. At this stage, only the Mover of the Bill has the right of reply.

The question is :

"That the Bill to give a right to divorce to Hindu women under certain circumstances be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafullah Khan, Mr. Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Mr. F. E. James, Mr. Suryya Kumar Som, Mr. Bhulabhai J. Desai, Shrimati K. Radha Bai Subbarayan, Sardar Jogendar Singh and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided :

AYES—15.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Azhar Ali, Mr. Muhammad.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Ghulam Bhik Nairang, Syed.
Joshi, Mr. N. M.
Kamaluddin Ahmed, Shams-ul-Ulema.

Mody, Sir H. P.
Murtuza Sahib Bahadur, Maulvi Syed.
Raza Ali, Sir Syed.
Siddique Ali Khan, Khan Bahadur Nawab.
Som, Mr. Suryya Kumar.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.

NOES—32.

Abdul Hamid, Khan Bahadur Sir.	Lalchand Navalrai, Mr.
Ahmad Nawaz Khan, Major Nawab Sir.	Mackeown, Mr. J. A.
Aiyar, Mr. T. S. Sankara.	Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Bhundarkar, Mr. K. Y.	Mukerji, Mr. Basanta Kumar.
Bozman, Mr. G. S.	Nehru, Mr. B. K.
Campbell, Mr. D. C.	Parma Nand, Bhai.
Caroe, Mr. O. K.	Rahman, Lieut.-Colonel M. A.
Clow, The Honourable Sir Andrew.	Raisman, The Honourable Sir Jeremy.
Crofton, Mr. D. H.	Roughton, Mr. N. J.
Dalal, Dr. R. D.	Sher Muhammad Khan, Captain Sardar Sir.
Dalpat Singh, Sardar Bahadur Captain.	Spence, Sir George.
Gorwala, Mr. A. D.	Sukthunkar, Mr. Y. N.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Talukdar, Mr. J. N.
Khaleeli, Mr. A.	Thorne, The Honourable Mr. J. A.
Khan, Mr. N. M.	Zafrullah Khan, The Honourable Sir Muhammad.
Khurshaid Muhammad, Khan Bahadur Shaikh.	
Kushalpat Singh, Raja Bahadur.	

The motion was negatived.

THE CONTEMPT OF COURTS (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) : Sir, I move :

“ That the Bill further to amend the Contempt of Courts Act, 1926, for certain purposes be taken into consideration.”

The Contempt of Courts Act of 1926 has defined and limited the powers exercisable by High Courts and Chief Courts in punishing contempts of court. But it has not laid down any definition of the offence of contempt of court nor has it laid down the procedure and practice which should be followed in dealing with such offence. As the law stands now, one cannot speak with confidence as to what constitutes a contempt of court. There are different categories of contempt. Is it intended merely to prohibit interference with or obstruction of the administration of justice during the pendency of a case or should the law of contempt go further and penalise all such adverse criticism of judges and their decisions even after the disposal of cases as may bring a court into contempt and scandalise a judge ? In the absence of a definition different courts will inevitably take different views. It should not be impossible for the legislature to formulate a workable definition of an offence which it seeks to punish. In any case, the Court will in each case have to find a definition for itself. It is not fair and reasonable to enact penal legislation without a cut and dried definition of what the offence is. While preventing interference with the course of administration of justice, this Bill seeks to give perfect freedom to the press and the public in the matter of comments upon judicial decisions. As regards procedure, the jurisdiction in contempt is now exceptionally summary and arbitrary. The powers of the Court are now extraordinary, uncontrolled and unfettered. But even a judge of the High Court is a

human being and not a superman. The prosecutor himself should not be the judge of the accused. Besides there should be all the safeguards of a regular trial. The procedure should be laid down. This Bill seeks to fill up this two-fold lacuna in the existing law. The freedom of the press is not infrequently in jeopardy without the definition and procedure prescribed in the Act.

I find, Sir, there is an amendment for circulation and I have reason to believe that Government are agreeable to that. In view of that and also in view of the fact that on account of the war we are in no mood to apply our minds seriously to such things I should not like to take any more time. Sir, I move.

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

“ That the Bill further to amend the Contempt of Courts Act, 1926, for certain purposes be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadian Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting public opinion thereon.”

The amendments contemplated by this Bill with regard to the Contempt of Courts Act are very necessary but there is no reason why the Bill should be hurried through. The Bill affects the public as well as the profession and also the powers of the courts in connection with contempt. It is, therefore, necessary that this Bill should be circulated for opinion. Three main points have been raised : first, that there is no definition of the words “ contempt of court ” and it is being construed differently in courts in any manner and on any occasion. Without any cut and dried definition it is necessary that it should be considered whether it is or it is not very necessary that a definition should be laid down so as not to have it to anybody to interpret it in any way he likes. The second point is where a certain matter in court has actually been adjudicated upon, what are the rights of the public to criticise those judgments. We must get opinions on that also. The third point is this : where adjudication has been made by one court and it is subject to an appeal or revision, whether any comments should be allowed or not. In my humble opinion the comments should be on what has been decided, and the criticism be restricted to any flaws or defects in it, I should think the judges should welcome that criticism. Then the most important point is about the procedure that is being adopted in convicting persons or trying them for contempt of court. At present it is a summary procedure : the High Court summarily decides cases and punishes for contempt. That is not sufficient, especially at this day an improvement is absolutely necessary in that direction. This Bill has provided that the procedure should be that of the Criminal Procedure Code, Chapter XX, so that the case may be tried like other cases and there will then be confidence in the procedure and also in the decisions. With these submissions I move my amendment.

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

“ That the Bill be circulated for the purpose of eliciting public opinion thereon.”

The amendment and the original motion are now before the House for discussion.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, Government will not oppose the motion for circulation ; but I think it necessary that when the Bill goes for circulation the proceedings of this House which will accompany it should contain some statement of the attitude and of the provisional views of Government as to the merits of the Bill ; and at the risk of wearying the House I must ask for a few minutes in which to make that attitude clear. Our refraining from opposition to the motion for circulation does not in any way indicate the present approval of Government of this Bill or commit Government to accepting it at a later stage. The Government, as at present advised, regard the Bill with disapproval. They consider it an unnecessary Bill, and in some ways a bad Bill, and they would have had no hesitation in voting against any motion except that for circulation. The Bill has two quite distinct objects : first, to define contempt, and the second, to prescribe the procedure which the courts should follow in trying cases of contempt. It is the first object, the definition of contempt, to which I want particularly to refer. This attempt to define contempt—cases of which High Courts and Chief Courts can take cognisance as contempts—is not a new one. I need not go farther back than 1925 when the Government introduced a Bill which in the end became the Act of 1926—the Act which this Bill sets out to amend. In the Government Bill of 1925, when introduced, there was a definition—sub-clause (1) of clause 2—and that is the definition which the Mover of this Bill has evidently taken as his model ; but in the process he has so mangled it as to make it unacceptable. I will deal in a moment with the question whether we need, and should have, any definition at all. But if we are to have one, it should not be in the terms of the definition contained in clause 2 of this Bill. Now, there are three differences between the present definition and the definition which was contained in the Bill of 1925. I will read clause 2 (1) of the Bill of 1925 :

“ Whoever by words, either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs—(that is also contained in my friend's Bill)—or attempts to interfere with or obstruct—(those words the present Bill omits—that is the first difference)—the administration of justice in, or brings or attempts to bring into contempt, or lowers or attempts to lower the authority of, a court—(these last words are omitted from the present definition—and this is the second difference from the original definition)—specified in the schedule or a court subordinate thereto, is said to commit contempt of court.”

My friend's Bill omits those two important elements. The third difference is that it whittles down the scope of the definition in a very drastic fashion by inserting the words “ during the pendency of any case ”. I hope the House will appreciate the significance of those apparently innocent words. In the Statement of Objects and Reasons my friend claims that the effect of that will be “ perfect freedom to the press and the public in the matter of comments upon judicial decisions ”. But to talk of perfect freedom obscures the fact that the High Courts would be rendered practically impotent to punish any attack, however scandalous, on a judicial decision. The Court's only remedy would be the quite inadequate one of prosecution for defamation. I cannot believe that in these days any responsible Government would seriously desire to leave their courts so much at the mercy of malicious, factious, or perhaps communally pernicious attacks.

Now, Sir, I come to the question whether the attempt to enact a definition of contempt is one which deserves support. My Honourable friend thinks it should be quite possible to define the offence, and he thinks it not

fair or reasonable that Courts should be left without a definition. He has either forgotten, or he prefers not to remember, the discussions of 1925 on this very point. Then, in the Bill of 1925, the Government themselves had the definition which I have read to the House, but the Legislature cut it out. I will read the remarks made by two distinguished gentlemen in the course of that debate. This is one extract :

“ All that was necessary, to my mind, was to have enacted a section or two merely saying that the High Courts shall be deemed to have always had the power of punishing contempt of subordinate courts without attempting to define contempt, leaving it to the High Courts to decide what was contempt according to the established traditions and practices of the High Courts. In that case you would have avoided all the controversy that has taken place today.”

This is an extract from the speech made by Sir Chimanlal Setalvad. Then another comment made is as follows :

“ The attempt to achieve the impossible, namely, to define contempt of court, which has not yet been defined in any part of the world, is, I think, a fruitless attempt.”

That is a quotation from the speech of Pandit Motilal Nehru. Those objections, not to the particular terms in which the definition was then framed, but to attempting a definition at all, ultimately prevailed. That Bill of 1925 went to a Select Committee, and the definition disappeared from the Bill. The Select Committee, which contained many eminent persons, reported on that point—“ The definition of contempt of court has been omitted. We are of opinion that the case law on the subject will form an adequate guide ”,—and on that point, so far as I can see from the Report of the Select Committee, only one member out of the 15 members of that Committee dissented. Sir, I suggest that it is by no means as evident as my friend maintains that the offence of contempt should be precisely defined.

Now, Sir, clause 3 of the Bill deals with the procedure for trial of contempt offences. The object of that provision is admittedly to restrict the powers of the High Courts, and the Statement of Objects and Reasons describes those powers as “ extraordinary, uncontrolled and unfettered ”. Well, here again, I would remind the House that the Bill of 1925 contained provisions for the procedure of courts ; that is in clause 4 of the Bill of 1925 ; and here again the Select Committee deliberately cut out those provisions, and gave as their reason the ground that “ the procedure at present followed by High Courts in respect of such offences is adequate ”.

Sir, the House will see that my friend's Bill is in the main a mere resurrection of proposals which received a decent burial many years ago ; and where, as in this definition of contempt, he departs from the proposals that were then made, it is an innovation which, it appears to the Government, should not be supported.

Mr. Akhil Chandra Datta : Sir, it has been admitted that the attempt to define contempt of court is not a new one. In fact, that attempt was made in 1925 by the Government themselves, and if I have been able to follow the Honourable Member's speech, I think he did not dispute the principle that there should be a definition. I for my part cannot imagine how you can prescribe some punishment for some offence unknown and unknowable, and if this attitude is correct....

The Honourable Mr. J. A. Thorne : On a point of personal explanation, Sir. My friend did not rightly understand me. The Government do not accept the principle that there should be a definition of contempt.

Mr. Akhil Chandra Datta : I stand corrected, but at all events, the Government in 1925 did make a very serious attempt for defining the offence of contempt of court. Before some court gives its verdict and punishes the offence of contempt, that court must make up its mind as to what that offence is. You may find that the court will have to define the term for itself, and the inevitable result will be that different courts are bound to give different views in the absence of a definition given by the Legislature.

Then, Sir, it is said that you give practically unfettered power to the press. My answer to that is, the Indian Penal Code makes a provision for that eventuality. There are sections in the Indian Penal Code,—at present I cannot lay my finger on it,—but there are provisions which deal with this matter, and my submission is that we have enough provision in law to deal with such a situation.

Then, the last point raised related to procedure. I think, Sir, some procedure should be laid down. What that procedure should be, there may be difference of opinion, but certainly there must be some procedure. These are questions which we may be in a better position to discuss and decide after getting the opinions from all parties.

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

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE INDIAN BAR COUNCILS (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions, Non-Muhammadan Rural) : Sir, I beg to move :

“ That the Bill further to amend the Indian Bar Councils Act, 1926, be taken into consideration.”

Sir, the object of this Bill is to bring about certain reforms in the legal profession. There are two objects of the Bill.

12 Noon.

One is the unification of the profession and the other is substantial autonomy to be given to the legal profession in the management of their own affairs. For the reasons which I have stated with regard to the preceding Bill, I shall be very brief. There has been a growing demand for some time past that different grades of lawyers should be abolished and there should be one set of lawyers practising in all the courts from High Courts down to the lowest court, including the revenue courts. That demand was first made in a Resolution moved in this Assembly in 1921 by Munshi Iswar Saran and opinions were invited by the Government from the country. We find that the Local Governments were unanimous in recommending the removal of these distinctions. The same was the case with most of the High Courts. These opinions were collected in 1923 and after that an Indian Bar Committee was appointed in 1923. I may say at once that the proposals that I have made in this Bill are not my own proposals at all. These proposals are based on the recommendations of the Bar Council Committee of 1923. I would like also to draw the attention of the House to the personnel of that Committee. I need not read the names. They are all eminent jurists and

Judges of the different High Courts. This Bill seeks to give effect to the recommendations of the Bar Councils Committee. I shall read only one paragraph from that report :

“ We look to the time when there will be in each province a single grade of practitioners practising in all the courts—from the High Court down to the lowest Civil, Criminal and Revenue Courts. We do not propose to discuss fully in this report this matter but content ourselves with expressing the opinion that the disappearance of these grades is an ideal which should be kept prominently in view.”

That was suggested in 1923. I am trying to give effect to these recommendations 15 years after the recommendations were made. Sir, the Act of 1926 gave the first instalment of reforms to the lawyers practising in the High Courts and this Bill seeks to give the remaining instalment. I mean to the lawyers practising in the subordinate courts who are still governed by rules framed under the Legal Practitioners Act by the High Courts. Sir, I move.

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

“ That the Bill further to amend the Indian Bar Councils Act, 1926, be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The contents of this Bill are well-known to those professional advocates and Vakils who have been practising in courts. There is at present an Act called the Indian Bar Councils Act. Now, this Act was passed in 1926. The object of that Bill was to give authority to the professional men—the members of the Bar to decide their own destinies. With that view a Bill was moved in 1926. Since then, we have felt some difficulties and it has been recognised that the Act ought to be amended. It is with that view that this amending Bill has been introduced. But I would submit that this matter should not be decided at once for the suggestions that have been made by the Honourable Member are his own suggestions which would be either supported or commented upon or improved by circulation. Such a Bill as this cannot be passed by this House forthwith. The House cannot frame a sufficiently appropriate Bill without consulting the members of the Bar and the Judges. Therefore, I hope the House will accept my amendment for the circulation of the Bill.

Now, the features of this amending Bill are that it is claimed that under the Bar Councils Act, lawyers who are working at present in the lower courts or in the subordinate courts, as they are called, have not got sufficient representation on the Bar Councils. There is a clause in the Bill which requires that three members should be elected by the legal practitioners practising in the courts subordinate thereto from amongst their number. I have got an experience of this myself. In Karachi there is a Bar Council for the whole of Sind, but whenever elections are made for securing members on the Bar Council, generally the Mofassil suffers, because in Karachi itself there are several Advocates and whenever there is a question of vote they overwhelm the seats and the Mofassil gentlemen do not get representation. The result has been that in order to remedy that evil, which is so apparent, the Judicial

[Mr. Lalchand Navalrai.]

Commissioner in Sind actually nominates members from the Mofassil on the Bar Council. Now, Sir, that defect must be removed and that is one of the questions to be considered when the Bill is circulated. In that connection I would only say that it would be necessary to have joint election. I do not object to it at all. Let it be joint by all the advocates, pleaders both in the Mofassil and in the urban towns but I want reservation of seats for the members of the subordinate courts.

An Honourable Member : That is a reactionary proposal.

Mr. Lalchand Navalrai : It is not reactionary under the present conditions. At present you cannot avoid reservation even in political bodies for all communities. I would ask you to move with the times.

The second point is with regard to the removal of class distinction. There ought to be no distinction between advocates and pleaders and barristers. Their privileges should be the same. An amendment has been proposed in this Bill with a view to the removal of that class distinction.

The third point is with regard to the autonomous character of the present Bar Councils. In the Statement of Objects and Reasons it is stated that the object of the Bill is the ultimate unification and eventual autonomy of the legal profession. The time has now come for that. Though there is a Bar Council well constituted by elected members of ability and efficiency, even though they have got their bar council, the Bar Councils Act provides that if there is a question affecting the conduct of any of the legal men or if there is any question affecting the profession, that has first to come before the Bar Council. That is the present Act and the Bar Council appoints a tribunal in which there is generally a judge also to decide the matter, but their decision is not final at all. The final word rests with the High Courts or the Judicial Commissioner's court. I do not know why this should happen. The tribunal is quite competent to act honestly and judicially. I think autonomy must be given in this matter. Then, Sir, with regard to the fees to be charged at the time of enrolment, they are not uniform and in the majority of High Courts the fees are considered to be very heavy. That is also a point to be considered. For all these reasons, I submit that the Bill should be circulated for the purpose of eliciting opinions.

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

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Mr. J. Ramsay Scott (United Provinces : European) : We support the motion for circulation.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) . Sir, this Bill has three important features. Apart from matters of detail, it seeks to place all categories of legal practitioners on one level ; it seeks to a certain extent to democratize the Bar Councils by allotting a certain number of seats to mufassil lawyers to be filled by election by mufassil lawyers ; and the most important feature is that it seeks to take away the control at present exercised by High Courts over members of the legal profession. So far as the attitude of Government here is con-

cerned, I may state it broadly that they think that the provisions of the Bill go too far and that the pace sought to be set is too fast in respect of these matters. This is a matter falling under Article 16 of List III of the Seventh Schedule to the Government of India Act, that is to say, it is a matter in the concurrent legislative list, so that if the Bill is passed into law, the administration of that law will be the concern of the Provincial Governments. Therefore, the people who are interested mainly in this Bill are the members of the legal profession, the High Courts and the Provincial Governments, and, I think, it is eminently desirable that before any further progress is sought to be made with this Bill, the views and opinions of the members of the profession, of the Honourable Judges of the High Courts and of the Provincial Governments should be available to this House. Therefore, though, as I have said, the Central Government do not view this Bill with any favour, they will not stand in the way of this Bill being circulated for eliciting opinion thereon.

Mr. Akhil Chandra Datta : I am thankful to the Honourable the Leader of the House for the attitude that he has taken. I must confess that I absolutely agree that opinions should be obtained from the Bar, the Provincial Governments and the High Courts. Sir, I accept the motion for circulation.

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

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE HINDU WOMEN'S RIGHTS TO PROPERTY (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be taken into consideration.”

The object of the Bill is to make provision about the inheritance of Hindu daughters. I shall say at once that it is not proposed to give any new right to the Hindu daughter. It seeks only to restore her to the position which she had occupied from time immemorial. Every one who has studied the Hindu law knows that, under both the schools of Hindu law, the Dayabhaga and the Mitakshara, Hindu daughters come in after sons, grandsons and great grandsons. Then comes the widow and then comes the daughter. But the law, as it now stands, or rather as it has been standing for the past eighteen months, has already changed. However, I do not like to take up the time of the House further at this stage. It cannot be disputed that all that the Bill seeks to do is to give her a right which, according to the Hindu scriptures, according to case law, and according to all authorities, she did enjoy ever since ; that is the position sought to be given. So at this stage I should not like to say more. There is a motion also for circulation. I may say I shall accept it when it is moved.

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

“ That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be taken into consideration.”

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Sir, this Bill seeks to amend the existing law relating to Hindu women's rights to property. Although I think the object is a desirable and a laudable one, there may be differences of opinion amongst members of the Hindu community. Therefore, I think it necessary that the Bill should be circulated for eliciting opinion thereon. Sir, I move.

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

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I shall support this motion with a few words. Sir, this is a social legislation and should not pass through this House without full and free opinion from the Hindu public. It has been the declared policy I should think of the Government of India that Bills of this nature, social Bills, cannot be supported by the Government unless there is a majority opinion of the Hindus in favour of it. With that view, we have now known the fate of Dr. Deshmukh's Bill. Therefore, we should not be in a hurry, and this Bill must go before the general Hindu public. (Interruption.) So I think we should wait till all the opinions come.

Sir, we have seen that there is some sympathy for inheritance by daughters, but the country has still to consider and the public opinion has to be obtained, whether the daughter, according to the Hindu law, the commentators, and the case law, should get this kind of inheritance or not. My Honourable friend, the Mover of this Bill, has referred to the text of Yaggavalka, but there are many other old texts which have to be consulted. In Bengal, in Bombay, in Madras there are different schools of Hindu law and they should be consulted. Then one thing which has also to be considered during circulation by the public is this, whether the married daughter should have inheritance or not, because, if she goes into another family and she does get her inheritance to property there the question before the public would be to consider whether she should have this double inheritance both from the parental house and from her husband's house. I shall not take further time of the House for the moment. I support this amendment for circulation.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I shall not attempt to say anything on the merits of the Bill—for the very good reason that the subject of succession to property amongst Hindus is one which is completely beyond my understanding. But the experience of this House during the last two years has convinced me that it is also a subject which Hindus themselves should not attempt to touch without a good deal of circumspection. May I remind Honourable Members that Dr. Deshmukh's Bill, which was introduced in 1935, was passed in 1937 after circulation and consideration in the Select Committee and elaborate discussion. Yet, even so, the Act was found to be very im-

perfect, and almost immediately it was necessary to introduce a Bill to make it workable. That amending Bill was passed in April, 1938, less than a year and a half ago. How that law is working I do not know, and I very much doubt whether anyone can say ; I should have thought it would take some years before anyone could say, how a law which was recently enacted was affecting the community which it touches. But it does seem to me that for the Legislature to attempt yet another amendment is liable to introduce bewilderment, or perhaps to increase bewilderment and confusion,—and succession, I should also think, is a subject upon which one particularly needs stability and certainty as to the law. For these reasons the Government view is that it would be improper for this Bill to be considered by the House at this stage or for it to go to a Select Committee. I may say that there is another reason, and that is, that the subject of succession occurs in the concurrent legislative list and, in the view of the Government of India, it is ordinarily essential that where legislation is introduced here on a subject occurring in the concurrent list, the Provincial Governments should have a due opportunity to consider it. The motion for circulation gives that opportunity, and the Government are prepared to accept it.

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

“ That the Bill be circulated for the purpose of eliciting opinion thereon.”

The motion was adopted.

THE MUSLIM INTESTATE SUCCESSION BILL.

Khan Bahadur Nawab Siddique Ali Khan (Central Provinces and Berar : Muhammadan) : Sir, I beg to move for leave to introduce a Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community.

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

“ That leave be granted to introduce a Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community.”

The motion was adopted.

Khan Bahadur Nawab Siddique Ali Khan : Sir, I introduce the Bill

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I move for leave to introduce a Bill further to amend the Indian Penal Code.

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

“ That leave be granted to introduce a Bill further to amend the Indian Penal Code.”

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I introduce the Bill.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

Khan Bahadur Shaikh Fazl-i-Haq Piracha (North-West Punjab : Muhammadan) : Sir, I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923.

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

“ That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923.”

The motion was adopted.

Khan Bahadur Shaikh Fazl-i-Haq Piracha : Sir, I introduce the Bill.

THE PRESS AND REGISTRATION OF BOOKS (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I beg to move for leave to introduce a Bill further to amend the Press and Registration of Books Act, 1867.

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

“ That leave be granted to introduce a Bill further to amend the Press and Registration of Books Act, 1867.”

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I introduce the Bill.

THE MUSLIM INTESTATE SUCCESSION BILL.

Khan Bahadur Nawab Siddique Ali Khan (Central Provinces and Berar : Muhammadan) : I beg to move :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawaz Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James, Mr. Lalchand Navalrai 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, in view of the undertaking which I have given not to speak at great length and in view of the splendid example set up by my honourable friend, Mr. Ramsay Scott, I do not want to say much, and it will be sufficient to say that the Bill be referred to a Select Committee. I am thankful also to the Government for helping me to send this Bill to a Select Committee.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member know that it is the convention of the House that no motion is made for reference to a Select Committee or any other motion of that character on the same day as the motion for leave to introduce the Bill is made ?

Khan Bahadur Nawab Siddique Ali Khan : I submit that the convention has been broken twice, once when the Temple Entry Bill which was moved by Mr. C. S. Ranga Iyer.....

An Honourable Member : Request the Chair to suspend the convention.

Mr. President (The Honourable Sir Abdur Rahim) : The convention is not there to be broken.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : What is the history of this matter ? You can ask for an exception to be made in view of what has happened so far.

Khan Bahadur Nawab Siddique Ali Khan : This Bill was introduced into this House on the 17th April, 1936, by Sir Muhammad Yakub, then it was circulated for eliciting public opinion in 1937 and this was supported by the then Home Member, Sir Henry Craik, and, afterwards, it was referred to a Select Committee. Government at that time remained neutral and the Congress also did the same. But afterwards, unfortunately for us and fortunately for Sir Muhammad Yakub, he became the Commerce Member of the Government of India with the result that the Bill automatically lapsed. I want, Sir, that this Bill be restored to the same position which it occupied before at the time of reference to Select Committee. In view of these special circumstances and also in view of the fact that the Government have no objection, I request you to allow it to be referred to a Select Committee.

Mr. President (The Honourable Sir Abdur Rahim) : Under the circumstances, the Chair takes it that the House will have no objection to this motion being made now. Motion moved :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawaz Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James, Mr. Lalchand Navalrai and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. M. S. Aney (Berar : Non-Muhammadan) : I do not want to make a long speech in view of the exception you are pleased to make, granting permission to the Honourable Member to move the motion for reference to a Select Committee. Though I do not want to make any long speech, at the same time, I do not think that the principle underly-

[Mr. M. S. Aney.]

ing this Bill is one to which one can easily give one's assent without due consideration of the principles of the Muhammadan law itself. I have not come prepared with a speech over this motion today, but if I remember aright, even in the opinions that were received I think there were some at least which showed that the principle which is attempted to be laid down here is not free from controversy. Therefore, I only want it to be understood clearly that in allowing this motion to be moved now the House does not necessarily commit itself to the principle underlying the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, the attitude of Government towards this Bill was declared by Sir N. N. Sircar when Sir Muhammad Yakub moved for reference of an identical Bill to the Select Committee. Sir N. N. Sircar, I think, to the satisfaction of the greater part of the House, if not the whole of it, demonstrated that this Bill was ill conceived, was ill drafted, and was ill placed in the sense that it had been brought before this House, whereas, having regard not merely to the form of the Bill, but to the object of the Bill, it deals with matters which are comprised in the provincial list. He pointed out very forcibly the numerous and serious defects in this Bill, and I am very sorry to find that, though the same matter has been brought before this House in the shape of a new Bill this Bill is identical in terms with the one to which objection was taken on the previous occasion and that advantage has not been taken of the opportunity afforded by the lapse of the previous Bill to remove the defects which were pointed out by Sir N. N. Sircar. I shall, however, not go into that matter on this occasion. As this Bill was referred to a Select Committee on a previous occasion Government see no reason why reference to a Select Committee should be opposed on this occasion.

Mr. President (The Honourable Sir Abdur Rahim) : But the Chair must point out to the Honourable the Leader of the House and also to other Members that if the House votes for a reference to a Select Committee, it commits itself to the principle of the Bill.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I have been put on this Select Committee, but in view of what has been stated by the Leader of my Party just now, I also reserve to myself to say that I will not be bound by the principle of the Bill.

An Honourable Member : You have given your consent to be on the Select Committee.

Mr. Lalchand Navalrai : I have given my consent, but in view of the statement of the Leader of our Party, I want to be given freedom as regards the principle of the Bill, but if it cannot be done, I do not want to work on the Committee.

The Honourable Sir Muhammad Zafrullah Khan : On the previous occasion when all those defects to which I have referred were being pointed out, it was submitted, I believe by Sir Muhammad Yamin Khan on behalf of the Muslim Members—I do not think the Muslim League Party as such existed then—that they proposed to set right the defects in the Select Committee, I do not see how that is possible, and it was

pointed out then that this was not the way to do it, but as, in spite of those things being pointed out, the matter went to the Select Committee on that occasion, I am content to leave it as it stood at the end of Sir Nripendra Sircar's speech.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will strike out the name of Mr. Lalchand Navalrai from the list of Members of the Select Committee as he does not wish to serve.

The question is :

“ That the Bill to declare that properties of a Muslim dying intestate and without any heir devolve upon the Muslim community be referred to a Select Committee consisting of Khan Bahadur Sir Abdul Hamid, Major Nawab Sir Ahmad Nawaz Khan, Syed Ghulam Bhik Nairang, Maulvi Syed Murtuza Sahib Bahadur, Maulana Zafar Ali Khan, Mr. Muhammad Azhar Ali, Sir Muhammad Yamin Khan, Mr. Muhammad Nauman, Mr. F. E. James and the Mover, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 18th September, 1939.

LEGISLATIVE ASSEMBLY.

Monday, 18th September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

ORAL ANSWERS.

CIRCULAR re PRODUCTION OF STAMPED AUTHORITY FOR APPEARANCE ON
BEHALF OF INCOME-TAX ASSESSEES IN BOMBAY AND SIND, ETC.

203. *Mr. Lalchand Navalrai : Will the Honourable the Finance
Member please state :

- (a) whether Government are aware of the Circular issued by the Commissioner of Income-tax, Bombay Presidency, Sind and Baluchistan, to the effect that any person qualified under section 61 of the Indian Income-tax Act, 1922, to appear on behalf of an assessee before any income-tax authority in connection with any proceedings under the Act would be allowed to do so only if his authority is stamped in the case of a lawyer with a court fee stamp of the value of annas eight under Article 10 of Schedule II of the Indian Court Fees Act, 1870, which provides for payment of stamp duty on *Mukhtarnama*, or *Vakalatnama*, and in the case of others with a non-judicial stamp of Rs. 2 under Article 48 (g) of the Indian Stamp Act, 1899, which provides for payment of stamp duty on power-of-attorney ;
- (b) whether Government are aware that this Circular, apart from placing an additional burden on the assessee, is causing great hardship to the assessee ;
- (c) whether Government or the Income-tax Commissioner or other Income-tax authorities have received any representations either from private individuals or public bodies in connection with the removal of this hardship ; if so, what steps Government contemplate taking in the matter ;
- (d) whether Government propose to give any relief to the assessee ; if so, what ; if not, why not ;
- (e) whether it is a fact that in the Bombay Presidency including Sind a manager of a business not residing within the jurisdiction of the Income-tax Division is not allowed to

appear in an income-tax proceedings, connected with his firm's business without production of a stamped authority ; if so, under what rule or authority this is being done ; and

- (f) whether it is a fact that if an assessee sends his relative, a clerk or a servant merely to obtain a postponement of the proceedings before the Income-tax Officer or to show books, he is required to produce a duly stamped authority to do so ?

The Honourable Sir Jeremy Raisman : (a), (b), (c) and (d). I would refer the Honourable Member to the reply given by me to starred question No. 58 asked by him on the 1st September, 1939.

(e) Section 61 (1) of the Income-tax Act prescribes that "any assessee who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act..... may attend by a person authorised by him in writing in this behalf.....". If, therefore, the assessee desires to be represented by his Manager or employee in any matter in which he is called upon to attend or himself wishes to attend, the Manager or the employee must have a written authorisation which should be stamped as a power-of-attorney. The question of jurisdiction does not affect the position.

(f) No stamped authorisation will be necessary where a representative appears without acting for the assessee, e.g., the production of documents, to produce or explain accounts and making formal applications for time. A written and stamped authorisation will, however, be necessary in cases where the assessee seeks to obtain a postponement of the proceedings before the Income-tax Officer.

Mr. Lalchand Navalrai : Under what law is he asked to give stamp when he applies for adjournment, either himself or through his clerk ?

The Honourable Sir Jeremy Raisman : Under the Indian Stamp Act.

Mr. Lalchand Navalrai : Under the Indian Stamp Act, it will be when a person appears through another person. But under the Indian Income-tax Act, there is no provision that when the party himself is appearing or through a Manager, a power-of-attorney is required.

The Honourable Sir Jeremy Raisman : Under the Stamp Act, the person who has to have a power-of-attorney has to produce a document which is suitably stamped. The question whether he requires a power-of-attorney or not is a question of law.

Mr. Lalchand Navalrai : In view of the fact that there is always a difference between a *Mukhtarname* and power-of-attorney, the former being only for the purpose of appearance, that difference should be observed in proceedings under the Income-tax Act also, will the Honourable Member instruct his officers to observe this difference ?

The Honourable Sir Jeremy Raisman : It is not a matter which can be settled by instructions to my officers. It is a question which should be settled in a Court of law. If any party is aggrieved and thinks that he ought not to be required to produce a power-of-attorney, he must take the matter to the Court.

Mr. Lalchand Navalrai : Will the Honourable Member not issue instructions which are ordinarily issued ?

The Honourable Sir Jeremy Raisman : No, I cannot do that. I cannot make law by instructing my subordinates.

SAVINGS DUE TO THE TRANSFER OF BRITISH TROOPS TO THE IMPERIAL ESTABLISHMENT.

204. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : With reference to the answer given to starred question No. 55, asked in this House by Mr. Lalchand Navalrai, M.L.A., on the 1st September, 1939, will the Defence Secretary, please state :

- (a) what is the net saving to the Indian Revenues on account of the transfer of the British troops from the Indian to the British establishment ; and

- (b) how it is proposed to utilise such saving ?

Mr. O. K. Caroe (on behalf of Mr. C. M. G. Ogilvie) : (a) The net annual saving to the Indian revenues on account of the transfer of British troops from the Indian establishment will be Rs. 201 lakhs.

- (b) It is proposed to utilise the saving to meet the increased cost of mechanisation and modernisation.

Mr. Lalchand Navalrai : Will the money be used in the Military Academy to produce more cadets ?

Mr. O. K. Caroe : I shall require notice of that question.

REPORT OF THE CHATFIELD COMMITTEE.

205. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) : Will the Defence Secretary please state :

- (a) whether the Chatfield Committee's Report has been considered by the Government of India ;
- (b) whether Government propose to publish the same ; if so, when ;
- (c) what are the main recommendations of the Committee ; and
- (d) whether Government propose to place these recommendations before the Assembly for its consideration ?

Mr. O. K. Caroe (on behalf of Mr. C. M. G. Ogilvie) : (a)—(d). The Chatfield Committee submitted its report to His Majesty's Government and not to the Government of India. The report will not be published. The main recommendations as accepted by His Majesty's Government and the Government of India will be found in Military Despatch No. 5, a copy of which has been supplied to the Honourable Member.

Mr. Lalchand Navalrai : Was the report confidential, so that it should not be laid on the table ?

Mr. O. K. Caroe : Yes, Sir.

DELAY IN DISPOSING OF THE BUILDING PLANS IN THE KARACHI CANTONMENT.

206. ***Mr. Lalchand Navalrai :** Will the Defence Secretary be pleased to state :

- (a) whether the attention of Government has been drawn to a contribution in the *Daily Gazette* of Karachi, dated the 20th August, 1939, under the caption of "Landholders in Karachi Cantonment" regarding delays in disposing of the building plans, and its editorial at page 10 ;
- (b) whether it is a fact that for building and rebuilding sanction is obtainable by the landlord giving notice in writing of his intention to the Board and the Board has to refer every such application to the Military Estates Officer for objections, if any ;
- (c) whether it is also a fact that the Military Estates Officer has to return the application with his report within thirty days after it has been received by him ; and if the Board neglects or omits to make and to deliver the required order within one month after the receipt of the notice, the landlord draws the attention of the Board to the neglect or omission by written communication, waits for fifteen days more and then build or rebuild the building ; if so, whether this procedure is being followed ;
- (d) whether it is a fact that the delay of a year or eighteen months in disposing of the applications occurs owing to detention of papers in the higher offices at Quetta and Simla ; and that Colonel G. F. J. Patterson assured the deputationists who waited on him at Karachi about the simplification of the entire procedure for speedy disposal of the plans ; if so, what orders have been passed to simplify the procedure ; and
- (e) whether it is a fact that delay in the speedy disposal of plans continues owing to the rule that the time of one month allowed to the Board for disposal has to be reckoned from the date on which the Board receives the report of the Military Estates Officer ; if so, whether Government propose to get the rule amended ; if not, why not ?

Mr. O. K. Caroe (on behalf of Mr. C. M. G. Ogilvie) : (a)—(e). I am collecting the information and will lay it on the table in due course.

Mr. Lalchand Navalrai : As delay in getting sanction for building is causing great hardship to the landholders, will the Honourable Member kindly expedite it ?

Mr. O. K. Caroe : I have no doubt that the matter will be expedited as far as possible.

RESOLUTION RE APPOINTMENT OF A COMMITTEE TO INQUIRE INTO THE AFFAIRS AND GENERAL ADMINISTRATION OF THE EAST INDIAN RAILWAY.

Shaikh Rafiuddin Ahmad Siddiquee (Chittagong Division : Muhammadan Rural) : Sir, I beg to move the following Resolution which stands in my name :

" That this Assembly recommends to the Governor General in Council to appoint a committee of railway experts and representatives of the public to inquire into the affairs and general administration of the East Indian Railway which at the time of its transfer from the Company to the State in 1924 was deemed to be the best administered railway in India and to suggest the ways and means for restoring its traditional efficiency."

In moving this Resolution my purpose is simple. The Resolution is worded in very clear and unambiguous language. Of course the word "affairs" is comprehensive and I will try to explain the real purpose behind it. We all know that before and even at the time of the transfer of the East Indian Railway to the State its administration was considered most efficient and satisfactory from all points of view. It was a solvent company and was paying a dividend to its shareholders. There were no complaints regarding major accidents or inefficiency of supervising staff or any great discontent on the question of communal prejudices. The general administration was more elaborate and less expensive with more sense of responsibility to the people who were their customers. Their locomotive purchase policy was economical and fully equipped with experts to give their opinion with responsibility. The company had to meet difficult times of the Great War which brought economic pressure on many sides of the business, specially iron and wood, which were the essential commodities used in a railway. The internal trade was restricted as port to port business was mostly done in this country before 1924. The number of travelling public was certainly less fifteen years ago as the population of India has been on the increase in millions. These were the relative disadvantages in which the East Indian Railway ran its administration but there was more security of public life, better and more prompt payment of claims to merchants for damages to goods during transit and more security of service for employees specially those in the lower cadres. Since its purchase by the State in 1924, a new era began where the high officials of the railway began to give themselves airs as being Government officials beyond approach. The staff generally began to assume more indifference to the public and courtesies vanished from them as the passengers were no more customers of a railway company but subjects of Government who were running the railways. With the indifference of staff, the merchants and merchandise began to be neglected. The top-heavy administration being the order of the British rule in India, they adopted the attitude of appointment of more supervisors than the workers themselves. Even the gang inspector gave himself the airs of an Inspector of Police and also the ticket branch inspectors began to have a "red tape" style of being attached to the Government of this country. This is what the public felt, and then the top-heavy administration introduced any number of new officers and created posts for all sorts of unimaginable supervision. During the company's rule, one D. S. used to control the whole administration of a division, but now they have created S. T. and A. S. Ts. and super-

[Shaikh Rafiuddin Ahmad Siddiquee.]

intendents of one department or the other. Their salaries were increased and the administration of the railway became a job of hunting places of everybody. Things did not rest there. In the head office ten more departments were created and C. O. Ps. and Assistant C. O. Ps., C. C. O. and Deputy Agent (Personnel) and Deputy Agent (Works) and Deputy Agent (Superintendent Staff) and many other new posts with higher salaries were created.

Whenever the question of retrenchment was moved, only either the menial staff was to be reduced or the gangmen or the small salaried staff of checking branch side were affected and this was claimed as the retrenchment on the part of the Government Railway. Regarding the neglect of duties and the callousness of the engineering side and the control side, I would only request this House to recollect the statement made in Justice Thom's Report on the inquiry into the Bihta disaster. I would not like to indulge in details, but I would certainly say, reading paragraphs 69 to 76, 124 and 161 to 165 of the said report, that it is definitely established that by the purchase and distribution of such a large number of XB engines in 1926-27 the administration was positively responsible for contributing to the said disaster. In fact the Honourable Justice Thom said so in his report. The Divisional Superintendent had admitted in his evidence that he wished these engines were dead and buried for ever. Bihta was not the end. Since then we have seen five more major accidents on the said East Indian Railway and this was a record 18 months. Of course in inquiries some causes were admitted of these accidents but there is no going back from this fact that the administration was held to be inefficient in one form or another either in the form of inefficient staff or inefficient guarding to avoid sabotage.

This is one of the points and the most important point of the failure of the State Railway in giving security to the people of this country. It may be borne in mind that no accidents were reported when terrorists were haunting the country and have only been experienced when settled government in provinces was working. I would like to draw the attention of the Members of this House to think over this and feel for themselves the probabilities and possibilities.

Now, Sir, I come to the side of their treatment of merchants and merchandise. The company was more liberal in payment of claims and was afraid of being dragged to a court of law. But what do Government care whose officers are not required to pay anything even if the matter is taken to a court of law?

Coming to the financial side of the East Indian Railway, as a State Railway, I would say that the net result has been that the shareholders who in this case are the taxpayers of India had normally to subsidise the fund from Central revenues, as deficit was the only result. The so-called shareholders had the satisfaction of owning a most unremunerative line which gives only a diminishing return.

It is sometimes said that the rail-road competition was responsible for losses in receipt of revenues or that the general slump in business in India was responsible. I do not know how Government can at all make out any case on either of these. Can they prove that the average income

APPOINTMENT OF A COMMITTEE TO INQUIRE INTO THE AFFAIRS AND GENERAL ADMINISTRATION OF THE EAST INDIAN RAILWAY. 617

of the East Indian Railway Company was more in terms of receipts than it is of the State Railway? Never at all, Sir. Of course, there are many other factors which I cannot explain at length to this House. I would only submit that piece-meal enquiries have been going on and in most of them the railway administrations were put at fault. Recently we had the Locomotive Enquiry Committee's Report and the House knows the views expressed in this House at the failure of the railway administration. We had also the Wedgwood Committee's Report which was equally not very much appreciative of the general administration of all the lines. We had the Bihta Enquiry Committee and a few others to which I have referred and more I do not want to refer to. Can the Honourable Member for Railways justify his position with so many unhappy remarks? There are questions of callousness of the East Indian Railway officials in the matter of distorting the 1934 Resolution of the Government of India and so many other things, which I cannot relate to the House even if I were to talk for the whole day.

Under these circumstances, Sir, I commend this Resolution to the House for acceptance. Before I close, I would only ask, why have piece-meal reports? Appoint a committee of experts and public men to advise the administration on the whole system of its working, its method of improving revenues, reducing expenditure, acquiring efficiency, giving security and safety to the public and all such details which may be incidental to the enquiry. The House will realise that the Railway Board has miserably failed in improving the financial value of this national asset of hundreds of crores of rupees; and I feel that Government should lose no time in appointing this committee which may cost them a few hundred thousand rupees but will save them a few hundred millions every year. I am moving this Resolution with no sense of hostility or as one who may be a professional critic or a sworn opponent, but in absolutely good faith of co-operation and extreme anxiety to relieve the taxpayer from "deficient drainage."

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

"That this Assembly recommends to the Governor General in Council to appoint a committee of railway experts and representatives of the public to inquire into the affairs and general administration of the East Indian Railway which at the time of its transfer from the Company to the State in 1924 was deemed to be the best administered railway in India and to suggest the ways and means for restoring its traditional efficiency."

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I have to raise a point of order, Sir. May I know if I can do it before or after the amendment is moved?

Mr. President (The Honourable Sir Abdur Rahim) : He has not moved it. The Chair does not know what the amendment is.

Mr. Muhammad Nauman (Patna and Chota Nagpur cum Orissa : Muhammadan) : Sir, I move :

"That at the end of the Resolution, the following be added :
and that terms of reference shall include that Committee will enquire into the position of Muslims in services on the East Indian Railway and suggest methods for immediate restoration of Muslim quota in all grades by recruitments and promotions."

Mr. Lalchand Navalrai : The point of order which I propose to raise is whether this amendment is relevant and germane to the Resolution itself. Let me at the outset make it clear that I am not at all opposed to a reasonable quota being given to my Muslim friends in the services, but I am certainly of opinion that when much has already been given to them more should not be asked. However, the point of order is this. What the Resolution aims at is that a Committee should be appointed to go into the affairs of the general administration of the East Indian Railway and to suggest ways and means for restoring its traditional efficiency. When they raise this question of traditional efficiency, we have also to consider the fact that in those former days there was no such question as communal ratio, which is of recent date. If my friends want to raise the question of restoring traditional efficiency, then the question of communal ratio being absent in former days, no question of any tradition arises which the committee can go into. In those days.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not describe what tradition was.....

Mr. Lalchand Navalrai : Very well, Sir.

Now, the amendment asks that the Committee should examine the question of the position of Muslims on the East Indian Railway and suggest methods for immediate restoration of Muslim quota in all grades by promotion. I submit, Sir, that this amendment is clearly not relevant to the issue of restoring the traditional efficiency of the Railway administration which is the subject matter of the main Resolution.

Mr. President (The Honourable Sir Abdur Rahim) : What has the Honourable Member got to say ?

Mr. Muhammad Nauman : Sir, my submission is that when appointing a Committee on the East Indian Railway, if the terms of reference are enlarged, there can be no harm specially when public men are to be included in the personnel.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair holds that it is out of order. The amendment proposes to raise different issues, and only one issue can be raised on a Resolution.

Mr. Muhammad Nauman : Then, may I have your permission to speak on the Resolution itself ?

Mr. President (The Honourable Sir Abdur Rahim) : Yes, certainly.

Mr. Muhammad Nauman : Sir, my friend, Shaikh Rafuiddin Ahmad Siddiquee, has clearly explained to the House in his interesting speech the faults of the present administration of the East Indian Railway. This Railway, Sir, is now owned by the State, and despite the numerous facilities it enjoys in several matters, it is still a losing concern, though it was paying concern when it was under company management. In those days, the East Indian Railway Company used to pay very huge dividends to its shareholders in spite of the fact that the Company did not enjoy so many facilities which are now enjoyed by the East Indian Railway as State Railway. In those days, soon after the war particularly, they had to pay very high prices for wood, iron and steel which

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are the special commodities used by Railways in their workshops, and yet they used to pay handsome dividends to the shareholders, but today although this Railway is under State control, yet it has become a losing concern. There is no denying the fact that during the last 15 years the population of this country has increased enormously, and, consequently, the number of people travelling by Railways has also increased, but, unfortunately, the net revenue receipts do not show a corresponding increase. Another point to be considered is this. Before the year 1924, more business was done through ports directly by steamship companies, but now with the development of indigenous industries in India like those of sugar and cement and others, the internal transport has increased, and the position of the Railways should have been financially sound. But, Sir, it is really very surprising that in spite of all the numerous advantages and facilities which this East Indian Railway administration is enjoying today, things have not improved either in the way of better amenities for travelling public or by way of showing better returns of net income. The only cause that a layman can assign to all this result is the factor of top-heavy administration and the heads of the administration do not pay as much attention as they should have to the daily work of administration. Unless they do this, and unless they change their methods of administration, they will not succeed in restoring their traditional efficiency, or improve the income to show increased returns as they had been showing during the company-managed days.

The present state of railway finances really represent a horrible state of affairs, and if this position continues, I am afraid it will make us bankrupt and the public will be compelled to bear the burden with further taxations to make the railway administrations deficiencies. Already several Committees were appointed to look into the various aspects of all the Railway Administrations like the Pacific Locomotives Committee, the Wedgwood Committee, the Bihta Enquiry Committee and few others, and we all know what opinions they have expressed about the administration of the East Indian Railway, and in spite of the praise they may have showered on some individual officials of the Railway, they have vigorously suggested that considerable improvements should be effected and that the Railway Administration have failed miserably in discharging their obligations to their shareholders, who in this case happen to be the taxpayers of this country. Recently, Sir, we have seen that there have been numerous major accidents on the East Indian Railway, and with a record of such horrible and disgraceful accidents, the administration can hardly claim any credit of their efficiency. I do not suggest that a railway administration is infallible, and that there could have been any accidents at all, but within the last 18 months the number of major accidents which have occurred is really shocking. We certainly feel, Sir, that the administration required a thorough overhauling. There is no use of undertaking piecemeal inquiries, which the Railway Board has been making from time to time. Why not take up a particular line and go into all its different aspects and details with the idea of improving the amenities of travelling public, giving relief to the taxpayer as much as possible, ensuring the safety of the travelling public, and securing the confidence of the people of India who are your owners and customers. Why rest

[Mr. Muhammad Nauman.]

content with a committee appointed to enquire only into particular matters like the one on "Pacific Locomotive"? No doubt, you have appointed many other committees and they have certainly imparted very useful informations which will be helpful to the administration in the long run. What I suggest is that it would not be inadvisable to appoint a committee the terms of reference for which should be to look into all the affairs of the East Indian Railway and arrive at a decision on the financial issue, the administrative issue, the working ratio, the method of improving your receipts, the method of acquiring more co-operation from public, and suggestions and findings will help you in overhauling the whole chain of administrations of this Railway and serve you as a guide for other railways without appointing any separate committees for them. I agree that it may cost a few lakhs of rupees once but I think it is worthwhile spending when the chances are that you may be able to save some crores every year in future. If we can save about ten million rupees a year by spending a quarter of a million of rupees once only, even as a business proposition this suggestion cannot be turned down. I hope the Government of India will realise that this Resolution is a very simple one and is moved with full sense of co-operation. I may submit, Sir, that there is an anxiety in the minds of the taxpayer of India, I mean in the minds of the general public, that there is certainly some inherent defect in the East Indian Railway. Why, after having been transferred to the State, in spite of the better facilities afforded to the East Indian Railway now,—there should have been this actual position created in which there is practically little security of life to people for reason of accidents, and there is financial bankruptcy for the reason of topheavy expenses. With these few remarks, I would commend this Resolution to the House and request the Honourable Member to accept it as a gesture of good faith and co-operation on our part.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I fully accept the assurance from the Honourable Members who have spoken that they are anxious to help, but the point on which I differ from them is whether their suggestions are helpful. I listened as best as I could to the speech of the Honourable the Mover which was, unfortunately, somewhat inaudible.....

Mr. M. S. Aney (Berar : Non-Muhammadan) : That is also our grievance here,—that some portions of speeches from there are not heard here.

The Honourable Sir Andrew Clow : Does the Honourable Member hear me ?

Mr. M. S. Aney : Yes.

The Honourable Sir Andrew Clow : So far as I followed his speech, I have found in it no concrete suggestions for directions in which the administration could be improved. There was a eulogy of conditions in 1924-25.....

Mr. Muhammad Nauman : May I say that I did make some concrete suggestions, namely, that methods might be found out on the question of increasing receipts and also on the question of economy in the administration.

The Honourable Sir Andrew Clow : I was referring to the Honourable the Mover of the Resolution. I did hear in his speech a eulogy of conditions in 1924-25 and I gathered that everything was nearly as perfect as it could be with a railway administration. But I have looked up the debates in this House in 1924-25, and 1925-26, and they certainly do not confirm that impression, particularly as regards the East Indian Railway. I should have anticipated that the Honourable the Mover would have compared statistically in some manner the conditions of those days with the conditions of today, or that in dealing with the question of financial deterioration he would have looked at the other railways and tried to show that the East Indian Railway had been particularly unfortunate in its working during the last ten or fifteen years. But nothing of that kind was attempted.

I would remind the House that between 1924-25 and the present day there have been important changes which have effected a very radical alteration in the situation. I would select four of these,—three of them are internal to the railway administration and one is external. In the first place, the railway has changed from company to State-management. Whatever might have been said later, I did not gain the impression that at that time at least that change was unwelcome to this House. In the second place, there has been a big amalgamation of lines. The East Indian Railway took over in 1925 the Oudh and Rohilkund Railway which was previously a separate administration. It took over also the Naini Jubbulpore section of the East Indian Railway from the Great Indian Peninsula Railway. It gave away to the North Western Railway the Delhi-Ghaziabad and Delhi-Kalka lines, so that a comparison of figures is a little difficult. All I want to emphasise at present is that on the whole there was a very great enlargement of functions with a very great combination of lines and with important effects on traffic. For example, you can now run important trains right through on one administration from Howrah to Saharanpur, and further, whereas formerly you had two railways competing across the greater part of the United Provinces. The third change is one of selection of staff. The policy of Indianisation in the higher ranks has come in since that, and also the policy of communal representation in recruitment. I was not very very clear whether the Honourable Members opposite attributed the alleged loss of efficiency to the fact that we have been recruiting more men from the minority communities or not.

Mr. Muhammad Nauman : My point was that the minorities have not been given their proper share.

Other Honourable Members : No, no.

The Honourable Sir Andrew Clow : I may say that it is not my opinion either. The other change, and a very important one, is one over which the railway had no real control, and that is the immense expansion of road traffic ; and that is a factor which has affected all the railways in India and most of the leading railways in the world and has led everywhere to some financial deterioration. I think that it led Mr. Nauman into a fallacy because he referred to the enormous increase in passenger traffic. If he will bear in mind the fact that the Oudh and Rohilkund Railway was added and other lines also, and that the mileage of the East Indian Railway is more than 50 per cent. greater than it was

[Sir Andrew Clow.]

in 1924-25, I think he will see that the increase in traffic is by no means proportionate and one would, therefore, expect the overhead costs to go up. The Honourable the Mover referred to a large increase in the number of officers, but actually that is not the position at all. The figure for 1925-26 was 316, and for 1937-38, 293.

Now, I shall try to apply some tests which can be regarded as valid in spite of the great changes in the number of lines we are dealing with. One test that is very familiar to all railway operating staff is that of the operating ratio, that is the ratio that your working expenses bear to your receipts. And here are the figures for the two periods. In 1924-25 the operating ratio on the East Indian Railway was 59.49 or 59½ per cent.; on the Oudh and Rohilkund Railway it was 74. The figures for the combined railways are, in 1937-38, 60.14, and in 1938-39, 62.4.

Mr. Muhammad Nauman : I could not follow the first figure which you gave.

The Honourable Sir Andrew Clow : It was 60.14. In other words if any comparison is to be drawn it is practically the same as the East Indian Railway was in 1924-25, although it has absorbed a railway with very much higher operating costs.

Let us take another test—the working expenses per train mile. These in 1924-25 were Rs. 4.19; in 1938-39, Rs. 3.85, so that the figure has gone down. Take the gross ton mile per engine hour. It was 3,430 in 1924-25 and it is 4,674 now—a very substantial increase. The wagon miles per engine hour have risen from 172 then to 208 now. Take the train miles for passenger trains. The train miles have risen from 20.8 in 1924-25 to 24.3 now. The train miles per train engine hour for mixed trains was 14.4 in 1924-25 and in 1938-39 it is 18.4. There has been a speeding up in goods traffic also, roughly from nine miles per hour in 1924-25 to nearly 11 miles in 1938-39. These figures surely speak of a very substantial increase in efficiency.

Turn to the commercial side to which the Honourable the Mover alluded and here I propose to take the claims made against the railway. I am dealing with commercial claims, not claims regarding accidents, regarding which I have no figures now. The number of claims made in 1924-25 was over 105,000. In 1938-39, it was less than 10,000. The actual amounts paid as compensation for goods lost or damaged was in 1924-25 over 29½ lakhs. In 1938-39 it is 33,000.

Mr. Muhammad Nauman : Is it because there were no damages?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is interrupting too much.

The Honourable Sir Andrew Clow : I made it clear that the number of claims made has been very greatly reduced.

Take again third class passengers—a subject of perennial grievance in this House and one very prominently put forward in those halcyon days in 1924-25 when everything was perfect with this Railway. The average charge per passenger mile in 1924-25 was 3.76 pies. In 1938-39

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it was 2.93 pies. We are carrying passengers now more expeditiously and at a lower rate than we were doing then. I would remind the House that we are doing that with less staff. There has been a reduction of staff since 1924-25, although not a reduction in the Muslim staff.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : On a point of information.....

The Honourable Sir Andrew Clow : I am not giving way.

We are paying the staff more. I would also remind the House that we have made improvements since then in the hours of the staff. Are we to go back now on some of these fundamental changes? In what respect is a committee going to help? Take first the rail-road competition. That is a matter which affects all railways. It is a matter to which this House has given very close attention but I do not believe that a committee of railway experts and some non-officials on the East Indian Railway is likely to reach a solution which will be of any value. If there were indications of such a solution being reached, I should be the first to grasp the opportunity eagerly. Take again recruitment. Does the House seriously propose that we should go back on our present policy and hand over the recruitment entirely to the railways and go back on communal representation and also the policy of Indianisation? I ask in what way will a committee prove useful. Take the amalgamation of lines. Is it seriously proposed that we should split up this railway which provides a unified service over perhaps the most important and populous part of India? I cannot believe that any Member of this House would suggest that.

Now, we are left with one question, namely, State *versus* Company-management. I have heard suggestions lately in rather surprising quarters that we should go back to company-management. Indeed a suggestion to that effect was made from the Benches from which my Honourable friends spoke a few days ago. Well, there is a great deal that could be said on either side but I am not yet convinced that Indian public opinion would favour a reversion to the old system and I am quite satisfied that no committee of this kind could throw any real light on or give any assistance in dealing with that problem. Sir, I oppose the Resolution.

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

“ That this Assembly recommends to the Governor General in Council to appoint a committee of railway experts and representatives of the public to inquire into the affairs and general administration of the East Indian Railway which at the time of its transfer from the Company to the State in 1924 was deemed to be the best administered railway in India and to suggest the ways and means for restoring its traditional efficiency.”

The motion was negatived.

RESOLUTION RE PROVINCIAL AUTONOMY FOR BALUCHISTAN.

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

“ That this Assembly recommends to the Governor General in Council to take immediate steps for the purpose of establishing Provincial Autonomy in Baluchistan on the same footing as in the other provinces.”

[Syed Ghulam Bhik Nairang.]

In moving this Resolution, I beg to invite the attention of the House to the state of things which has existed in Baluchistan since the acquisition by the British Government in 1879 of what is now known as British Baluchistan and the subsequent acquisition by lease and otherwise of a much larger territory known as the Agency Territories. Baluchistan can be described geographically as consisting of three kinds of tracts—British Baluchistan which is 9,476 square miles in area, the Agency tracts which are 44,345 square miles and the States of Kalat and Las Bela which are 78,034 square miles, so that, on the whole, nearly one-half of Baluchistan is under British administration and the population of the entire area of Baluchistan—although I have not been able to get the exact figures—is about a million. Now, looking at the history of British administration since 1879, when British Baluchistan was acquired by treaty and came directly into the ownership of the British Government, one finds that this Province has been administered mainly from a strictly military and strategic standpoint. Of course no one can doubt the military importance of Baluchistan to the defence of India, and if one were to talk purely from the military point of view, one need not have much to say against the principles on which the administration has been carried on so far since the occupation of Baluchistan by the British. But certainly there are considerations other than military and strategic which cannot be lost sight of but have to be borne in mind in considering the best interests of those who have been governed under that system all this time. One has naturally to ask several questions as to how the inhabitants of Baluchistan have been enabled to improve their lot under British administration and what points there are which have received scant attention so far and which must receive greater attention under the existing circumstances when the rest of India has made immense strides in spite of all that we have to say on the outstanding grievances of Indians in the matter of political freedom. Sir, when a comparison is instituted between Baluchistan and the rest of India, one cannot help regretting that Baluchistan has remained the most backward part of British India. In order to consider the condition of the people of Baluchistan one may divide the subject under certain convenient heads. For instance, one thing which usually follows the occupation of any country by the British is education. There is immediately a movement to spread education and to organise educational institutions. If one were to look at the history of education in Baluchistan under British occupation, the conclusions at which one has to arrive are very disappointing. I tried to find out how education has progressed in Baluchistan. I find in the *Imperial Gazetteer* published in 1908 a description of the system of education which had existed in Baluchistan till then and I find a very frank admission of the writer of the article in the *Imperial Gazetteer* in these words :

“ Education has as yet made little progress and a Department of Public Instruction is only now being organised by an Inspector General of Education appointed jointly for the Frontier Province and Baluchistan.”

Then, certain figures follow and the net result is stated to be that there is only one high school in the Province and one Anglo-Vernacular Middle school and that the number of boys in these schools was extremely small : in 1891, 27. in 1901, 103, and

in 1903, 87. Now, that was the snail's pace at which education was advancing till 1908 when that article appeared in the gazetteer. Then, about primary education, the figures given there are that there were primary schools for boys, their number being three in 1891, fourteen primary schools in 1901 with 604 pupils, and there were twenty-one primary schools in 1903, the number of pupils being 831. Then there were mosque schools which we find later on described as consisting of two kinds of schools, firstly, schools at which a *mullah* who had been trained in the normal school used to teach the *koran sharif* and the three R's and those at which non-trained *mullahs* taught the *koran sharif* only and the number of pupils in those schools was put down as 2,256 boys and 313 girls ; and if one were to inquire into the state of female education, the information given is that in 1891 there was one girls' school, with 61 pupils, in 1903, three girls' schools with 170 pupils, in 1904, four girls' schools, with 240 pupils. Now, this was the state of things as we find existing in 1908 at the time of the publication of the *Imperial Gazetteer*. Looking at the latest administration report for 1938 one finds that there is a scheme sanctioned by the Government of India which was according to that report expected to be put in force from this year under which one intermediate college and two Anglo-Vernacular middle schools were to be established, while the existing state of things was that there were 91 primary schools with a total of 2,458 boys and primary schools for girls numbering five with 421 pupils. As to the intermediate college which was going to be established, I hope the Honourable Member speaking on behalf of Government will be able to tell us whether it has been established or not, but looking at the figures which I have been able to get I think the conclusion cannot be helped that education has made very poor progress during the sixty years of British occupation.

Now, about the general administration of the country, I have already said and I want to say it again that, really speaking, the entire administration is based on purely military considerations and the tone of the administration cannot help striking one as based entirely on distrust. The whole of the British Baluchistan appears to be over-run with spies ; everybody appears to be watched and everybody is afraid to speak his mind. I may give one personal instance. About six years ago, my own brother, who was His Britannic Majesty's Consul at Kandahar, invited me to meet him there. I travelled via Quetta. He came down all the way from Kandahar to receive me. Considering his official position, and the fact that he was a Khan Bahadur and is now an O.B.E., one may, I think, assume that he was a person to be trusted and, if his brother had been an undesirable man to be watched by spies, he would not have dared to invite him to meet him at Kandahar. Yet, what did I find ? As soon as I reached Quetta, I found that my brother had come there to receive me. When we were putting up at the house of a very respectable gentleman at Quetta, I found that every third man that met me was invariably a spy and during my return from Kandahar through Baluchistan I found that at every railway station there were persons coming to examine our passports and our tickets. Of course, I was travelling in the second class and not first class. When I told these men that my ticket as well as my passport had already been examined at such and such station, they very roughly said : “ This has got to be

[Syed Ghulam Bhik Nairang.]

done at every station." Now, that is the kind of atmosphere that prevails in Baluchistan and we find that every public movement that is started in Baluchistan is simply put down. Anybody who wants to lead a movement of reform is looked upon as a rebel and steps are taken to get him into trouble. Of course, a good many instances of that kind could be given, but I think one need not enlarge on that point. I say that the facts which have come to our notice from time to time during the few public movements that were started in Baluchistan lead us to infer that the entire atmosphere prevailing in Baluchistan is one of distrust, one of autocracy, and the only remedy for putting the house in Baluchistan in order is that it should get the status of an autonomous province and it should have provincial autonomy on the same lines as has been established in other provinces of India.

I may submit that some years ago when the idea of granting reforms to the North-West Frontier Province was first put before Government, there was a lot of opposition from various quarters on various grounds. One ground which could be common to Baluchistan and the Frontier Province is that, like the Frontier Province, Baluchistan is also, after all, a Frontier Province, and frontiers, of course, have got certain peculiarities of their own and defence problems crop up at every step. So, Government cannot afford to ignore those problems and cannot treat those areas on exactly the same level as the rest of the provinces of India. I maintain that the experience of granting the reforms to the North-West Frontier Province and the granting of provincial autonomy to it later on under the present reforms, is a point in favour of granting autonomy to Baluchistan as well. Whatever considerations apply to Baluchistan apply with equal force to the Frontier Province. If in spite of those considerations and with certain unavoidable safeguards enforced from the military and strategic point of view, provincial autonomy can be granted to Peshawar and Bannu, Dera Ismail Khan and Kohat, certainly provincial autonomy can also be granted to Baluchistan. I hope, therefore, the House will take a favourable view of this Resolution and the Government also will indicate their willingness to accept it. Sir, I move.

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

"That this Assembly recommends to the Governor General in Council to take immediate steps for the purpose of establishing Provincial Autonomy in Baluchistan on the same footing as in the other provinces."

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, from 1921 up to 1932, we have been hearing debates on this issue and the issue of granting reforms to the North-West Frontier Province. We had known at that time that at a certain period there was even in this House a division of opinion and there was a great deal of difference between the two sections of the House on the question of the North-West Frontier Province itself. While there had been a constant demand from one side that the people of the Frontier Province were quite efficient to look after their own affairs and, therefore, they should be granted the Provincial Autonomy on the same lines as the other provinces of India, we found that the other side pressed that no autonomy should be given to the Frontier Province.

An Honourable Member : Which was the other side ?

Sir Muhammad Yamin Khan : The other side was composed of two sections, unfortunately. One was the Government and the other party was represented by some of the Indian section itself.

We debated this point at length and we tried to convince the Government that the Frontier Province was really next to none in India. Although education had made greater strides in other Provinces and the North-West Frontier Province was not on the same level at that time, we said that the people, if they were left to themselves, would be able to make a rapid progress and, therefore, the Provincial Autonomy for that province ought not to be delayed. That was what we pressed on the Government of India. Our point was that if the people of the Frontier Province were left alone, they will develop themselves very quickly because it is a homogeneous population. Our second point was that if the reforms were delayed for long, these people may entertain in their mind some kind of bitterness towards the Government. Of course, the reforms were delayed and delayed and they did not come too soon when they did come. Because of this delay, we find that even today many people have a bitter feeling against the British Government.

The real fact is that Baluchistan had been ignored when the other Provinces were enjoying some kind of right. I think a good case has been made out by Baluchistan Province also. I know and I fully realise that Baluchistan is not so well advanced as the North-West Frontier Province at the time when reforms were granted to the Frontier Province. Baluchistan has not reached a stage when without proper control and advice she could manage her own affairs. But with friendly treatment, the Baluchis can easily be handled and they will be a great asset for the protection of the Indian frontier. Things should not be delayed too long until some kind of agitation is created in the public mind. The Government should give reforms with good grace. If reforms are given at the proper time, the people would feel much obliged to the Government and they would feel that their rights were recognised by Government. You should not allow the people to snatch away reforms from the Government, although it is the real law of nature that nobody is willing to give unless it is snatched. It should not be so in this case. The problem of the North-West Frontier Province is quite different from Baluchistan. The Frontier Province is bordering some other elements which are boisterous and there is also the independent State of Afghanistan. Here, British Baluchistan is not so closely attached to any other big Asiatic State, except Persia. But there is much intervening territory between British Baluchistan and the Persian border which can easily be protected by small measures. They do not require the same kind of precaution as the North-West Frontier Province requires. I do not want to go into details of defence ; I will leave it to experts. I am talking about this only from the political point of view and that is that this Province deserves to be created an autonomous Province. Education is slowly spreading. The Government should come forward and remove the stigma that the Baluchis are backward people and that they could be treated in some way different from others. I have no experience of Baluchistan. I do not, therefore, know about the spying system. But as my Honourable friend, Syed Ghulam

[Sir Muhammad Yamin Khan.]

Bhik Nairang, said, this spying system may be prevalent. Some people may be more anxious to show their services even when they are not required. Of course these methods are really repugnant to those who visit Baluchistan from other provinces when they enjoy autonomy. I hope the Government will win over the people of Baluchistan to their side and not estrange them. Sir, I support the Resolution.

Mr. O. K. Caroe (Secretary, External Affairs Department) : Sir, in listening to the Honourable the Mover of the Resolution and to Sir Muhammad Yamin Khan, I was a little doubtful whether the scope of this Resolution is British Baluchistan alone or the whole of Baluchistan. Sir, Baluchistan is an area of very great contrasts, and it may possibly interest the House to hear of some of those contrasts. On the map, Baluchistan seems an obvious area for constituting as a Province in the Indian polity. It is as large as the Punjab, and it is as large as the United Provinces. But, Sir, representative institutions and provincial autonomy must be thought of in terms not of mountains, but of men, and in terms of human souls, and not of wastes. The population of the whole of Baluchistan is a little over eight lakhs, less than many districts in Northern India, and very much less than a district in Southern India. Of that population, about one half lives in the States of Kalat, Las Bela and Kharan, and these being Indian States, the House would agree to exclude these States from the scope of this Resolution.....

Syed Ghulam Bhik Nairang : They can federate.

Mr. O. K. Caroe : That, I think, is a different point.

The Honourable Sir Muhammad Zafarullah Khan (Leader of the House) : Does the Honourable Member, Syed Ghulam Bhik Nairang, mean that they should federate into a province ?

Mr. O. K. Caroe : So we may turn to that portion of Baluchistan which is administered in one form or another, and the population of that is about 4½ lakhs, that is about the population of a large sub-division. It is divided into three classes of territories. First, British Baluchistan which is a Chief Commissioner's province and the population of that is a little over one lakh, to be exact it is 1,36,000, a very small Tahsil in terms of human souls. The second portion is the leased areas and the third portion is the tribal areas. The Honourable the Mover of the Resolution spoke of agency territories. Those territories are divided into two, that is areas leased from Kalat State and the tribal areas. I think it may be convenient if I treat these in reverse order and take the leased areas first. Those areas are part of Kalat State territories and they include the town of Quetta itself. They are administered by the Crown Representative under treaties entered into with the Khan of Kalat from time to time. The juridical difficulties in the way of considering these leased areas for the purpose of provincial autonomy would be great. I might give an instance. The Judicial Commissioner of Sind has recently held that criminal process between the leased areas and British India can only be executed by invoking the Indian Extradition Act, an ordinary warrant will not run. That shows that these areas are definitely foreign.

We next come to the tribal areas. The tribal areas are on very much the same footing as the tribal areas of the North-West Frontier. I believe

it was Sir Yamin Khan who compared the Baluchistan problem with the North-West Frontier problem and he gave me the impression that what has been given to the North-West Frontier should without delay and for the same reasons be given to Baluchistan. Well, Sir, the difference is that the North-West Frontier settled districts of which the present province of the North-West Frontier Province is made up have been for 90 years part either of the Punjab or administered districts and in no place do they touch the international frontier. Beyond those districts lie the tribal areas of the North-West Frontier ; and the tribal areas of Baluchistan have great resemblances with the tribal areas of the North-West Frontier. They are not fully administered ; the law does not fully run. The procedure is a tribal procedure worked according to tribal custom. And for those reasons and also because they abut on an international frontier it would be impossible at present and difficult to foresee a future in which the Central Government could surrender their control and their responsibility to a Provincial Government.

Now, Sir, we are left with British Baluchistan which, as I said, is a Chief Commissioner's province and the population of which is about equivalent to a small tahsil. It is not easy to my mind,—I may be wrong,—to think of the establishment of an autonomous unit for a small tahsil. Apart from that we have to remember that there are other Chief Commissioners' provinces in India. The Government of India Act, deliberately and giving expression to the intention of Parliament, divided India into Governors' provinces and Chief Commissioners' provinces, and that was only four years ago. I find it difficult to think that it would be regarded as a view founded on due proportion and relation to the facts if it were suggested that this very small population should be set up into an autonomous Governor's province. There is to my mind an even more radical matter which is not juridical in the real sense. The Honourable the Mover of the Resolution has told us that Baluchistan is a terrible place, that it is full of spies and that the administration is based entirely on military necessities and considerations. It has been suggested that there is no freedom of speech and also that it is impossible for any party to raise its head without being suppressed. Well, Sir, I was recently in Baluchistan and there is more than one political party including a branch of the Muslim League which has recently been established in Baluchistan and has held meetings attended by as many as ten thousand persons in Quetta. I therefore think that it is not altogether a true picture that the Honourable the Mover of the Resolution suggested. But I should like to suggest for the consideration of the House that it is difficult to found modern western representative institutions on a base of tribal institutions. Baluchistan, as I said, is a land of contrasts. In Quetta one finds even after the earthquake civilisation and all the paraphernalia of administration.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Why did you reconstruct it ?

Mr. O. K. Caroe : We reconstructed it, because, not only is it an important centre, but it is one of the chief holiday places of Northern India, and particularly of Sind. Those who like the highlands and the bracing air of Central Asia regard it as better than Kashmir,—“that other Eden, demi-Paradise.”

[Mr. O. K. Caroe.]

Sir, I was saying that it is difficult to construct a building of representative institutions on a foundation of tribal custom. The traveller who leaves the civilisation of Quetta may take a long stony road of 200 miles to Fort Sandeman where he will see a tree every 50 miles but he will almost certainly reach his destination quite safely. And why? Save in townships, there are no police in Baluchistan; law and order is maintained by the tribes themselves through their own leaders. The whole system of administration including that of criminal law is based on what the tribes themselves regard as a proper system. Crime is not punished in the same way as it is in India. The system is that instead of punishing the aggressor the aggrieved is recompensed; and the result has been in this tribal society that law and order on the whole is very well maintained and life is safe. Apart from that the tribal organisation through its *jirgahs* is taken into consultation at every step of the administration. Possibly the revenue administration affects the people as a whole more than any other part. The revenue administration of Baluchistan is in most places based on assessment in kind so that the people do not have to part with cash. The assessment is made from harvest to harvest in consultation with the *Maliks* of each revenue estate. The revenue officer goes to the village, inspects the crops, has a *jirgah* with the *Maliks* and he and the *Maliks* working together decide what is a fair demand in grain for that harvest. It is a system of cooperation and the result of it is that in no case that I have ever heard have there been any arrears of revenue; and that is saying a great deal and shows that the tribes are themselves taken into partnership in running the administration. Again the Arms Act is not fully enforced. I find it difficult to think of election meetings with men with rifles over their shoulders. The tribes are, I would try to convince the House, really running their own show. Is it fair or wise to break up that system and introduce full law and full administration with all the paraphernalia and all the rest of it in order at this stage to introduce a system of provincial autonomy as is known to the rest of India?

Another point is that most of the administered portion is inhabited by Pathans and not by Baluchis and should really be called Pathanistan.....

An Honourable Member : Which portion?

Mr. O. K. Caroe : Practically the whole of the administered area; that is all Baluchistan except Kalat State and Bugti and Marri country. It is Pathan country and not Baluch country, and is very much allied to the tribes further north. Among these manly people, upward movements are starting and should, we think, be encouraged as much in Baluchistan as elsewhere; but until these tribes wish to break down the tribal system and to substitute police for their own tribal levies and to see a full administration in force as in the rest of India and as in the settled districts of the North-West Frontier Province for 90 years, I think it is premature to consider provincial autonomy.

Much stress was laid by the Honourable the Mover on education. It has been difficult in the past, partly owing to the great distances. Any person who travels over the vast spaces of Baluchistan would realise this; it has been difficult to get children to school owing to this; and there have

been financial difficulties. The revenue of the province is 20 lakhs, its expenditure is one crore. But we have now worked out a scheme—of which I have not here myself the full details—for the reorganisation of education, spending about as much per capita as is being spent in other parts of centrally administered India; and it should be remembered that much money has had to be expended in reconstructing schools laid waste by the earthquake. It has therefore been difficult for us to give as much attention to this all important factor in progress as could have been desired. The Educational Commissioner to the Government of India has been to Baluchistan and has produced a scheme, of which, as I say, I have not full details here, but which has made some real progress. Sir, I oppose the Resolution.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, we expected that there would be opposition from the Government side. All the arguments of the Government relate to population. The Honourable Member has admitted that there is already a sort of semi-autonomous rule of the tribes themselves there. When we know that the aim of the Congress Government is to establish panchayat system in the autonomous provinces in India and to realise rent from the tenants not in cash, but, if possible, in kind, we are justified in saying that there is now in Baluchistan a sort of autonomous government. To say that we must have a certain number of people as a criterion for autonomy and, therefore, to reject the scheme is, I submit, really fantastic.....

The Honourable Sir Muhammad Zafrullah Khan : The scheme is certainly fantastic.

Mr. Muhammad Azhar Ali : If you had in the past treated the population of Baluchistan on the same scale as the population in the other provinces, I am sure, you would have got enough people going from the other provinces there. But I am ready to say here and now that you have treated that portion as a no-man's land. That is the very reason why it has been kept as a military station and as a military area: the roads there are for military purposes. If the Government had treated the people on that side properly, they could very easily have included it in Sind. But for their own military purposes they have kept Baluchistan in the most dilapidated condition and now they say the conditions are bad and the people are bad, and so on. I am arguing on the same grounds as my friend, the Government spokesman, did. He says that the income is very small and is not enough to run an autonomous province. But it is a place where you could raise more money if you tried to work the mountains.....

The Honourable Sir Muhammad Zafrullah Khan : How do you work mountains?

Mr. Muhammad Azhar Ali : By mining them for minerals, and so on. You say the revenue is small and the population is small, and, therefore, you cannot make it an autonomous province. My answer is, you can raise the revenue by other means. If the place is not treated as a military province, and if the same attention is paid to it as is paid to other provinces in India, Baluchistan could have raised the same amount of money as some of the other provinces; if not, at least there could have been

[Mr. Muhammad Azhar Ali.]

some subsidy from the Central Government. The fact remains that there is a tribal system there, and you could base your administration on that system and give the people there autonomous powers, and you could create a federation among those tribal areas. It is a matter of regret that nothing has been done though the British rule has been established there for sixty years now. Now, Sir, to come today before this House and say that in sixty years you have not been able to accomplish anything nor to civilize those people is hardly a credit to your administration. The Honourable Member said that it was only a holiday resort for the people of Sind. I submit, Sir, that if you had only improved the conditions in Baluchistan to attract people of other parts of India, that place would have flourished immensely and the revenue of that place would have also increased enormously. Even now if you start effecting improvements in the administration of that place, you will be able to make great headway to make the province of Baluchistan self-supporting. Unless you yourself try to educate the people of that place, unless you try to civilise them, unless you try to develop the industries that exist there already, how can you expect the people of Baluchistan to prosper and flourish? You can, of course, say that those people already enjoy a sort of tribal administration, but the fact remains that you have not done anything yourself to improve the condition of those people, but you have done everything to make it suitable for military purposes. Sir, I support the Resolution.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, whenever my friend, Syed Ghulam Bhik Nairang, comes forward with a proposal, I always regard it as one which requires our every serious consideration, but on this occasion I was surprised to find that he was sponsoring a motion of this kind. It may be due to the freaks of the ballot box ; the Resolution was probably not in his name originally, but it was in the name of some other Honourable Member, but my friend was also a signatory to it along with some other Members. It must not have been his own Resolution, but it was a Resolution which was thrust upon him by the freaks of the ballot box. That is my feeling. Anyway, it is always a very laudable desire of every one in this country to see that every inch of the ground in this land is autonomous. We have to look at the terms of the Resolution before us in order to understand what is exactly being demanded. It is this—it recommends to the Governor General in Council to take immediate steps for the purpose of establishing provincial autonomy in Baluchistan on the same footing as in other provinces. What is being demanded is the creation of a full fledged Governor's province in Baluchistan. That is the proposition before the House, and if the terms of the Resolution had been carefully considered by Mr. Azhar Ali, I believe many of his arguments would have been superfluous or meaningless. He wants to establish some kind of autonomous Government based upon the present tribal system which prevails in Baluchistan at present ; an autonomous Government just as it exists in other provinces in British India. The very foundations on which autonomous Provincial Governments are based in other provinces are wanting in Baluchistan, but he thinks that the tribal system of Government which prevails in Baluchistan can be taken as a basis for forming it into an autonomous province, on the same footing on which the British

Indian autonomous provinces are. I feel that the very arguments which my friend, Mr. Azhar Ali, put forward are sufficient to dispose of the proposition before the House. He sees the inherent difficulty of supporting the proposition on the data which are available to us.

My friend, Mr. Caroe, has placed before us some data, and is it conceivable that we can think of starting an autonomous province with the full fledged paraphernalia of a province in British Baluchistan, whose population, according to him, does not exceed $1\frac{1}{2}$ lakhs? The two grounds which have been advanced by my friend, Syed Ghulam Bhik Nairang, have to be considered, not because that they make out a case for an autonomous province, but because they show that something is wanting in the present administration of Baluchistan. For example, he has pointed out that very slow progress has been made there with regard to education. If that is so, a demand for a more rapid progress of education is perfectly justifiable without simultaneously making a demand for the establishment of an autonomous province. A demand for increasing the number of schools and bringing the standard of education to the same level as obtains in other provinces can very well be made, but for that you need not ask for full fledged autonomous province. Reference was also made to espionage which exists in that province. I regret it is a reflection on the administration. It is a point which the administration of Baluchistan should consider and see whether early steps should not be taken to abolish it. These are all grievances which undoubtedly deserve to be seriously considered and immediately removed, but they are not valid grounds for urging the immediate establishment of a full fledged autonomous province.

Now, Sir, the position is this. I have heard it for the first time that in Baluchistan there exists a form of tribal Government. We have been told that the revenue of the province is about 20 lakhs, while the expenditure on the administration is about a crore of rupees. If we can conceive of a Governor, his Ministers, his Secretariat, and all the paraphernalia of a full fledged province, I think the present expenditure of a crore would not only be not sufficient, but it would require another two or three crores more,—which is the minimum expenditure that one can think of. Of course, a very handy suggestion was made by one of my friends here that a subsidy could be given by the Centre. Sir, as one of those interested in the Central Revenues, I shall certainly protest against any more additional burdens being imposed on the Central Revenues at a time like this. Even if there is a case for the people of Baluchistan to demand provincial autonomy, if it involves an immediate payment of about two crores by the Centre by way of subsidy, I shall oppose the proposition. I submit this is not the proper time to bring forward a proposition of this kind before the House. The Central Revenues have already to meet enormous liabilities. These liabilities may mount up to several crores which it will be difficult for them to meet. Therefore, any proposition which would involve the Central Government in additional expenditure is not one which can be properly considered at a time like this. It is also inopportune in my opinion to bring in a proposition of this kind. My Honourable friend, Mr. Lalchand Navalrai, who has an intimate local knowledge of Sind and Baluchistan, because he is a close neighbour of Baluchistan, has informed me that the site on which the new Quetta City is being built is full of mosquitoes, and malaria is

[Mr. M. S. Aney.]

common there. It is in an insanitary state, and I do not think the prospect of being appointed as the Governor of a province like this with the prospect of catching malaria is desirable even from the point of view of the civil service.

Syed Ghulam Bhik Nairang : What about the poor Chief Commissioner ?

Mr. M. S. Aney : He is already there, but I believe the civil service, though it may be willing to have a multiplication of provinces, because it means so many new posts of Governors for them—even for them there is the danger of malaria.

Sir Muhammad Yamin Khan : We have heard that it is better than Kashmir.

Mr. M. S. Aney : Before any proposal of this kind is considered, I shall certainly require the Government of India to appoint a medical officer to go and examine the sanitary conditions of Quetta and its vicinity before Baluchistan is made into a separate autonomous province. My point is this. On financial grounds, on the ground of unpreparedness of the population, on the ground of existing system which is something very different from the foundations on which autonomous provinces are based—when we take all these things into consideration, and also the peculiar conditions under which we are discussing all these problems, I do not think that it is proper for us to commend this proposition for the favourable opinion of this House, and, therefore, I have with great reluctance to oppose this Resolution.

Major Nawab Sir Ahmad Nawaz Khan (Nominated Non-Official) : I rise to thank my Honourable friend, Mr. Nairang, for his good wishes for the Mussalmans of the province of Baluchistan.

Mr. Lalchand Navalrai : There are also Hindus there.

Major Nawab Sir Ahmad Nawaz Khan : I know very well that he is very sympathetic to all the national, communal proposals and the cause of Mussalmans, and with this intention he wishes.....

Syed Ghulam Bhik Nairang : May I rise to protest against the communal construction which is being put on my Resolution ? It is a misconstruction.

Major Nawab Sir Ahmad Nawaz Khan : I did not mean, I withdraw for the sake of his pleasure, but when one wishes to support one's community, it means in other words communal. Can he say on the floor of this House that he is not a great supporter of Mussalmans and Islam ? I wait for a reply. (Sits down.)

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member may go on with his speech.

Syed Ghulam Bhik Nairang : If the Honourable Member has got nothing relevant to say, let him not import into my Resolution what is not contemplated by it.

Major Nawab Sir Ahmad Nawaz Khan : My chief aim is really to thank that gentleman for his good wishes. His chief object is to do good to that province and its inhabitants—the Mussalmans, Hindus and

Sikhs of that place. But if he will go with me and enquire from the people of the rural areas, they will say, God save us from Mr. Nairang and his proposal. It is only in the City of Quetta and other cities where foreigners, the Punjabis, people from the frontier province, from Sind, and lawyers and others go—it is just like a city of Lashkar. They want only for their own purposes and benefit—that they will become influential and respectable like the Khan of Kalat or other chieftain of the tribes, by the introduction of Reforms and Provincial Autonomy.

An Honourable Member : Have you been to Baluchistan ?

Major Nawab Sir Ahmad Nawaz Khan : I have been, and I tell you one thing. If you see the old records, you will find with Sir Henry McMahon's Commission, my real uncle, Khan Bahadur Haq Nawaz Khan Saddazai, C.I.E., and my other uncle, Khan Bahadur Haji Ahmad Yar Khan with Sir Robert Sandeman entered in Baluchistan. From Dera Ismail Khan we sent about a dozen people when Baluchistan was taken, and up till now there are about a dozen of my relations.

An Honourable Member : We do not want all this pedigree.

Major Nawab Sir Ahmad Nawaz Khan : My object in saying all that is that I know the province very well. I have been there many times. Please do not interrupt me. I am not a new Member to be harassed by interruption, but, it will be a waste of time. There should not be petty interruptions. I am quite ready if you ask me any questions for the sake of information, but leave all those jokes and other remarks for which I have no regard.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not listen to remarks made across the House.

Major Nawab Sir Ahmad Nawaz Khan : The real point is whether autonomy or tribal form is suited to the people and useful to them. The present form of administration of the tribe is useful, both from the religious as well as the political point of view, and they do not require any change. If you ask the villagers or their chiefs, they will tell you that they do not want any change or any law even of the British Government which is applicable in the Punjab or any other province. You have seen many times in this House that Muslim Members have tabled motions for adjournment or Resolutions for the tribal area of the North-West Frontier Province. If you go now to the North-West Frontier and ask the tribal people whether they wish to be under autonomous Government of the very same province, they will refuse, and anybody who can go into Waziristan and ask them whether they would want their own tribal law or provincial autonomy, they will not accept the views of the Honourable Member.

An Honourable Member : You have asked the Waziristan people ?

Major Nawab Sir Ahmad Nawaz Khan : They do not like the form of British rule, and Muslim Members of this House have many times objected to this form of civilised forward policy of the Government, which means to keep Waziristan altogether independent. Then, why do the Honourable Muslim Members want the Baluchistan tribal area to be under an autonomous Government ?

Sir Muhammad Yamin Khan : We are talking of Baluchistan and not of Waziristan.

Major Nawab Sir Ahmad Nawaz Khan : Waziristan and Baluchistan are on the same footing.

Syed Ghulam Bhik Nairang : We have never talked about the tribal area of Baluchistan.

Major Nawab Sir Ahmad Nawaz Khan : They are quite happy, contented under their own chiefs, they do not want any change, or any new system, and to press upon them any new form would be against their own wishes. As regards education, if anybody goes into the villages, he will find that the population is so thin and so poor that they cannot come to any central school. In Baluchistan, if you open schools, the first difficulty would be how to bring the boys together for the sake of education. The villages are apart from one another for 10, 15, 30 miles, and there are no roads or any other convenience, and how can you get the boys together ? Then, if you go to the poor people and advise them to send their children to the school, their first question will be, who will look after their household affairs ?

In Dera Ismail Khan, my house is only 200 yards from the Islamia High School. I sent two boys of my servants for the sake of education. I am giving you an instance. I paid from my pocket all the expenses. One boy was plucked in B.A. and another refused education, after passing the primary school. Now, the question comes about employment. For the failed B.A. I tried in Delhi in several offices. He got no employment and they said that there is no room for a new-comer. I failed to get him employment and finally appointed him a clerk in my private office on Rs. 30 and the other boy learnt mechanics. He is in Government employment on Rs. 115. Really you require some other kind of education than that which is given in these schools. In tribal areas and in rural areas, the people are quite against such education which is equivalent to starvation. They require industrial education, they require agricultural education and professional education. Another thing is that they want to be religious minded and not to go in for these fashionable things. Therefore, I say that though this Resolution is based on a sympathetic feeling, but, in effect, it will be most harmful to the people of Baluchistan, if you change their form of Government. Therefore, I oppose this Resolution in the interest of the people.

Maulvi Syed Murtuza Sahib Bahadur (South Madras : Muhammadan) : Sir, I had anticipated some opposition by the Government and the Leader of the Congress Nationalist Party, as was done by Pandit Malaviyaji 15 years ago, when I moved a Resolution on the introduction of reforms in the North-West Frontier Province. So far as these two gentlemen, the Foreign Secretary and Mr. Aney are concerned, opposition was already anticipated ; but as regards my friend, Major Nawab Sir Ahmad Nawaz Khan, I want to address him, through you, a Persian couplet :

*" Man as beganagan hargis nanalam
ke bamun her chai kard an ashna kard."*

It has been beautifully translated by a Urdu poet who said :

*" Thostounsay isqadar sadmay huway hin jan pur
Dilse thushman ki adwat ka gila jata raha."*

Major Nawab Sir Ahmad Nawaz Khan : You had better translate : *" Alhaqqo murrun walau kana durrun "* means " Truth often seems to many persons bitter and unpleasant though it may be beautiful and valuable as a precious pearl ".

Maulvi Syed Murtuza Sahib Bahadur : All these gentlemen have based their arguments mostly on the numerical strength of Baluchistan. Let me ask them whether they know the numerical strength of the province of Coorg in Southern India. The Honourable the Foreign Secretary is alive to that fact, but I do not know if the other Members who belong to the northern parts of India know it. Sir, Coorg has got a very poor population, and yet it has a Council of its own with the Chief Commissioner as its resident—a fact which cannot be gainsaid by anybody. What justification is there in denying this to the people of Baluchistan ?

Mr. M. S. Aney : It is not demanded.

Maulvi Syed Murtuza Sahib Bahadur : I say it is demanded, with the head of the Administration who will be either a Governor or a Chief Commissioner. That is what is meant by the Resolution if Mr. Aney will go through it minutely. The first opposer, the Foreign Secretary, made out a very strong case in favour of the motion itself. He said that there are many things there with which the people of Baluchistan are quite satisfied and that they are all right so far as the *jirga* system, the revenue collection and other matters are concerned, and that they run their own show. May I ask him and the Government whether they are satisfied with that show ? If so, will they give the *panchayat* system to all the provinces ? Will they tolerate the *jirga* system in the whole of India ?

Major Nawab Sir Ahmad Nawaz Khan : Yes.

Maulvi Syed Murtuza Sahib Bahadur : The Honourable Member says " ycs ". So far as the Government are concerned, he is a non-entity. He may be a Knight, a Nawab and a Major, but he is a non-entity so far as Government representation is concerned. I put this point to the Government. The fact that the Educational Commissioner had been to Quetta and he has formulated some scheme to promote education in Baluchistan goes to strengthen our case. Our Major friend (*An Honourable Member* : " He is a minor ")—so far as this question is concerned, he is a minor. I am quite prepared to go with the Nawab Sahib to Quetta to institute an inquiry as to whether those people want these reforms or not. I may say for the information of the House that I had been to Baluchistan and I stayed there for some days. I inquired into this question. Though there is an espionage system there, as has been pointed out by the Deputy Leader of our Party, many of them came forward and said that they would welcome the introduction of reforms there.

Major Nawab Sir Ahmad Nawaz Khan : I ask you about the rural area and not the City of Quetta.

Maulvi Syed Murtuza Sahib Bahadur : Let him take the trouble to go with me to any part of Baluchistan, urban or rural.

Major Nawab Sir Ahmad Nawaz Khan : I am quite ready.

An Honourable Member : At whose expense ?

Maulvi Syed Murtuza Sahib Bahadur : At our expense.

Then, my friend, Mr. Aney, said that perhaps our Deputy Leader was placed in a very awkward position and that this Resolution did not seem to him to be his own choice. Sir, I may point out to my Honourable friend, and to the House that this Resolution is being moved year after year from the platform of the Muslim League. While that is so, nobody can say that there is no demand from the Muslim League regarding the reforms sought for. My friend, the Deputy Leader of the Muslim League Party, is much interested in this, not only because the Muslim League is interested, not only because the Muslim interest is at stake, but also because this would conduce to the interest of other communities as well. So, Sir, it is a very strong case, and I should yet like to know from the Foreign Secretary or any other representative of the Government as to why they draw some line of analogy between the North-West Frontier Province and Baluchistan, and not between Baluchistan and Coorg. Sir, Coorg happens to be a smaller province than Baluchistan, but yet we are having a Council and an autonomous Government there (*Mr. M. S. Aney :* "No, not an autonomous Government"); yes, though not an autonomous, yet almost an autonomous Government. Sir, as regards the question of subsidy, this is a question which was strongly stressed by my Honourable friend, Mr. Aney. When crores of rupees are being spent in Baluchistan itself, cannot the Central Government spare a few (*An Honourable Member from the Government Benches :* "crores"), yes, I say crores. In the interests of administration, cannot the Government pay something more, and, at the same time, curtail their military expenditure there ? Sir, if the Honourable Member confines his remark to one point alone, as he has already said, that the motion is inopportune, then it is all right ; let the Government say : "Of course, we do accept this point ; let it be put off till the financial condition improves and the present international crisis is over" ; let them say so, and then we will be quite satisfied. Does my friend take his stand on that point that this is inopportune, that after this crisis is over, his Party will support it ? In that case, we will be satisfied. With these few remarks, I resume my seat.

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.

The Honourable Sir Muhammad Zafrullah Khan : Sir, those Honourable Members who have during the course of the debate spoken in support of the Resolution have said very little concerning the constitutional aspect of the question though one should have imagined that the Resolution concerned itself mainly with the constitutional status of Baluchi-

stan. The Honourable the Mover of the Resolution drew attention to the backward state of Baluchistan, particularly in the matter of education. Certain other references were also made to the backward state of Baluchistan. That has really nothing to do directly with the question of its constitutional status. That is very largely due to its geographical situation, the character of the country and the ways and customs of its very sparse population. These factors which I have mentioned are matters which nobody can change, and if any change has to be brought about with respect to these matters, it must be very very gradual indeed. Apart from that, however, if it is true that in certain respects Baluchistan is backward, for instance, with regard to education, then I have perfect sympathy with what has been said with regard to that aspect of the matter. I do not see any reason why, due allowance being made for the peculiar problems of Baluchistan, Baluchistan in these matters should not progress at the same rate as other Centrally Administered Areas. But, as I have said, this really has very little to do directly with the constitutional question. Even on the constitutional question there has been a good deal of confusion even among the Members of the Party that has sponsored this Resolution as was exhibited in the speech of Syed Murtuza Sahib Bahadur. He said that it was contended that the population of Baluchistan is only a few lakhs. As a matter of fact, the population of British Baluchistan is only a lakh and one-third. But the population of Coorg is not very large and Coorg has a Legislative Assembly and that, according to the Honourable Member, concluded the matter. Now, Sir, if that is what the Mover of the Resolution and the supporters of the Resolution are pressing upon Government, there is very little difference between their point of view and the point of view of Government. Details apart, the constitutional status of Coorg and Baluchistan is the same. There is no difference between the two. And if the object of the Resolution is to obtain for Baluchistan the same constitutional status as is enjoyed by Coorg, the Resolution is entirely unnecessary. Coorg is a Chief Commissioner's province. The Government of India Act visualises two kinds of provinces within British India ; the Governors' Provinces and the Chief Commissioners' Provinces.

Mr. M. S. Aney : And also scheduled areas.

The Honourable Sir Muhammad Zafrullah Khan : And also excluded areas. The main distinction between the Governors' Provinces and the Chief Commissioners' Provinces is that the Governors' Provinces have been constituted into autonomous units, and this has two aspects. In the first place, within defined limits, Governors' Provinces are autonomous in the sense that they are no longer subject to the same control from the Centre as they were before the new constitution was brought into operation. In the second place, inside the Province, the Executive is responsible, again subject to certain special powers and safeguards, to the Legislature. When I looked at this Resolution, I conceived that the recommendation which was sought to be made in this Resolution to Government was that Baluchistan should be set up as an autonomous province like one of the other provinces. On the other hand, the Chief Commissioners' Provinces are administered under the new constitution by the Governor General. It so happens that Coorg is a Chief Commissioner's Province just the same as British Baluchistan is. In this con-

Maulvi Syed Murtuza Sahib Bahadur : Let him take the trouble to go with me to any part of Baluchistan, urban or rural.

Major Nawab Sir Ahmad Nawaz Khan : I am quite ready.

An Honourable Member : At whose expense ?

Maulvi Syed Murtuza Sahib Bahadur : At our expense.

Then, my friend, Mr. Aney, said that perhaps our Deputy Leader was placed in a very awkward position and that this Resolution did not seem to him to be his own choice. Sir, I may point out to my Honourable friend, and to the House that this Resolution is being moved year after year from the platform of the Muslim League. While that is so, nobody can say that there is no demand from the Muslim League regarding the reforms sought for. My friend, the Deputy Leader of the Muslim League Party, is much interested in this, not only because the Muslim League is interested, not only because the Muslim interest is at stake, but also because this would conduce to the interest of other communities as well. So, Sir, it is a very strong case, and I should yet like to know from the Foreign Secretary or any other representative of the Government as to why they draw some line of analogy between the North-West Frontier Province and Baluchistan, and not between Baluchistan and Coorg. Sir, Coorg happens to be a smaller province than Baluchistan, but yet we are having a Council and an autonomous Government there (*Mr. M. S. Aney :* "No, not an autonomous Government"); yes, though not an autonomous, yet almost an autonomous Government. Sir, as regards the question of subsidy, this is a question which was strongly stressed by my Honourable friend, Mr. Aney. When crores of rupees are being spent in Baluchistan itself, cannot the Central Government spare a few (*An Honourable Member from the Government Benches :* "crores"), yes, I say crores. In the interests of administration, cannot the Government pay something more, and, at the same time, curtail their military expenditure there ? Sir, if the Honourable Member confines his remark to one point alone, as he has already said, that the motion is inopportune, then it is all right ; let the Government say : "Of course, we do accept this point ; let it be put off till the financial condition improves and the present international crisis is over" ; let them say so, and then we will be quite satisfied. Does my friend take his stand on that point that this is inopportune, that after this crisis is over, his Party will support it ? In that case, we will be satisfied. With these few remarks, I resume my seat.

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.

The Honourable Sir Muhammad Zafrullah Khan : Sir, those Honourable Members who have during the course of the debate spoken in support of the Resolution have said very little concerning the constitutional aspect of the question though one should have imagined that the Resolution concerned itself mainly with the constitutional status of Baluchi-

stan. The Honourable the Mover of the Resolution drew attention to the backward state of Baluchistan, particularly in the matter of education. Certain other references were also made to the backward state of Baluchistan. That has really nothing to do directly with the question of its constitutional status. That is very largely due to its geographical situation, the character of the country and the ways and customs of its very sparse population. These factors which I have mentioned are matters which nobody can change, and if any change has to be brought about with respect to these matters, it must be very very gradual indeed. Apart from that, however, if it is true that in certain respects Baluchistan is backward, for instance, with regard to education, then I have perfect sympathy with what has been said with regard to that aspect of the matter. I do not see any reason why, due allowance being made for the peculiar problems of Baluchistan, Baluchistan in these matters should not progress at the same rate as other Centrally Administered Areas. But, as I have said, this really has very little to do directly with the constitutional question. Even on the constitutional question there has been a good deal of confusion even among the Members of the Party that has sponsored this Resolution as was exhibited in the speech of Syed Murtuza Sahib Bahadur. He said that it was contended that the population of Baluchistan is only a few lakhs. As a matter of fact, the population of British Baluchistan is only a lakh and one-third. But the population of Coorg is not very large and Coorg has a Legislative Assembly and that, according to the Honourable Member, concluded the matter. Now, Sir, if that is what the Mover of the Resolution and the supporters of the Resolution are pressing upon Government, there is very little difference between their point of view and the point of view of Government. Details apart, the constitutional status of Coorg and Baluchistan is the same. There is no difference between the two. And if the object of the Resolution is to obtain for Baluchistan the same constitutional status as is enjoyed by Coorg, the Resolution is entirely unnecessary. Coorg is a Chief Commissioner's province. The Government of India Act visualises two kinds of provinces within British India ; the Governors' Provinces and the Chief Commissioners' Provinces.

Mr. M. S. Aney : And also scheduled areas.

The Honourable Sir Muhammad Zafrullah Khan : And also excluded areas. The main distinction between the Governors' Provinces and the Chief Commissioners' Provinces is that the Governors' Provinces have been constituted into autonomous units, and this has two aspects. In the first place, within defined limits, Governors' Provinces are autonomous in the sense that they are no longer subject to the same control from the Centre as they were before the new constitution was brought into operation. In the second place, inside the Province, the Executive is responsible, again subject to certain special powers and safeguards, to the Legislature. When I looked at this Resolution, I conceived that the recommendation which was sought to be made in this Resolution to Government was that Baluchistan should be set up as an autonomous province like one of the other provinces. On the other hand, the Chief Commissioners' Provinces are administered under the new constitution by the Governor General. It so happens that Coorg is a Chief Commissioner's Province just the same as British Baluchistan is. In this con-

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section, I may draw the attention of the Honourable Members to section 94 of the Government of India Act, which runs thus :

“(1) The following shall be the Chief Commissioners' Provinces, that is to say, the heretofore existing Chief Commissioners' Provinces of British Baluchistan, Delhi, Ajmer-Merwara, Coorg and the Andaman and Nicobar Islands, the area known as Panth Piploda, and such other Chief Commissioners' Provinces as may be created under this Act.”

Sub-section (3) says :

“A Chief Commissioner's Province shall be administered by the Governor General acting, to such extent as he thinks fit, through a Chief Commissioner to be appointed by him in his discretion.”

In that respect there is no difference between Coorg and British Baluchistan.

Now, let me revert to the larger proposition which, I think, is the real object of the Resolution, namely, that Baluchistan, and by that I suppose is meant British Baluchistan because, after all, the States of Kalat, Las Bela and Kharan cannot be worked into the scheme of a British Indian autonomous province—should be constituted into an autonomous province like one of the Governors' Provinces in British India. Confining our attention purely to the constitutional aspect of the matter, I suppose what is really meant is that there should be a provincial executive responsible, subject, as I have said, to what are commonly known as safeguards or special powers, to an elected Legislature and that the Province should cease to be governed or administered from the Centre and should have its own autonomous Government like the other Provinces. Let us look at the practical picture which Baluchistan would present under those conditions or rather if an attempt were made to introduce those conditions into Baluchistan.

First, let us take the setting up of the Legislature. Now, it is no use saying, as one Honourable Member said, that the Foreign Secretary has talked only of population, but what does population matter? Population matters a great deal for the reason that you cannot set up a constitution unless there is some population which can be welded into an autonomous unit. The population of British Baluchistan is 1,36,000. Let us try to make an attempt to divide it into constituencies and set up a Legislature on that basis and see what the actual working picture of such a Legislature will be. We must remember this distinction between Coorg and Baluchistan that, though the population of Coorg may be small—it is much larger than that of British Baluchistan,—Coorg has a very small area. Its population is living within a very small compass so that it could at least set up some sort of municipal administration. The population of British Baluchistan is scattered over a very large area. Half of it would be male population and half of that again, adult male population, roughly between 32 or 33 thousand, adult male population. Supposing the franchise were as low as in the most favourable parts of British India, you would then have every other male adult possessing a vote. That would give you 16,000 voters. Now, Sir, to set up even a toy legislature, you would require 40 Members in it.

An Honourable Member : What about women voters?

The Honourable Sir Muhammad Zafrullah Khan : If they attempted to go to the polls they would be cut to pieces by their husbands. Surely, it is not desired that that should happen. That means 40 constituencies of 400 voters each. But even that would be no insuperable difficulty if it were not that these 400 voters would probably be found scattered over an area of 800 square miles. Under those conditions it would be absolutely impossible to hold elections.

Now, let us look at another aspect. It is said that there is the *jirga* or tribal system already there, and in its place you can have an autonomous Government. You must have two Chambers of the Legislature in Baluchistan, for the reason that the tribal chiefs would not like to sit with those people who have been elected by their tribesmen. Owing to the tribal system you must have a separate chamber for the chiefs. That, I concede will be easily constituted. There would be no difficulty whatsoever about that. You can say any tribal chief who owned so much property or who paid so much land revenue, or who satisfied some other criterion, would be a Member of the Upper Chamber. That is all right. But the difficulty would be the Lower Chamber. I venture to submit that in Baluchistan, you cannot have an election of the kind to which people are accustomed here, to which you can apply the name of election, by even a very far-fetched use of that expression. And for this reason : you ask any Baluchi, “what is your religion”. He says, “ask my Chief”. If even his religion is regulated by the whims of his Chief, surely his vote is not going to be cast in any independent way. Somebody will be nominated in the constituency by the Chief and that somebody must be returned because that is the tribal code. What is the use of setting up something which will merely be a camouflage of the present *jirga* system or the tribal system and which would not work half as well as this system is working simply in order that you might be able to say, there is an autonomous Government set up in British Baluchistan? When we talk of British Baluchistan, let us not forget this, that in most places the idea of British Baluchistan is derived from Quetta. Quetta is a leased area and is not British Baluchistan. Besides, it would be as wrong to come to any conclusion with regard to the rest of British Baluchistan from the conditions obtaining in Quetta as it would be to come to some conclusion with regard to Spitti and Lahul, the excluded areas of the Punjab, by paying a visit to Lahore. I should recommend to such Honourable Members who are interested in the question at least to take an extremely interesting trip, which would show them something of the conditions prevailing in Baluchistan ; let us say from Dera Ghazi Khan to Fort Munro, then on to Loralai, and thence to Quetta and on to Kalat, ending up at Panni, about 800 miles.

Sir Muhammad Yamin Khan : Who will guarantee our life?

The Honourable Sir Muhammad Zafrullah Khan : Those who think that this area is fit to become an autonomous British Indian Province. But as a matter of fact there is no danger to life. The conditions in these tracts are perfectly peaceful, but such Honourable Members who take that trip would travel miles upon miles before they meet a human being or even a couple of camels. The real facts of the situation are these. When you look at it from the point of view of population, the number of people and the manner in which they are scattered all over an

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impassable mountainous country with very little in the way of communications and revenue, it is no use saying you can run the country as an autonomous province. British Baluchistan with its vast arid areas and with a population of only 1,36,000 all told, with very little in the way of revenue, is certainly not ripe and will not be so within any foreseeable period of time to have any kind of administration different from the singularly effective *jirga* system of administration that it enjoys at present. I have complete sympathy with what has been said with regard to the conditions in Baluchistan and any kind of amelioration that is possible should certainly be effected. I have also sympathy with the Resolution, as a mere gesture. We have been told that it is brought up before a certain political organisation every year and, therefore, I suppose it was conceived to be the duty of Members who owe allegiance to that political organisation to move it here also. But the gesture having been made, it would be wise to withdraw the Resolution.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, I do not like to take up much of the time of the House, especially because I am not so eloquent as the Honourable the Leader of the House. What I have been able to make out from the opposition to this Resolution is this. The first point is that regard should be had to the population. The Foreign Secretary as well as the Leader of the House dwelt at length upon this. I submit, Sir, that when a Resolution about the introduction of reforms into the North-West Frontier Province was moved in this House, similar arguments were advanced and similar opposition was raised and the Resolution was not supported by the Government and so the present opposition is not a novel thing. (Interruption.) I will come to that presently. The British Government have recognised that a small tract of hilly country like Sikkim with a population of about one lakh nine thousand and with an area of 2,818 sq. miles can be made into an independent State with British Protectorate. Again what about Ulster? It has a population of only about two lakhs 80 thousand. The British Government gave Home Rule to Ireland until a man like MacSweeney came forward to give up his life and then the British Government recognised the might of the feeling and did the right thing, but encouraged Ulster against Ireland and ultimately separated Ulster from Ireland. Why? Ulster has hardly an area of more than 3 or 4 square miles. The Baluchistan people can do much more than MacSweeney did and can sacrifice their lives in a moment. They are martial people. Sometimes importance is attached to numerical strength of population and sometimes to martial spirit. These people of Baluchistan do not stand on the same footing as people of other Provinces; you yourselves attach more importance to them. Ceylon with a population of 53 lakhs has its own Government while India with seventy times more population has not got it. Therefore, to compare one area with another is not at all relevant. As regards the financial aspect it is said that more money will be wanted. About a crore of rupees is spent there, but Government is run there on prizes and subsidies and by purchasing the people. You will find in the budget that lakhs and lakhs are being paid to the Khan of Kalat and others to help the British. Why not make the people themselves responsible for the Government? After half a century of British rule what is the

state of things there? There are 7,372 pupils in 109 schools, i.e., 8 per cent. of the whole population. Regarding public health more than a lakh of people were victims of malaria in 1937 although there were medical officers imported from England. There are five district dispensaries all full of British medical officers and no Indian doctor can go there, rather Sarhadi Pathans are serving in Delhi as doctors. The administration is top-heavy and there are 15 high officials, all Europeans. In these days the ministers are working on Rs. 500/- a month and their administration is appreciated even by the British Parliament. Is it not possible to have local officers there on Rs. 500 or less? Surely, you can do it and you should cut your coat according to your cloth. Even if a few thousand more is required for the Province to become autonomous it should not be grudged as crores of rupees is wasted over Railways. It is wrong to say that the people there do not like their own administration. Before 1887 they had their own rule for thousands of years. (Interruption from Major Sir Ahmad Nawaz Khan.) I will deal with you later. For a country which had its own rule for centuries together, it is hardly reasonable to deny them their own administration. Divide and rule policy cannot go on long.

Sir, my Honourable friend, Mr. Aney, opposed the Resolution and said that this is not the opportune moment. I may tell him that this thing was discussed in the Round Table Conference in 1930-32 and from the report of the second session in 1931, I find that a memorandum was submitted by the Congress through Mr. Gandhi and another memorandum was submitted by Dr. B. S. Moonjee on behalf of the Hindu Mahasabha. The latter forms part of the proceedings as Appendix VI of the second session of the Round Table Conference. It says:

"Regarding the introduction of reforms in the North-West Frontier Province and Baluchistan on the same footing as in other provinces, the Hindu Mahasabha has in principle no objection. But it considers it an impracticable proposition for the immediate future. The Hindu Mahasabha therefore proposes that the Government be taken to secure to this province with as little delay as possible the same system of administration, both in the form of a Government and in the form of a prepared for the reformed constitution."

I do not know when that time will come for Mr. Aney. The Resolution does not press for the introduction of Provincial Autonomy at once, but only for steps to be taken.

Then the memorandum submitted by Mr. Gandhi on behalf of the Congress says in Art. 6, Appendix I, R. T. C. (Second Session) Proceedings, 8th October, 1931:

"The North-West Frontier Province and Baluchistan shall have the same form of Government and administration as other provinces."

So, although the Resolution stands in the name of one or two Members the matter has been agitated for quite a long time. The proceedings of the Round Table Conference are there.

It was said that the Honourable the Mover himself was not willing to move the Resolution, but he was forced to move it as the ballot stood in his name. That is not fact.

I want to close my speech with a few observations to my learned friend holding the gallant position of Major Nawab Sir Ahmad Nawaz Khan

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member has got two minutes more.

Maulvi Muhammad Abdul Ghani : He says that it is very difficult in a territory like Baluchistan to go to school for miles together and the buses cannot travel there. He is a Major and at the same time he is a big Nawab also. But it seems to me that his militarism has been waning. In my infancy I used to walk five miles to attend school and five miles back again or a total of ten miles daily when I was nine years old. The Nawab Sahib belonging to a martial race says it is very difficult to walk a few miles from one place to another. Sons of military people, Baluchis and others should not find it difficult. He is now in Simla. Has he ever opened his eyes to see the conditions prevailing here? Are not infants of seven and eight years walking miles together up and down the hills to attend schools in hilly places here?

Once there were two boys going to a certain school, one with his eyes open and the other with eyes closed. When their tutor began to put questions, the boy who was going on the way seeing things was able to narrate what he saw, while the other failed to answer any question. That is the case with the Nawab Sahib. I am not a nominated brief-holder like the Honourable Nawab.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Syed Ghulam Bhik Nairang.

Major Nawab Sir Ahmad Nawaz Khan : On a point of personal explanation.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair has called upon Syed Ghulam Bhik Nairang. The Honourable Member has already spoken. He cannot make a second speech.

Major Nawab Sir Ahmad Nawaz Khan : On a point of personal explanation.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : If he gives way....

Syed Ghulam Bhik Nairang : Sir, the two speeches made by responsible official Members from the Government Benches, I mean the Honourable the Foreign Secretary and the Honourable the Leader of the House, dealt with the question in a much more serious spirit than it was approached by my very much respected friend, Major Nawab Sir Ahmad Nawaz Khan. I do not know whether I should succumb to the temptation of dealing with the extremely humorous and humour-inspiring speech of the Nawab Sahib or deal with the more serious aspects of the question as discussed by the two Honourable Members of the Government. But it so happens that if we analyse the two more serious speeches and compare them with whatever substance there might possibly be in the humorous speech, the question really boils down to practically the same thing. The Honourable the Foreign Secretary and the Honourable the Leader of the House have told us really that the case of Baluchistan for autonomy is hopeless. Why? Because, in the first place, there is such a small population, secondly, there is such a small area....

Mr. O. K. Caroe :such a large area : that is the trouble !

Syed Ghulam Bhik Nairang : All right : such a large area for such a small population—the contrast being between the population and the area.—thirdly, there is so little education, and fourthly, there is a practical absence of all finance.

Now, both these Honourable Members have noted in the course of their speeches that I emphasised the aspect of education more than any other thing, and I did so intentionally. I was really referring to the net result of sixty years of British administration over this area, in the most vital of all things so far as human consciousness is concerned. Education is the seed of all consciousness, political, moral and other, and of human conduct, and I was, therefore, emphasising, particularly, the lack of education in this province, and I think if the present rate of progress in the matter of education is maintained, the Central Government will be eternally in a position to defeat every attempt on the part of anybody to see that provincial autonomy is granted to Baluchistan on the plea that this tract is not inhabited by human beings at all—what goes for human beings are so many bipeds without anything in their heads, no education, no intelligence, no consciousness of anything high, no capacity to use their votes, no religion either, because even when they are asked about their religion they say “Ask my Chief”. It may be all right for the present but it should give food for serious reflection to the Government of India which is administering that area. Why should this tract on God's earth be inhabited by people who have so little sense in their heads? Why should sixty years have been simply wasted without giving these people an opportunity to qualify for thinking and judging for themselves as to what their religion is and what their political opinion is? It is a condemnation of the system of administration that is prevailing in this country. (Interruption.) I excuse the Honourable Member. He made the most damaging confession on the floor of this House when he said that he had failed to educate even his two little kids even though the school was so near his house....

Major Nawab Sir Ahmad Nawaz Khan : I never said it. His memory is so bad....

Mr. Deputy President (Mr. Akhil Chandra Datta) : Order, order.

Syed Ghulam Bhik Nairang : I think my Honourable friend can very safely say : “Where ignorance is bliss, it is folly to be wise. Let the people of Baluchistan remain ignorant as my sons have remained ignorant.”

Major Nawab Sir Ahmad Nawaz Khan : My son is a barrister-at-law and an Advocate of the Federal Court of India.

Syed Ghulam Bhik Nairang : I admit that there are some difficulties for the time being about the immediate grant of provincial autonomy in Baluchistan. But, unfortunately, I see no indication in the two responsible speeches made on behalf of Government of any desire to improve the lot of humanity in Baluchistan. If there had been a ray of hope in that direction, one might have thought “Well, if not today, tomorrow or a little later this sort of thing will come : let us wait and work and hope”. But there is no indication of that. I think, Sir, the very spirit in which this area is being administered is this—let the tribal customs, let the tribal ignorance continue, let these benighted

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people continue to remain in the dark as hitherto ; let us for certain purposes impart a little education to them so that we may be able to tell the world that we are doing all we can with the poor material that is available to help them, because these people are averse to go to school, they are reluctant to move out of their houses, they will not leave their vocations, their sheep and their camels, and, therefore, with their lack of education, there is no hope of developing in them any political consciousness. This is exactly the spirit in which Baluchistan has been and is still administered. People desiring progress have always, as I have already submitted, been treated as rebels, agitators and mischief-mongers, so that we have to rest content with the present lot of Baluchistan. Sir, I submit the Resolution I have placed before the House is a very modest one and sufficiently circumspect. It calls upon the Governor General in Council to take immediate steps for the purpose of establishing Provincial Autonomy. It does not call upon the Government to establish Provincial Autonomy from tomorrow. If we see any effort on the part of the Government of India to bring about a state of things which may create the necessary material for the establishment of Provincial Autonomy, we can, as I have already said, work and hope and wait, but if that spirit is lacking, then we must say that even if you throw out our demand today, we are determined to press it again and again. It is not that we have thought of this problem today, as was pointed out by my Honourable friend, Maulvi Abdul Ghani ; other political leaders and associations have also thought of it, and, as far as the Muslim League is concerned, we have placed this demand on our programme since 1927. This has formed one of the 14 points of Mr. Jinnah, and we are determined to go on pressing our demand and to take all necessary steps to enforce it ; you may concede it today or you may concede it tomorrow.

As for my Honourable friend, Mr. Aney's opposition, that really surprised me. I did not expect that he would advance the arguments which he did, and that the history of opposition to the demand for Provincial Autonomy in the North-West Frontier Province would repeat itself in regard to the Resolution on Baluchistan. Anyhow, it is the unexpected that happens, Mr. Aney and his Party have thought fit to oppose this Resolution, and I cannot help the situation. With these few remarks, Sir, although it may amount to hoping against hope, I once more appeal to the Government Benches to agree to this very modest Resolution.

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

" That this Assembly recommends to the Governor General in Council to take immediate steps for the purpose of establishing provincial autonomy in Baluchistan on the same footing as in other provinces."

The Assembly divided :

AYES—11.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Fazli-Haq Piracha, Khan Bahadur Shaikh.
Ghiasuddin, Mr. M.
Ghulam Bhik Nairang, Syed.
Habibur Rahman, Dr.

Ismail Khan, Haji Chaudhury Muhammad.
Murtuza Sahib Bahadur, Maulvi Syed.
Nauman, Mr. Muhammad.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.

NOES—40.

Abdul Hamid, Khan Bahadur Sir.	Kushalpal Singh, Raja Bahadur.
Ahmad Nawaz Khan, Major Nawab Sir.	Mackeown, Mr. J. A.
Aiyar, Mr. T. S. Sankara.	Maitra, Pandit Lakshmi Kanta.
Aney, Mr. M. S.	Miller, Mr. C. C.
Bewoor, Sir Gurnath.	Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Bhandarkar, Mr. K. Y.	Mukerji, Mr. Basanta Kumar.
Bozman, Mr. G. S.	Nehru, Mr. B. K.
Campbell, Mr. D. C.	Parma Nand, Bhai.
Caroe, Mr. O. K.	Raisman, The Honourable Sir Jeremy.
Clow, The Honourable Sir Andrew.	Roughton, Mr. N. J.
Crofton, Mr. D. H.	Scott, Mr. J. Ramsay.
Dalal, Dr. R. D.	Sheehy, Mr. J. F.
Dalpat Singh, Sardar Bahadur Captain.	Sher Muhammad Khan, Captain Sardar Sir.
Gorwala, Mr. A. D.	Som, Mr. Suryya Kumar.
Greer, Mr. B. R. T.	Spence, Sir George.
Hodson, Mr. D. C.	Sukthankar, Mr. Y. N.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Talukdar, Mr. J. N.
Kamaluddin Ahmed, Shams-ul-Ulema.	Thorne, The Honourable Mr. J. A.
Khaleeli, Mr. A.	Zafarullah Khan, The Honourable Sir Muhammad.
Khan, Mr. N. M.	
Khurshaid Muhammad, Khan Bahadur Shaikh.	

The motion was negatived.

RESOLUTION RE PAYMENT OF COMPENSATION TO THE BENGAL PROVINCIAL RAILWAY BY THE EAST INDIAN RAILWAY.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadian Rural) : Sir, I beg to move :

" That this Assembly recommends to the Governor General in Council to advise the Railway Board to reconsider the payment of Rs. 11,000 as compensation to the Bengal Provincial Railway and to increase the amount of this compensation to a figure which will bear to the present income of the East Indian Railway from the two stations of Belmuri and Gurup on the Howrah-Burdwan Chord the same basis of percentage which the amount of Rs. 11,000 bore to the income from these two stations when the amount was first granted."

The facts of this case have a long history. I have put them to the Honourable Sir Andrew Clow and had a long talk with him. I requested him to see the papers himself and do justice, and he has given an assurance that he will look into the papers and do such justice as he thinks proper. In the circumstances, I do not want to press this Resolution. Still I move it.

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

" That this Assembly recommends to the Governor General in Council to advise the Railway Board to reconsider the payment of Rs. 11,000 as compensation to the Bengal Provincial Railway and to increase the amount of this compensation to a figure which will bear to the present income of the East Indian Railway from the two stations of Belmuri and Gurup on the Howrah-Burdwan Chord the same basis of percentage which the amount of Rs. 11,000 bore to the income from these two stations when the amount was first granted."

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The Honourable Sir Andrew Olow (Member for Railways and Communications) : Sir, I am rather in a difficult position. I did not give the Honourable Member an assurance that I would look into the matter. I have already looked into the matter, and, if the House wants the reasons that have convinced me that this Resolution should be rejected, I am prepared to give them. But if the Honourable Member does not wish to advance any arguments and wishes to withdraw his Resolution, then, of course, I can have no objection.

Mr. Suryya Kumar Som : I ask for leave to withdraw the Resolution.

The Resolution was, by leave of the Assembly, withdrawn.

(The Honourable Members giving notice of the other Resolutions being absent.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : The House stands adjourned till 11 A.M. tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 19th September, 1939.

LEGISLATIVE ASSEMBLY.

Tuesday, 19th September, 1939.

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

MEMBER SWORN.

Mr. Charles MacIvor Grant Ogilvie, C.B.E., M.L.A. (Defence Secretary).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

INVOICE TYPISTS ON THE NORTH WESTERN RAILWAY.

207. *Mr. Lalchand Navalrai : With reference to the answer to my starred question No. 947, given in this House on the 9th March, 1939, will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that there was no question of financial stringency in November last, while replying to part (c) of my starred question No. 1336 asked in this House on the 21st November, 1938 ;
- (b) whether it is a fact that Invoice Typists in the Karachi Division of the North Western Railway have no grade II posts at all to aspire to for promotion ;
- (c) whether the Honourable Member proposed to refer to his speech on 21st February, 1938, printed on page 906 of the Assembly Debates, Volume I, No. 15, in reply to the debate on Mr. N. M. Joshi's cut motion to draw attention to the railwaymen's grievances where the Honourable Member said that there were sufficient vacancies in the upper grades to allow a reasonable flow for promotion from the lower to the upper ; and if these remarks also applied to the Invoice Typists in the Karachi Division, which has not a single grade II post ; and
- (d) whether Government propose to ensure that in accordance with their statement referred to in part (c) above, six posts of grade II for Invoice Typists were created in the Karachi Division to have some flow of promotion ; if not, why not ?

The Honourable Sir Andrew Olow : (a) There was no reference to financial stringency either in that question or in the answer given.

(b) Yes.

(649)

(c) Sir Thomas Stewart was discussing the block in promotion of men in categories for which there was already more than one grade. His remarks were not, as I read them, intended to apply to the category of "Invoice Typists".

(d) Does not arise, but I will forward a copy of the Honourable Member's question to the General Manager for such action as he may consider necessary.

Mr. Lalchand Navalrai : Are these invoice typists to stagnate in their place for all time, or is there any way out for them ?

The Honourable Sir Andrew Clow : At present I understand there are no posts above that in which they can be suitably employed.

Mr. Lalchand Navalrai : Will the Honourable Member see, when they are employed, that they get some prospects of rising to higher jobs in the railway service ? How is the Honourable Member going to help them ?

The Honourable Sir Andrew Clow : The creation of posts must depend on the need. We cannot guarantee that everybody will rise.

Mr. Lalchand Navalrai : Will the Honourable Member assure the House that, when they are employed, they will not stagnate all the time on Rs. 15 or 20 ? Will the Honourable Member make it a rule ?

The Honourable Sir Andrew Clow : I have taken note of the Honourable Member's opinion.

Mr. Lalchand Navalrai : You should give some help and not simply take note.

PROMOTION OF TRAIN CONTROLLERS TO STATION MASTERS' GRADE ON THE NORTH WESTERN RAILWAY.

208. ***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that in the year 1927, the Agent, North Western Railway, had issued a circular stating that when sufficient number of Train Controllers were available, other things being equal, preference would be given to Train Controllers when filling vacancies of Station Masters ;
- (b) whether it is a fact that with a view to bring Train Controllers and Assistant Station Masters on the combined seniority list, ten confirmed Assistant Controllers were made to undergo senior Assistant Station Masters' course at the Walton Training School in 1935 ;
- (c) whether it is a fact that this was in accordance with the Railway Board's orders who had desired the administrations to maintain a certain standard of efficiency ;
- (d) what was the cost of the training referred to in part (b) above ;
- (e) whether it is a fact that the combined seniority list of Assistant Station Masters and Assistant Controllers was actually issued in 1937 ;

(f) whether it is a fact that in 1937 and after, certain confirmed Assistant Controllers were actually sent out on the North Western Railway to work as Senior Assistant Station Masters ;

(g) how many Assistant Controllers have since been provided for as Senior Assistant Station Masters or grade VI Station Masters and over ; if not, why not ; and

(h) whether the promotion to the Station Masters' posts in grades V and over in the normal channel of promotion, is available for Assistant Train Controllers as per rules issued for the training and recruitment of subordinate staff by the Railway Board and rule 10 at page 376 of the State Railway Establishment Code ; if so, why the Railway Board's orders are not being carried out on the North Western Railway ?

The Honourable Sir Andrew Clow : (a) Yes, except that preference was to be given to men with control experience and not to Train Controllers as such.

(b) Yes.

(c) I have not been able to trace any orders of the Railway Board on this point.

(d) The cost of the Training School cannot be allocated to separate Courses, but on the basis of the estimated average cost per student per day, during the period when the ten men attended the Course, the cost would be approximately Rs. 2,500.

(e) No. The combined seniority list was drawn up in 1935.

(f) Yes.

(g) and (h). I have called for certain particulars and will give the House the information asked for when they are received.

Mr. Lalchand Navalrai : I did not hear the answer to part (a).

The Honourable Sir Andrew Clow : I said " Yes, except that preference was to be given to men with control experience and not to Train Controllers as such."

Mr. Lalchand Navalrai : Is that being done ?

The Honourable Sir Andrew Clow : So far as I know ?

PAY OF DAILY-RATED STAFF OFFICIATING IN HIGHER GRADES ON RAILWAYS.

209. ***Mr. Lalchand Navalrai :** Will the Honourable Member for Railways be pleased to state :

- (a) what pay the members of the daily-rated staff are paid, when they are put to officiate in a higher grade ;
- (b) whether they are paid the minimum of the next higher grade in accordance with the provisions of Fundamental Rule 30 or there exist separate rules for them ; if so, whether Government propose to quote the specific rules ;

- (c) whether the officiating period, so put in, in the higher grade counts towards increment ;
- (d) if the reply to part (c) above be in the negative, whether Government propose to quote the relevant rules on the subject which deprive the daily-rated staff of the privileges of officiating service towards increment ; and
- (e) if the reply to part (c) above be in the affirmative, how is the officiating period calculated ; whether it is based on number of actual days for which the employee receives his pay or the wage period is taken as one month ?

The Honourable Sir Andrew Clow : (a) and (b). On the Eastern Bengal Railway, daily-rated staff are not appointed to officiate in higher grade posts. I am laying on the table a statement giving the particulars required as regards the other three State-managed Railways.

(c) It counts on the East Indian Railway and Great Indian Peninsula Railway but not on the North Western Railway.

(d) Rule 143 (2) of the State Railway Establishment Code.

(e) Officiating service counting for increment in a post on a monthly rate of pay is calculated on the basis of the actual officiating service.

Statement.

East Indian Railway.—The pay of an employee appointed to officiate in another post is fixed in terms of Fundamental Rule 30 or the corresponding East Indian Railway Company rule, depending on the rules by which the staff are governed.

Great Indian Peninsula Railway.—No officiating allowance is paid to daily-rated workshop employees when officiating in posts below the grade of chargemen. When they officiate in the grade of chargemen, they are given either the minimum of that grade or a stage in that grade next above their substantive pay, whichever is greater. In the Stores Department, daily-rated staff officiating in higher grade are allowed the minimum of such grade.

North Western Railway.—Daily rated staff officiating in a higher grade or post to which daily rates of pay apply are granted the minimum of the scale attached to the higher grade or post.

When a daily-rated employee officiates in a monthly-rated post, he is given the minimum of the scale of pay applicable to that post or more than the minimum if circumstances justify this being done.

Mr. Lalchand Navalrai : May I know why this is not being done on the North Western Railway ?

The Honourable Sir Andrew Clow : Because, under the rules discretion is vested in the General Managers who exercise it.

EXAMINATION OF ILLITERATE DRIVERS AND SHUNTERS SENT FOR TRAINING TO THE WALTON TRAINING SCHOOL.

210. *Mr. Lalchand Navalrai : Will the Honourable the Railway Member be pleased to state :

- (a) whether illiterate drivers and shunters can go through their examinations when they are sent for training to the Walton Training School ;

- (b) if not, whether they can be regarded competent without passing such examinations ;
- (c) whether those men who fail in their examinations are booked for duty ; if so, whether Government are aware that public safety is endangered thereby ; and
- (d) whether it is a fact that under the Boiler Act, 1923, an illiterate man cannot be put in charge of a boiler whose heating surface exceeds 500 square feet ?

The Honourable Sir Andrew Clow : (a) Illiterate drivers are not sent to the Training School. Illiterate shunters are examined orally.

(b) Does not arise.

(c) No employee is booked for duty in a post for which he is not qualified.

(d) Yes : but Railways have been exempted from the provisions of the Act under section 4 thereof.

Mr. Lalchand Navalrai : May I know why these illiterate drivers who are as competent and efficient as the trained drivers are not being given lift ?

The Honourable Sir Andrew Clow : I must ask for notice.

PROMOTIONS OF CLEANERS, FIREMEN AND SHUNTERS ON THE NORTH WESTERN RAILWAY.

211. *Mr. Lalchand Navalrai : With reference to the reply to question No. 1587, part (b), dated the 29th November, 1938, asked by Mr. Sham Lal, M.L.A., in this House, is the Honourable the Railway Member prepared to make it more explicit to the North Western Railway authority concerned that the said orders are applicable only to cleaners and not to firemen and shunters ?

The Honourable Sir Andrew Clow : I understand that the necessary orders have been issued by the Administration.

RUNNING OF PASSENGER TRAINS BY GRADE II DRIVERS ON THE NORTH WESTERN RAILWAY.

212. *Mr. Lalchand Navalrai : With reference to his reply to question No. 1586, part (d), dated the 29th November, 1938, asked by Mr. Sham Lal, M.L.A., in this House, does the Honourable the Railway Member propose to invite the attention of the North Western Railway authority concerned that all the passenger trains should be run by grade II drivers only ?

The Honourable Sir Andrew Clow : I can see no justification for taking the action suggested.

†Answer to this question laid on the table, the questioner having exhausted his quota.

FILLING UP OF CERTAIN VACANCIES ON THE EASTERN BENGAL RAILWAY.

213. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) whether the Railway Board's letter No. E.-135-U.T.-19 (L.), dated the 22nd April, 1936, to the General Managers and Agents of all Railways still holds good ;
- (b) if the reply to part (a) above be in the affirmative, how against Muslim quota of 45 per cent., six vacancies in the clerical grades in the Personnel Branch of the Eastern Bengal Railway have been filled by three Hindus, one Anglo-Indian and two Muslims ;
- (c) what is the present number of temporary appointments in the Personnel Branch of the Eastern Bengal Railway ; how many Muslims and how many Hindus are there ;
- (d) how the two permanent posts in the Establishment Section of the District Locomotive Superintendent, Eastern Bengal Railway, have been filled by Hindus only ; and
- (e) how the permanent vacancies in the Establishment Section of the Works Manager's Office, Eastern Bengal Railway, Saidpur, have been filled by Hindus and without advertisement ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) Six temporary employees have been confirmed since 1st April, 1939. The quota is not applicable to this office by itself ; but I understand that this is only a partial recruitment for this year, and the shortage of a fraction of a man is likely to be made up in the course of the year.

(c) 13.—4 Hindus, 4 Muslims and 5 Anglo-Indians.

(d) The absence of particulars regarding the District and the period to which the Honourable Member's question relates precluded my obtaining the information required.

(e) I understand that the only permanent vacancy this year was in the post of Head Clerk which was filled by promotion. The resultant vacancy in the lowest grade was filled by a Hindu on the approved list, as the vacancy was unreserved.

Mr. Muhammad Nauman : May I know from the Honourable Member in what departments of the Eastern Bengal Railway distinct improvements have been made, so far as the quota of Muslims is concerned ?

The Honourable Sir Andrew Clow : I certainly do not keep a list of them here.

Mr. Muhammad Nauman : The Honourable Member said that four Muslims and four Hindus and five Anglo-Indians were appointed. Is that a reflection of the proper quota ?

The Honourable Sir Andrew Clow : I have explained to the Honourable Member that the quotas do not apply to each individual grade. They apply to the railway as a whole.

RECRUITMENT OF MUSLIMS AND NON-MUSLIMS IN THE OFFICE OF THE JUNIOR CO-OPERATIVE CREDIT SOCIETY AND STAFF BENEFIT FUND, EASTERN BENGAL RAILWAY.

214. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) how many vacancies from 1st April, 1938 to 1st August, 1939, in the office of the Junior Co-operative Credit Society and Staff Benefit Fund, Eastern Bengal Railway, have occurred which are directly under the control of the Deputy General Manager, Personnel, or the Welfare Officer of the Eastern Bengal Railway, and how they have been filled ;
- (b) whether the Muslim quota was adhered to in filling up these vacancies ; and
- (c) what is the number of Muslims and non-Muslims recruited during 1934-38 ?

The Honourable Sir Andrew Clow : (a), (b) and (c). The staff of the Junior Co-operative Society Limited and of the Staff Benefit Fund Committee are not railway servants, so that I am unable to accept responsibility for their appointments.

Mr. Muhammad Nauman : May I know to whom they are responsible, if they are not responsible to the Railway Administration ?

The Honourable Sir Andrew Clow : To the societies they serve.

Mr. Muhammad Nauman : Is it not the Railway Board's duty to see how the society is working, because they have got to deal with these employees all the same ?

The Honourable Sir Andrew Clow : The society can be trusted to see that this matter is kept in view.

RECRUITMENT OF MUSLIMS ON THE EASTERN BENGAL RAILWAY.

215. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) whether Government are aware of the fact that about 60 per cent. Muslims are recruited as Tally Clerks on Rs. 20—1—28 on the Eastern Bengal Railway to make up the deficiencies in the quota of other subordinate posts carrying higher salaries, especially in the Engineering and the Establishment Offices ; and
- (b) whether the communal quota is maintained for recruitments separately in all grades ?

The Honourable Sir Andrew Clow : (a) The facts are not as stated by the Honourable Member. I understand that from the 1st January, 1935, to the 30th June, 1938, the period for which I have figures available, the excess recruitment of Muslim Tally Clerks was only five per cent.

(b) No. The quota applies to the railway as a whole.

Mr. Muhammad Nauman : With reference to (a), has the quota been satisfactorily applied in 1935-38 ?

The Honourable Sir Andrew Clow : I said that the quota does not apply to each grade as a whole. This happens to be one of the grades regarding which the Honourable Member asked me in a supplementary question to give a grade in which Muslims had been employed above the quota.

NON-RECRUITMENT OF MUSLIMS IN THE CADRES OF LABOURERS AND INFERIOR STAFF ON THE EASTERN BENGAL RAILWAY.

216. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) how many Muslims, Hindus, Anglo-Indians and members of other minority communities are in the cadres of labourers Grade I and II and other inferior staff on the Eastern Bengal Railway ;
- (b) whether it is a fact that the vacancies in the above-mentioned cadres caused by the wastage of Muslims have been filled by Hindus ; and
- (c) if the reply to part (b) above be in the negative, whether Government are prepared to state how the following vacancies caused by the wastage of Muslims have been filled :
 - (i) one Tool Keeper's post under the Works Manager, Eastern Bengal Railway, Saidpur, during the months of September and October, 1938 ;
 - (ii) two literate Duffries posts under the Executive Engineer, Eastern Bengal Railway, Lalmonirhat, during the period September to November, 1938 ;
 - (iii) posts of Peons under the Executive Engineer, Eastern Bengal Railway, Paksey, during the period January to March, 1939 ; and
 - (iv) posts of Cleaners under the District Locomotive Superintendent, Eastern Bengal Railway, Calcutta District, during the period September to December, 1938 ?

The Honourable Sir Andrew Clow : (a) I lay on the table a statement giving particulars of the position in respect of non-gazetted staff other than subordinates as it was on the 31st March, 1938, the latest date for which information is readily available.

(b) I have no record of the filling of vacancies, but the orders issued to the Railway Administration in 1935 were that the percentage of each minority community as then existing should be maintained in the inferior services of the railway.

(c) This does not arise but I would observe that the orders did not direct that every individual vacancy should be filled by a member of the community to which its previous occupant belonged.

Communal composition on 31st March, 1938, of non-gazetted staff, other than subordinates, on the Eastern Bengal Railway.

Hindus other than depressed classes	18,558
Depressed Classes	9,166
Muslims	14,499
Anglo-Indians and Domiciled Europeans	58
Sikhs	186
Indian Christians	203
Parsis	2
Other communities	..

Mr. Muhammad Nauman : The Honourable Member has just stated that the orders direct that each minority community's position should be maintained. Is the Honourable Member satisfied that it is being maintained in that way ?

The Honourable Sir Andrew Clow : I have no reason to suppose otherwise.

Mr. Muhammad Nauman : In this particular question I have pointed out that this is not being maintained. That is why I have drawn the attention of the Honourable Member to that fact.

The Honourable Sir Andrew Clow : The Honourable Member's information relates to a particular grade and, as I have pointed out, it is not the order that every time a Muslim or Hindu or Christian disappears, his particular post should be filled by a member of the same community.

RECRUITMENT OF MUSLIMS AND NON-MUSLIMS IN CERTAIN POSTS ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

217. *Mr. Muhammad Nauman : Will the Honourable Member for Railways be pleased to state :

- (a) whether the following posts are classified as subordinate posts for the purpose of recruitment and whether they are subject to communal quotas on the East Indian Railway and the Eastern Bengal Railway :
 - (i) Time Keeper Scale Rs. 30—3—45—5—60
 - (ii) Material Checking Clerks Scale Rs. 30—3—45—5—60
 - (iii) Store Munshi Scale Rs. 21—3—45
 - (iv) Coal Checker Scale Rs. 35—3—50
 - (v) Coal Munshi Scale Rs. 21—3—45
 - (vi) Works Sircar Scale Rs. 30—3—45—5—60
 - (vii) Store Tindal Scale Rs. 24—2—34
 - (viii) Tally Clerk Scale Rs. 20—1—28
 - (ix) Punching Clerk Scale Rs. 30—3—45—5—60
 - (x) Head Mate Scale Rs. 37—3—52
 - (xi) Store Munshi in Signal Engineering Department Scale Rs. 45—3—50 ;

- (b) if the reply to part (a) above be in the affirmative, whether Government are prepared to state how many vacancies have occurred during the period from 1st April, 1935 to 1st April, 1939 and how many Muslims and how many non-Muslims have been taken in each post ;
- (c) if the reply to part (a) above be in the negative, whether Government are prepared to state from which date these have been treated as inferior posts ;
- (d) whether it is a fact that the Eastern Bengal Railway is treating the post of Time Keepers as Labourer Staff and the recruitment is not being done according to the communal quota ;
- (e) whether it is a fact that the post of Tally Clerks is treated as subordinate post, whereas the post of Time Keepers is treated as " Labourers " ; and
- (f) whether it is a fact that the post of Time Keeper is purely clerical and is like the post of a Tally Clerk ?

The Honourable Sir Andrew Clow : (a), (c), (d) and (f). I have called for the information required and will communicate it to the House when it is received.

(b) This does not strictly arise but in any case I regret I cannot undertake the research necessary to secure the details of vacancies.

MUSLIMS IN CERTAIN POSTS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

†218. *Maulvi Sikandar Ali Choudhury : Will the Honourable the Railway Member be pleased to state :

- (a) whether Government are prepared to lay on the table of the House a statement showing how many Muslims are there in the following posts in the Howrah Division, East Indian Railway, and how many Muslims have been promoted and recruited in the said posts on all the Divisions of the East Indian Railway from the period between January, 1934, to June, 1939 :

- (1) Permanent Way Inspectors and their Assistants.
- (2) Inspectors of Works and their Assistants.
- (3) Station Masters in the scale of :
 - (a) Rs. 530.
 - (b) Rs. 400.
 - (c) Rs. 350.
 - (d) Rs. 280.
 - (e) Rs. 170.
 - (f) Rs. 120.
 - (g) Rs. 95.
 - (h) Rs. 85.
 - (i) Rs. 80.

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

- (4) Chief Controller.
- (5) Section Controller, Grades " A " and " B ".
- (6) Deputy Controllers.
- (7) Yard Masters.
- (8) Assistant Yard Masters.
- (9) Yard Foreman Grade Rs. 300.
- (10) Transportation Inspectors.
- (11) Commercial Inspectors.
- (12) Claim Inspectors.
- (13) Luggage and Parcel Supervisors.
- (14) Head Parcel Clerk and Assistants.
- (15) Chief Accountant and Booking Clerks.
- (16) Supervisors, City Booking Offices.
- (17) Head Booking Clerks.
- (18) Head Goods Clerks.
- (19) Goods Supervisors, Howrah Goods, Howrah.
- (20) Head Goods Clerks, Indoor and Outdoor, Howrah Goods.
- (21) Goods Shed Foreman, Howrah Goods.
- (22) Weigh Clerks, Grade I and II.
- (23) Head Establishment Clerk.
- (24) Assistant Head Establishment Clerks.
- (25) Group In charges, Establishment Office.
- (26) Office Superintendent ; and
- (b) whether Government have taken steps to see to the demands of Muslims in the above mentioned posts in all the Divisions of the East Indian Railway generally and on the Howrah Division particularly ?

The Honourable Sir Andrew Clow : (a) This information is not available to Government and I regret that Government are unable to undertake the researches necessary to secure it.

(b) The appointments mentioned by the Honourable Member are filled by promotion of suitably qualified staff. Communal considerations do not apply in such cases.

MUSLIMS IN THE PAY DEPARTMENT OF THE EAST INDIAN RAILWAY.

†219. *Maulvi Sikandar Ali Choudhury : Will the Honourable the Railway Member be pleased to state whether there is a single Muslim in the Pay Department of the East Indian Railway ; if not, why not ?

The Honourable Sir Andrew Clow : There are two Muslim clerks in the Cash and Pay Department.

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

IGNORING OF THE CLAIMS OF MUSLIMS FOR PROMOTIONS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

†220. *Maulvi Sikandar Ali Choudhury : Will the Honourable the Railway Member please state :

- (a) whether Government are aware of the fact that on the Howrah Division, East Indian Railway, the claims of senior Muslims are not being considered for promotions whereas junior Hindus are even given accelerated promotions from one grade to another ;
- (b) whether it is a fact that a certain junior man has been given accelerated promotion that is, Rs. 85—5—120 to 210 as a Relieving Guard and then promoted to the post of a Yard Foreman, Coaching Yard, Howrah, on Rs. 300 within one year ;
- (c) if the reply to part (b) above be in the negative, whether Government are prepared to state the names of the employees promoted to Yard Foreman in the Coaching Yard, Howrah, under the Assistant Transportation Superintendent, and the Station Superintendent, Howrah, within one year, i.e., June, 1938, to June, 1939 ; and
- (d) whether those promoted were confirmed in their previous posts on those grades or whether they had reached the maximum of their grades in different capacities that they worked in ?

The Honourable Sir Andrew Clow : (a) No.

(b) and (d). Government receive no particulars of promotions to or confirmations in subordinate posts of this character.

(c) Does not arise.

IGNORING OF THE CLAIMS OF MUSLIMS IN THE TICKET CHECKING BRANCH IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

†221. *Maulvi Sikandar Ali Choudhury : Will the Honourable the Railway Member be pleased to state :

- (a) whether it is a fact that the claims of senior Muslims in the Ticket Checking Branch of the Howrah Division, East Indian Railway, are being ignored in matters of promotions from amongst the staff of the Ticket Checking Branch to the posts in other departments ;
- (b) if the reply to part (a) above be in the negative, whether it is a fact that the present incumbent of the post of a Junior Assistant Head Parcel Clerk, Howrah, East Indian Railway, has been promoted from the post of a Travelling Ticket Examiner on the Howrah Division in the year 1932-1933, and whether it is a fact that one Sikh and four Anglo-Indians absorbed as Gunner Guards from the Ticket Checking Branch, have now got the posts of " A " Class Guards ;

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

- (c) whether it is a fact that out of them one Anglo-Indian was declared unsuitable for the post of a Guard by the Selection Board ;
- (d) if the reply to part (c) above be in the negative, whether Government are prepared to place on the Table of the House the approved list of the candidates (outsiders or from the different departments) examined by the Selection Board for the posts of Gunner Guards " A ", Guards Grade " B " and Relieving Guards on the Howrah Division of the East Indian Railway from 1935 to 1939 ;
- (e) whether it is a fact that those approved lists are changed from time to time ; and
- (f) if the reply to part (e) above be in the negative, whether it is a fact that Muslims borne on those lists have been informed that those lists have been cancelled ?

The Honourable Sir Andrew Clow : (a) I have no reason to believe that any legitimate claims are ignored.

(b) Does not arise.

(c) I have no information in regard to this.

(d) Does not arise.

(e) Such lists are normally amended as and when the necessity for doing so arises.

(f) Does not arise.

INDIAN STALLS AND EUROPEAN REFRESHMENT ROOMS ON THE ASSAM BENGAL RAILWAY.

222. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) the income of the Assam Bengal Railway from the Indian stalls and European refreshment rooms, respectively in the last three financial years ;
- (b) what was the expenditure incurred by the Assam Bengal Railway for the Indian stalls and European refreshment rooms, respectively, during the same period ;
- (c) what was the value of the advantages enjoyed by the European refreshment rooms of the Assam Bengal Railway by way of exemptions from various charges and taxes, free supply of electric current, free provision passes, etc. ;
- (d) whether the advantages referred to in part (c) above are also enjoyed by the Indian stalls intended for 3rd class passengers in the Assam Bengal Railway ;
- (e) if the answer to part (d) above be in the negative, whether Government are prepared to state the reason therefor ; and

- (f) whether it is a fact that the Board of Directors of the Assam Bengal Railway have full information of the facilities given to European refreshment rooms and also of the distinction made in this respect between them and the Indian stalls ?

The Honourable Sir Andrew Clow : (a) to (e). The information has been called for and a reply will be laid on the table when received.

(f) I am unable to give particulars of the information in possession of the Board of Directors.

Mr. Muhammad Nauman : With regard to the reply to part (f) of the question, will the Honourable Member be in a position to let us know what is the distinction that the Board has made—in future, if not today ?

The Honourable Sir Andrew Clow : Part (f) relates to certain information in the possession of the Board of Directors. Obviously I cannot give particulars of that.

Mr. Muhammad Nauman : The Honourable Member can call for those particulars ?

The Honourable Sir Andrew Clow : I am not entitled to ask the Agent what information he supplies to the Board of Directors ; that is a matter for him.

IMPROVEMENTS IN THE CONDITION OF THIRD CLASS TRAVEL ON THE ASSAM BENGAL RAILWAY.

223. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state whether Government have taken any steps during the previous and the current years to improve the conditions under which the third class passengers travel on the Assam Bengal Railway ; if not, why not ?

The Honourable Sir Andrew Clow : As regards the previous year, I would refer the Honourable Member to the details relating to the Assam Bengal Railway given on pages 105 onwards of Chapter VIII in the Railway Board's Annual Report, Vol. I, for 1937-38. I lay on the table a list of the more important facilities provided by the railway administration during the year 1938-39 to improve conditions for third class passengers.

List of the more important facilities provided for third class travellers by the Assam Bengal Railway during the year 1938-39.

- (1) Seven additional third class carriages of new type were put into service.
- (2) The lighting of all third class carriage latrines has been completed, with the exception of 17 composite carriages.
- (3) Frosted glass windows for better day lighting have been fitted in latrines.
- (4) Side doors of a large number of third class compartments have been fitted with glass panels illuminated by inside lighting, showing class of carriages.

- (5) Improved flushing arrangements in third class latrines have been provided.
- (6) More third class carriages have been provided with inter-communication windows on partitions between male and female compartments.
- (7) The fitting of two additional alarm pulls in each lower class women's compartment in easily accessible positions to afford additional security was completed.
- (8) 14 third class carriages have been provided with an improved type of seat.
- (9) Double foot-boards have been fitted to 19 inter and third class carriages to facilitate entrance and exit.
- (10) Two Hindu and Muslim refreshment rooms were provided during the year and improvements were made to the Indian refreshment rooms at Laksam and to the Hindu stall at Chaparmukh.
- (11) Stalls for Hindus and Muslims were opened at Sholashahar Junction.
- (12) Two Out-Agencies were opened during the year for passengers and goods.

RECRUITMENT OF MUSLIMS ON THE ASSAM BENGAL RAILWAY.

224. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) the total strength of clerks and subordinate staff respectively employed by the Assam Bengal Railway in the scale of rupees 50/- upwards and rupees 100/- upwards, respectively, and the total number of Muslims in each grade on the 30th June, 1939 ;
- (b) whether it is a fact that in the matter of recruitment, quotas of Muslims are not being adhered to on the Assam Bengal Railway ; and
- (c) whether it is a fact that no advertisements in the press are given and appointments are made from the same approved list on the Assam Bengal Railway ?

The Honourable Sir Andrew Clow : (a) I have not got the particulars required by the Honourable Member. Such statistics as are compiled show the position on the 31st March each year and are published in Appendix F of Vol. I and Appendix C of Vol. II of the Report by the Railway Board on Indian Railways.

(b) The percentages have varied from year to year, but over the last four years the percentage of permanent vacancies going to Muslims is 36.2 and the percentage of temporary vacancies is 33.7 against a quota percentage of 35.

(c) I am not aware of the procedure that is adopted, but will send a copy of the Honourable Member's question to the Agent and General Manager, for such action as he may consider necessary.

Mr. Muhammad Nauman : May I know what is the quota given to the Assam Bengal Railway by the Railway Board ?

The Honourable Sir Andrew Clow : Thirty-five is the percentage I have quoted in answer to part (b) of the question.

STATE CONTROL OF THE ASSAM BENGAL RAILWAY.

225. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable the Railway Member be pleased to state :

- (a) whether Government at all contemplate to take over the management of the Assam Bengal Railway from the present company ; and
- (b) if the answer to part (a) above be in the affirmative, whether Government are prepared to state the year in which the management will probably be taken over ?

The Honourable Sir Andrew Clow : Under the existing contract with the Company, Government have the option to take over the management of the Assam Bengal Railway on the 31st December, 1941, or at the end of any succeeding tenth year. The question of exercising the option at the end of 1941 has not yet been considered.

MUSLIM CLERKS IN CERTAIN BRANCHES OF THE ESTABLISHMENT OFFICE OF THE DIVISIONAL SUPERINTENDENT, HOWRAH.

226. *Dr. Habibur Rahman : Will the Honourable Member for Railways please state :

- (a) whether Government are prepared to give the following information about the Muslim clerks referred to in their reply to starred question No. 679 asked in this House on the 24th February, 1939, by Mr. Muhammad Nauman :
 - (i) Designation (Dealing clerk or Group-in-charge).
 - (ii) Date of appointment.
 - (iii) Rate of pay.
 - (iv) Grade.
 - (v) Work allotted, and duties regarding staff matters ;
- (b) whether it is a fact that the only Muslim clerk who was a Dealing Clerk in the Rolling Stock Staff Branch in the Establishment Office, has been taken off this work, and a Hindu clerk from the Commercial Section has been put on the work ;
- (c) whether it is a fact that this new Hindu clerk from the Commercial Branch has no knowledge about the establishment work ;
- (d) whether it is a fact that the Hindu clerk has been brought to the Establishment Branch so that the next vacancy in the higher grade may be given to him ;
- (e) whether Government are prepared to state how the Muslim clerk has been removed from the position which he held ;
- (f) whether it is a fact that the Howrah Division of the East Indian Railway is predominantly Hindu and is constituted of Hindu Divisional Superintendent, Hindu Staff Superintendent, Hindu Commercial Superintendent, Hindu Assistant

Superintendent Staff, Hindu Superintendent Power, Hindu Office Superintendent, Hindu Head Establishment Clerk, Hindu Assistant Establishment Clerk, Hindu Group-in-charges Establishment Office and Hindu Dealing Clerks of Establishment Office ; and

- (g) if the reply to part (f) above be in the negative, whether Government are prepared to state what attempts have ever been made to check the preponderance of the majority community in the Establishment Office of the Howrah Division, East Indian Railway ?

The Honourable Sir Andrew Clow : (a) to (d). I regret that I have no further particulars than those given in the reply to Mr. Muhammad Nauman's question No. 679.

(e) As Sir Thomas Stewart indicated in reply to question No. 679, he left the branch owing to his being suspended.

(f) The composition varies from time to time. Out of 13 officers in the Division on the 31st December, 1938, eight were non-Hindus and the majority at present, so far as I am aware, is also non-Hindu. In the subordinate ranks I would expect to find a majority of Hindus.

(g) Does not arise.

Mr. Muhammad Nauman : With reference to the answer to part (a) of the question, is the Honourable Member aware that the figure of nine Muslims, as stated in reply to my question, was rather a mis-statement of fact, because the number of Muslims is only four, not nine ? There were only two Muslims who have since been removed, and I should think there should be about two more only ? Is the Honourable Member aware of that position ?

The Honourable Sir Andrew Clow : No, Sir, I am not.

Mr. Muhammad Nauman : Does the Honourable Member propose to make an enquiry ?

The Honourable Sir Andrew Clow : No, Sir. The Honourable Member can supply the information to Dr. Habibur Rahman if he is satisfied that it is correct.

Mr. Muhammad Nauman : I am stating that the information given to the House was rather a wrong compilation ?

The Honourable Sir Andrew Clow : I have no reason for supposing that, Sir.

PROMOTION OF MUSLIMS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, HOWRAH.

227. *Dr. Habibur Rahman : Will the Honourable Member for Railways be pleased to state :

- (a) whether the cases of Muslims have been considered for the vacancies in the higher grades in the Divisional Superintendent's office, Howrah, for the period from 1934 to 1939 and what is the criterion followed at the time of giving promotion ;

(b) whether Hindu and Muslim employees are judged according to the same standard of efficiency ; and

(c) whether it is a fact that Muslims have not been given opportunity for selections by promotion ?

The Honourable Sir Andrew Clow : (a) I have no reason to believe that the claim of any qualified person was not given full consideration. The criteria are fitness, approved service and seniority.

(b) Yes.

(c) I am not quite clear as to the meaning of this part of the question, but have no doubt that every available qualified person is considered when selections are made.

NON-APPOINTMENT OF MUSLIMS TO SUPERIOR POSTS ON RAILWAYS.

†228. *Maulvi Muhammad Abdul Ghani : Will the Honourable the Railway Member please refer to the statement on page 165 of the Railway Board's Report, Volume I, 1937-38, and state :

(a) whether it is a fact that during the year 1936-37, 26 vacancies in the superior services were filled on State-managed Railways and out of these only two went to Muslims ;

(b) why only two Muslims were appointed ; what was the number of Muslim candidates ;

(c) whether it is a fact that in 1937-38, the Bombay, Baroda and Central India Railway filled eight vacancies of officers and not one of them was given to a Muslim ; and

(d) whether any steps are being taken to rectify the deficiency and to prevent the recurrence of such cases in future ?

The Honourable Sir Andrew Clow : (a) Yes ; but the shortage in the Transportation (Traffic) and Commercial Department and Signal Engineering Department was subsequently made good by the appointment of two other Muslims.

(b) The reasons are explained in paragraph 77 of Volume I of the Report by the Railway Board on Indian Railways for 1936-37. There were no Muslim candidates among the special class apprentices originally recruited in 1930. I have not particulars of the numbers of candidates in other departments.

(c) Yes, but six vacancies were filled by promotion and two by direct recruitment.

(d) A deficiency in the recruitment of minority communities in a particular year is normally carried forward to the next year ; and as I mentioned in reply to part (a) the deficiency in two Departments was made good subsequently.

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

RECRUITMENT OF MUSLIMS IN THE OFFICE OF THE CHIEF MINING ENGINEER, RAILWAY BOARD.

†229. *Maulvi Muhammad Abdul Ghani : Will the Honourable the Railway Member please state :

(a) whether the office of the Chief Mining Engineer, Railway Board, is situated at Calcutta ;

(b) whether the quota fixed for that office for recruitment of Muslim is fixed in accordance with the population proportion of Muslims in Bengal ;

(c) if the answer to part (b) above be in the negative, whether Government are prepared to state what is the quota fixed for recruitment of Muslims in this office ;

(d) whether it is a fact that in the year 1937-38, nine permanent posts of subordinates were filled in that office and only one out of these nine posts was given to a Muslim ;

(e) why the quota was not observed in making these appointments ;

(f) what steps Government propose to take against the persons responsible for not observing the orders of the Government of India regarding the fixation of the quotas ; and

(g) what steps Government propose to take to make good the deficiency of Muslims in this office ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) No.

(c) 25 per cent.

(d) Yes.

(e) The strict observance of the quota is not always practicable, but in accordance with the instructions issued any deficiency in the recruitment of minority communities in a particular year is carried forward to the next year. The deficiency of one Muslim in 1937-38 could not be made good in 1938-39 as there was no recruitment that year.

(f) and (g). Do not arise.

MUSLIM OFFICERS IN THE AGENCY DEPARTMENT OF CERTAIN RAILWAYS.

†230. *Maulvi Muhammad Abdul Ghani : Will the Honourable the Railway Member be pleased to state :

(a) whether it is a fact that in 1937 and 1938 there was not a single Muslim officer in the Agency Department of the following railways :

(i) Bengal Nagpur Railway,

(ii) Bengal and North Western Railway,

(iii) Bombay, Baroda and Central India Railway,

† Answer to this question laid on the table, the questioner being absent.
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- (iv) Eastern Bengal Railway,
- (v) East Indian Railway,
- (vi) Great Indian Peninsula Railway,
- (vii) Madras and Southern Mahratta Railway,
- (viii) Rohilkund and Kumaon Railway,
- (ix) South Indian Railway ;
- (b) whether it is a fact that on all railways taken together there were in 1938 only two Muslim Officers in the Agency Department out of a total of 76 and five Muslim subordinate officers out of a total of 88 in the same year ;
- (c) whether any Muslim officer has been appointed to the Agency Departments of these railways since 1938 ;
- (d) whether Government propose to consider the question of improving the proportion of Muslim Officers and subordinate officers in the Agency Department ;
- (e) whether it is a fact that in 1937 there were ten Muslim Officers out of a total of 124 in the Accounts Departments of all Railways ;
- (f) whether it is a fact that in 1938 their number was reduced from ten to eight ;
- (g) whether Government are prepared to state the reason for this reduction ;
- (h) whether Government have taken or propose to take any steps to give adequate seats to Muslims ;
- (i) what are the other Departments the figures of which are given on page 158 of the Railway Board's Report on Indian Railways, Volume I for 1937-38, Appendix F, Statement I ; and
- (j) why the number of Muslim officers in these departments is reduced from seven in 1937 to six in 1938 ; what was the position of Muslims on 31st March, 1939 ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) The figures quoted by the Honourable Member relate to Class I Railways (excluding H. E. H. the Nizam's State and Jodhpur Railways).

(c) I have no particulars of postings on Company-managed Railways. As regards State-managed Railways, postings to the Agency Department, now termed "General Manager's office", are made by transfers from other Departments, and these are not reported to Government unless the posts are of the administrative grades. I have no information, therefore, of postings to grades lower than administrative. No Muslim was appointed to an administrative grade.

(d) Muslim officers are considered when there are vacancies in the General Manager's office. An increase in the number of Muslims as subordinate officers is dependent on the number of Muslims available in lower categories.

(e) Yes, on all Class I Railways (excluding H. E. H. the Nizam's State and Jodhpur Railways).

(f) Yes.

(g) One was a casualty on a Company-managed Railway regarding which Government have no information, and one died.

(h) I would refer the Honourable Member to paragraphs 90.1 and 90.2 on page 98, Volume I of the Report by the Railway Board on Indian Railways for 1937-38, which indicate that the steps taken by Government have operated to increase the percentage of Muslim employees.

(i) Medical, Watch and Ward, Printing, Marine, Electrical, Schools and Collieries, where they exist as separate Departments.

(j) The services of one officer were transferred to the Bengal Government. As regards the latter part of the question, the figures for the 31st March, 1939, are not yet available.

REDUCTION OF DISTANCE RESTRICTIONS IMPOSED ON THIRD CLASS PASSENGERS IN THE EAST INDIAN RAILWAY MAELS.

†231. *Maulvi Muhammad Abdul Ghani : Will the Honourable Member for Railways be pleased to state :

- (a) whether any action has been taken by the East Indian Railway on the suggestion made in the meeting of the Advisory Committee of the East Indian Railway held on the 26th August, 1938, at Calcutta for reducing the distance restriction imposed on the third class passengers by 1 Up and 2 Down from 500 miles to 350 miles with effect from the 1st October, 1938 ; whether the suggestion has been accepted, if so, since when ;
- (b) whether the distances on the foreign railways are calculated for the said restriction ;
- (c) whether any through train runs between Savan and Paleza Ghat over the Bengal and North Western Railway ; if not, whether any composite carriage with second, intermediate and third class compartments is attached to any through train at Savan Railway Station for passengers booked for Mahendra Ghat or Digba Ghat ; if not, why not ;
- (d) the number of first, second, intermediate and third class passengers booked for Mahendra Ghat or Digba Ghat Railway Station over the Bengal and North Western Railway between Savan and Chapra Kutchery Railway Stations during the last three years ;
- (e) whether the attention of the Bengal and North Western Railway authority has been drawn to the subject in part (c) above, if so, the action taken thereon ;

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

- (f) whether there is any arrangement in running trains of the Bengal and North Western Railway for the supply of cool drinking water ; if so, in what trains and during what period of the year ;
- (g) the number of railway stations and the number of water men and Bhistis from Gorakhpur to Katihar over the Bengal and North Western Railway ; and
- (h) whether a through carriage runs between Cawnpore Central and Savan Railway Stations *via* Captainganj over the Bengal and North Western Railway by 67 and 3 Ups and 68 and 4 Downs as agreed to by the Traffic Manager, the Bengal and North Western Railway, *vide* proceedings of the Local Advisory Committee for the quarter ending 30th September, 1938 ; if so, since when ?

The Honourable Sir Andrew Clow : (a) Yes : from the 1st October, 1938.

(b) Yes.

(c) I understand that no through train or through composite carriage is run between the places mentioned, presumably because the passenger traffic offering does not warrant it. These parts of this question will be brought to the notice of the Railway Administration.

(d) The information is not available and I regret that I would not feel justified in asking the Company to undertake the research involved in an attempt to secure the figures.

(e) I do not know ; but I am prepared to bring part (c) of the question to the notice of the administration.

(f) This Railway does not employ travelling watermen. Arrangements for the supply of water to passengers are detailed in Chapter VIII, page 114 of the Railway Board's Annual Report, Volume I, for 1937-38.

(g) The number of stations is 58. I have no information as to the number of watermen or *bhisties* on this section.

(h) At the Local Advisory Committee meeting held on the 5th November, 1938, the Administration agreed to take a further census of passengers booked on the Captainganj-Savan-Gorakhpur loop to Lucknow and Cawnpore for the months of December and January. The Committee was informed at its meeting on the 29th April, 1939, that this census of passengers did not justify the running of the through carriage in question.

OCCUPATION OF SECOND CLASS LADIES WAITING ROOM BY MALES AT KALKA.

232. *Haji Chaudhury Muhammad Ismail Khan : Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that second class Ladies Waiting Room was being occupied by some male members of the railway staff at Kalka on the 21st May, 1939, after the arrival of 1-41 Up train ;

- (b) whether it is a fact that some complaints were lodged by lady passengers with the gate keeper ;
- (c) if the reply to part (b) above be in the affirmative, what was the result of the enquiry ;
- (d) whether enquiries have been directed to the Station Master, Kalka, in this connection ; and
- (e) if the reply to part (d) above be in the affirmative, what action Government have taken or propose to take in the matter ; if not, why not ?

The Honourable Sir Andrew Clow : (a) and (b). No.

(c) Does not arise.

(d) Yes.

(e) Suitable action is being taken against the official making an allegation against the Station Master, which on enquiry was not substantiated.

Mr. Muhammad Nauman : Is the Honourable Member aware that this report was furnished by the lady passenger herself ?

The Honourable Sir Andrew Clow : My information is that the allegation was from an assistant station master.

POSITION OF MUSLIM PERSONNEL OFFICERS ON THE NORTH WESTERN RAILWAY.

233. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that the position of Muslim staff (Personnel) Officers on the North Western Railway on the Divisions has been considerably reduced as compared with 1932 in spite of the undertaking given by Sir George Rainy in 1931 to a deputation of Muslim Members of this House that " a review would be made of the posting of officers to duties connected with the recruitment, training, promotion of staff with a view to securing the adequate number of Muslim Officers in such posts ", *vide* note referred to in paragraph 1 (ii) of Railway Board's letter No. 3966-E., dated the 2nd November, 1931 ;
- (b) what is the actual position in this regard as compared with 1932 ;
- (c) whether Government consider that the number of Muslim Officers at present employed on staff duties on the North Western Railway is adequate ; and
- (d) whether Government are prepared to consider the desirability of again asking the various Railway Administrations to bear in mind this undertaking of Government when posting officers to staff duties ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939 in connection with his starred question No. 1567 asked on the 5th April, 1939.

(c) What is adequate must be a matter of opinion, but I should like to see an increase as soon as circumstances permit.

(d) No ; but a copy of this question and answer will be sent to the General Manager, North Western Railway.

PROVISION OF SPECIAL TRAINING FACILITIES FOR MUSLIMS TO FIT THEM FOR HIGHER POSTS ON RAILWAYS.

234. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether Mr. Hassan, while an Officer on Special Duty, recommended "the attention of all the Railway Departments should again be drawn to the fact that it is the intention of the Railway Board to provide special training facilities for Muslims which will, in the course of time, fit them for higher posts and they should be asked to inform the Railway Board at the end of each year what definite action has been taken by them in the matter. Muslims with the requisite qualifications should be selected from among those already in service and given special facilities for the higher posts" ;
- (b) whether it is a fact that in connection with this recommendation the Railway Board decided that "particular care should be taken to see that communities that are inadequately represented in the higher posts are given careful consideration and adequate training to fit them for higher posts" ;
- (c) whether Government have taken or propose to take any steps to implement this decision of the Railway Board ; and
- (d) whether Government are prepared to state how many Muslims on the North Western Railway have since been given training to fit them for higher posts ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) This sentence occurs in the orders issued by the Board, but it is apt, in isolation from its context, to give a misleading impression of what was intended ; so I propose to read the whole decision. It runs as follows :

"The Railway Board are averse to adopting any arrangement which may savour of communal discrimination in respect of existing employees. They consider it of importance that no man's claim to promotion should be overlooked because he belongs to a particular community and special consideration should be given to the provision of training facilities for higher posts for all communities. Particular care should be taken to see that communities that are inadequately represented in the higher posts are given careful consideration and adequate training to fit them for higher posts."

(c) It is not the duty of Government but of the railway administration to carry out the Board's orders.

(d) I have no particulars and I doubt if these could be collected ; but I propose to ask what special consideration was given to the whole question.

Mr. Muhammad Nauman : With reference to part (a) of the question, may I ask whether any facilities were given to Muslims for training in the foreign countries and is the Honourable Member aware that on the Eastern Bengal Railway certain Muslim employees applied to go abroad, but their request was not granted ?

The Honourable Sir Andrew Clow : So far as I know both Hindu and Muslim apprentices have been sent abroad in the past, but I have not the figures here.

PROMOTION OF SUBORDINATE STAFF TO HIGHER GRADES ON THE NORTH WESTERN RAILWAY.

235. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that Mr. Hassan, while Officer on Special Duty with the Railway Board recommended "in cases in which promotion is given by branches, necessary adjustment should be made to see that the subordinate staff in each branch have fair chances of promotion to the higher grades" ;
- (b) whether it is a fact that in connection with this recommendation the Railway Board decided in 1933 "that the subordinate staff in each branch of an office (North Western Railway only) where promotion is given by branches, irrespective of the community to which they may belong should have reasonable chances for promotion to the higher grades. Cases in which promotion is given by branches of an office the distribution of the staff should be made in such a manner that each member of the staff may have a reasonable chance of promotion to rise to the higher grade" ; and
- (c) what action, if any, Government have taken or propose to take to implement this decision so far as the Headquarters Office is concerned ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) None.

PREPONDERANCE OF NON-MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

236. *Mr. H. M. Abdullah : With reference to his reply to my starred question No. 1564 asked in this House on the 5th April, 1939, will the Honourable Member for Railways please state :

- (a) whether or not opportunity for recruitment to the officer grade in the Electrical Branch offered itself when the vacancy of a Divisional Assistant Electrical Engineer on the Rawalpindi Division occurred in April, 1939 ;

- (b) whether this post was advertised in the press and applications invited through the Federal Public Service Commission ; if not, why not ;
- (c) whether the post was filled by promotion ; if so, whether a Selection Board was held ; if not, why not ;
- (d) what were the criteria on which the selection was based ; and
- (e) whether the claims of Muslims eligible for appointment were considered as promised by the Honourable Member in reply to my starred question No. 1564 of the 5th April 1939 ?

The Honourable Sir Andrew Clow : (a) No : there was only a leave vacancy in the Lower Gazetted Service.

- (b) Does not arise.
- (c) The answer to the first part is in the affirmative. Such promotions are not referred to a Selection Board.
- (d) Fitness, approved service and seniority.
- (e) Yes.

Mr. Muhammad Nauman : With reference to part (c) of the question, the Honourable Member did not say why they are not referred to the Selection Board ?

The Honourable Sir Andrew Clow : I am sorry : apparently I did not. I presume it is because it is not regarded as necessary.

PREPONDERANCE OF NON-MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

237. ***Mr. H. M. Abdullah :** With reference to his reply to part (c) of my starred question No. 1565, asked in this House on the 5th April, 1939, on the subject of senior foremen, foremen, etc., of Electrical Branch, will the Honourable the Railway Member please state whether the information, if any, since received by him discloses any irregularity in recruitment ?

The Honourable Sir Andrew Clow : No.

POSTING OF HEAD CLERKS AND THEIR SUB-HEADS ON RAILWAYS.

†238. ***Mr. H. M. Abdullah :** Will the Honourable the Communications Member please state :

- (a) whether it is a fact that there is a practice in the Postal Department and some other Departments of the Government of India that wherever the head clerk happens to be a Hindu their sub-head is a Muslim and *vice versa* ; and
- (b) whether Government propose to consider the advisability of issuing similar instructions so far as the Railway Departments are concerned ?

†Answer to this question laid on the table, the questioner having exhausted his quota.

The Honourable Sir Andrew Clow : (a) There is no such practice in the Postal or other Departments under my charge. If the Honourable Member desires particulars of other Departments, the inquiries should be addressed to the Members of Government concerned.

(b) No.

ABSENCE OF MUSLIM PERSONNEL OFFICERS ON THE NORTH WESTERN RAILWAY.

†239. ***Mr. H. M. Abdullah :** With reference to his reply to part (c) of my question No. 1652 asked in this House on the 12th April, 1939, on the subject of absence of Muslim officers on the North-Western Railway, will the Honourable the Railway Member please state in what respects the inference drawn by the questioner is incorrect and specify the correct inference which may be drawn from the reply given to my starred question No. 1001, asked in this House on the 13th March, 1939 ?

The Honourable Sir Andrew Clow : The inference which the Honourable Member has apparently drawn is that the policy is to ensure an equal distribution of posts between Muslims and non-Muslims in the establishment sections of railway offices. This inference is not correct. The instructions issued to Railway Administrations are to the effect that they should endeavour to ensure that particular communities are not handicapped by the preponderance of any one community in the establishment sections.

ABSENCE OF MUSLIM SIGNAL ENGINEERS ON STATE RAILWAYS.

†240. ***Maulana Zafar Ali Khan :** Will the Honourable Member for Railways please state :

- (a) whether his attention has been drawn to the communication under the heading "Signal Engineering Branches of State Railways" appearing in the *Eastern Times*, dated the 14th July, 1939 ;
- (b) whether it is a fact that there is not a single Muslim officer working as Deputy Chief Engineer, Signals, or District Signal Engineer on any of the State Railways in India ;
- (c) whether it is a fact that out of 32 posts of Signal Engineers on the State Railways, there is only one permanent Muslim Assistant Signal Engineer on the Eastern Bengal Railway and that the percentage of Muslims in this service is 3.12 only ; and
- (d) whether it is a fact that recruitment to this service is shortly going to take place ; if so, whether Government are prepared to consider the desirability of improving the Muslim representation in this service ?

The Honourable Sir Andrew Clow : (a) I have seen the communication referred to.

(b) and (c). Yes.

†Answer to this question laid on the table, the questioner having exhausted his quota.
†Answer to this question laid on the table, the questioner being absent.

(d) Yes. The Federal Public Service Commission has been asked to recruit two Assistant Signal Engineers : one of the vacancies being reserved for a Muslim.

SELECTIONS OF CANDIDATES FOR APPOINTMENT IN THE NORTH WESTERN RAILWAY OFFICES.

†241. *Maulana Zafar Ali Khan : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 25th August, 1939, under the caption "Selections for North Western Railway Offices";
- (b) whether it is a fact that no criterion has been laid down for preliminary selection of candidates and various anomalies of the nature suggested in the article are evident in the selections made inasmuch as graduate candidates are sometimes not called for an interview while matriculates are;
- (c) whether it is a fact that the candidates called for an interview are subjected to the various disabilities mentioned in that article and outstation candidates are made to wait unnecessarily for several days;
- (d) whether it is a fact that some of the selected candidates at the last selection for the post of clerks held in the Headquarters Office were actually related either to the Selecting Authorities themselves or to other non-Muslim Officers of the Headquarters Office as stated in this communication; and
- (e) whether Government propose to take the necessary action to lay down definite criteria for the preliminary selection of candidates?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to.

(b) I understand that criteria for the selection of candidates have been prescribed by the Administration. Graduates may not be called to appear before a Selection Board where the educational qualification prescribed for the posts for which candidates are to be selected may be the passing of the matriculation examination.

(c) and (d). I have no particulars on these points, but will ask the General Manager to look into them and take such action as he considers necessary.

(e) No. This is a matter which can best be done by the Railway Administration.

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

ABSENCE OF MUSLIM DIVISIONAL SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

†242. *Maulana Zafar Ali Khan : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to a letter appearing in the *Eastern Times*, dated the 25th August, 1939, under the heading "Divisional Superintendents, North Western Railway";
- (b) whether it is a fact that out of eight Divisional Superintendents on the North Western Railway, not a single one is a Muslim;
- (c) whether it is a fact that Hindu Divisional Superintendents have been and are at present employed on the North Western Railway and the East Indian Railway;
- (d) whether it is a fact that Muslims with the requisite qualifications to fill such posts are available on the North Western Railway or other State Railways; and
- (e) whether Government are prepared to consider the desirability of appointing a Muslim as Divisional Superintendent in the expected vacancy on the North Western Railway which traverses a part of the country which is predominantly Muslim in population?

The Honourable Sir Andrew Clow : (a) I have seen the letter referred to.

(b) Yes, except that the number of posts of Divisional Superintendents is seven.

(c) Yes.

(d) I do not think it is desirable in the interests of either the service or officers to discuss in this House the qualifications of individual officers.

(e) Selections to posts of Divisional Superintendents are not made on communal considerations.

PROMOTIONS ON THE NORTH WESTERN RAILWAY.

†243. *Maulana Zafar Ali Khan : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to the communication appearing in the *Eastern Times*, dated the 11th August, 1939, under the heading "North Western Railway Promotions";
- (b) whether it is a fact that during the period 1928 to 1938 the representation of Muslim officers in the North Western Railway services has increased by six only, i.e., by .6 per year;

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

- (c) what is the number of posts in this cadre that fell vacant during the last ten years and how many of these were filled with Muslims ;
- (d) whether it is a fact that the representation of Muslim senior subordinates in the North Western Railway services increased by seventy in the ten years, 1928—38, i.e., by 7 per year ;
- (e) what is the total number of vacancies that occurred in this service during these ten years and how many of them went to Muslims ;
- (f) whether Government are prepared to consider the question of fixing a definite percentage for Muslims for filling of vacancies by means of promotion as is fixed in the filling of vacancies by direct recruitment ; and
- (g) if not, whether Government are prepared to consider the desirability of filling up of a large number of vacancies in the senior subordinate and lower gazetted services by direct recruitment instead of by promotion ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) The number of vacancies to be filled by direct recruitment in India for the superior services on the State-managed Railways was 166 and the number of Muslims appointed was 29.

(d) Yes, in the case of subordinates on pay of, or on scales of pay rising to, Rs. 250 and over.

(e) These particulars are not readily available ; practically all posts of senior subordinates are filled by promotion, and not by direct recruitment.

(f) and (g). No. The nature of the duties of these posts makes it essential in the interests of efficiency that the incumbents should have experience which can only be acquired by service in lower categories.

INADEQUATE APPOINTMENTS GIVEN TO MUSLIMS IN THE RAWALPINDI DIVISION OF THE NORTH WESTERN RAILWAY.

†244. *Maulana Zafar Ali Khan : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 28th July, 1939, under the heading "Communalism par excellence" ;
- (b) whether it is a fact that from September, 1935 to April, 1939 direct recruitment of the ten persons mentioned in this communication was made on the Rawalpindi Division of the North Western Railway ;
- (c) whether it is a fact that the General Manager, North Western Railway, has laid down that 84.4 per cent. of all appointments filled by direct recruitment in the inferior category should go to Muslims ; whether it is also a fact that not one of the appointments made in this category of staff was given to a Muslim ;

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

- (d) whether Government are prepared to issue necessary instructions to the General Manager of the North Western Railway so that all appointments irregularly made may be rendered null and void, the present incumbents discharged, and Muslims appointed in their places ; and
- (e) whether Government are prepared to direct the General Manager to obtain the explanation of the persons responsible for defying his instructions and take necessary action against them to prevent a recurrence of such incidents in future ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to.

(b) No. Four out of the ten named were taken from other departments and six were directly recruited. Three of the latter were substitutes who have since been discharged.

(c) I am not clear whether this part of the question relates to inferior staff on the Rawalpindi Division generally or to the inferior electrical staff on that Division ; but in either case the statements made are incorrect. The percentage for inferior staff generally in the Division is 80.4 and during each of the three years ending the 31st March, 1939, the percentage of Muslims recruited was over 90. The percentage for electrical staff is 40.7 and in the three years the percentages were 69.5, 45.4 and 68.8.

(d) There has been no irregular appointment.

(e) Does not arise.

UNDER-RECRUITMENT OF MUSLIMS ON THE NORTH WESTERN RAILWAY.

245. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable the Railway Member please state :

- (a) whether it is a fact that according to the resolution of the Government of India of July, 1934, at least 60 per cent. of vacancies filled by direct recruitment by the North Western Railway are reserved for Muslims ;
- (b) whether it is a fact that the annual reports for 1935-36, 1936-37 and 1937-38, published by the North Western Railway, show that Muslims have never been recruited to the full extent of 60 per cent. ;
- (c) whether it is a fact that this has led to the under-recruitment of Muslims and over-recruitment of other communities ;
- (d) whether it is a fact that this under-recruitment of Muslims is in spite of the fact that Muslims have in many cases secured unreserved posts by merit ;
- (e) whether it is a fact that, under orders of the Railway Board, posts reserved for Muslims cannot be offered to members of other communities without obtaining the prior sanction of the Railway Board ;

- (f) whether it is a fact that according to paragraph 10 of the supplementary instructions issued by the Home Department of the Government of India and circulated with the Railway Board's letter No. E-35-C.M.-120, dated the 9th August, 1935, all appointments made contrary to the percentages laid down for direct recruitment have to be declared null and void as soon as the matter is brought to the notice of the heads of the departments concerned through the annual returns or otherwise ;
- (g) whether it is a fact that this under-recruitment of Muslims was brought to the notice of the North Western Railway Administration, the Railway Board and the Home Department of the Government of India through the annual returns or otherwise ;
- (h) if so, whether any action was taken by Government in accordance with paragraph 10 of the supplementary instructions referred to in part (f) above ; if not, why not ; and
- (i) whether Government are prepared to take necessary action and issue strict orders to avoid recurrence of such cases of disregard of instructions issued ?

The Honourable Sir Andrew Clow : (a) The quota is fixed at 60 per cent. in the case of the subordinate services.

(b) During the three years referred to, for permanent posts a total of 471 Muslims were recruited against a quota of 476, and for temporary posts 1,099 Muslims were recruited against a quota of 1,138 : the figure of 60 per cent. was exceeded for permanent posts in 1935-36.

(c) I have no figures to show whether or not the small deficiency in the number of Muslims recruited was made up by the recruitment of other communities.

(d) Muslims have obtained posts on their merits in many cases, but posts so obtained count against the quota of reserved posts.

(e) No. The orders to which the Honourable Member refers were subsequently modified to provide for deficiencies in recruitment in one year to be carried forward to the subsequent year, without reference to the Railway Board.

(f) No. Only such appointments are to be regarded as null and void as are made contrary to the orders contained in the Resolution to which the Honourable Member has referred in part (a) of his question.

(g) Yes.

(h) and (i). Do not arise, in view of the reply I have given to parts (e) and (f).

Mr. Muhammad Nauman : I do not follow the method of calculation which the Railway Administration of the North Western Railway has got. In 1934, they were asked to take 60 per cent. Muslims, and even if the number of Muslims in that year was nil, there ought to have been over 30 per cent. Muslims on that Railway by now.

The Honourable Sir Andrew Clow : I am afraid I cannot follow the Honourable Member's calculation. Recruitment at the rate of 60 per cent. for three years would not make the total number of Muslims on the North Western Railway 30 per cent.

Mr. Muhammad Nauman : I said that I could not follow the calculation of the Railway Administration in the sense that in 1934, they were compelled to take 60 per cent., the result of which ought to have been after five years' working an increase of 30 per cent. of Muslims, but actually we have less than 30 per cent. even now.

The Honourable Sir Andrew Clow : There must be some fallacy in the Honourable Member's mathematics. Obviously, the percentage of increase in the number of Muslims on a railway must depend on the rate at which recruitment is made. If you are recruiting a very small number of persons against the average number of casualties, as has happened in some years, then you will not get the same percentage of increase as if you were recruiting on a very large scale.

Mr. Muhammad Nauman : Are we to suggest, because in 25 years or 30 years everybody will go up.....

Mr. President (the Honourable Sir Abdur Rahim) : The Honourable Member is now arguing. Next question.

REPRESENTATION OF MUSLIMS IN THE PERSONNEL BRANCH OF THE NORTH WESTERN RAILWAY HEADQUARTERS OFFICE.

246. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : With reference to his reply to parts (d) and (h) of my starred question No. 1698, asked in this House on the 12th April, 1939, stating that the posting of officers to Branches in an office is not regulated by communal considerations, will the Honourable the Railway Member please state :

(a) whether Government gave an undertaking to Muslim members of the Central Legislature that " a review would be made of the posting of officers to duties connected with the recruitment, training and promotion of staff with a view to securing an adequate number of Muslim officers for such posts " ;

(b) whether in pursuance of this undertaking, Government instructed the Agents of State-managed Railways in their letter No. 917-E.G., dated the 6th August, 1931, " to consider the posting of Muslim officers as Staff, Establishment or Employment Officers when making appointments to such posts with a view to securing the employment of an adequate number of Muslim officers in that capacity " ;

(c) whether the North Western Railway Administration have carried out these instructions ; and

(d) what steps, if any, Government propose to take to implement their undertakings ?

The Honourable Sir Andrew Clow : (a) and (b). Yes.

(c) and (d). I would refer the Honourable Member to the answer given today to Mr. H. M. Abdulla's question No. 233.

DIRECT RECRUITMENT OF CLERKS, ETC., ON THE NORTH WESTERN RAILWAY.

247. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Railways please state :

- (a) whether it had been laid down in paragraph 1 (b) of the North Western Railway Agent's circular No. I of 1927, part 'A', that "in the case of office clerks, out of every three vacancies in grade II and above one shall be filled by direct recruitment of a suitable graduate in grade II. Efforts may also be made to fill a certain proportion of vacancies in higher grades of guards, ticket-collectors and correspondence clerks and a certain number of vacancies among parcel and luggage inspectors by direct recruitment of suitable graduates";
- (b) whether it is a fact that these instructions have since been superseded and recruitment to the intermediate categories has been restricted to a few categories only and to the extent of only 20 per cent. instead of 33½ per cent. of the vacancies;
- (c) whether it is a fact that these revised instructions have been issued after the Government of India, Home Department Resolution of July, 1934, reserving for Muslims 60 per cent. of vacancies filled by direct recruitment; and
- (d) whether Government are prepared to consider the advisability of at least restoring *status quo* this matter?

The Honourable Sir Andrew Clow : (a) Yes, in para. 1 (1).

(b) and (c). The instructions referred to have not been followed in any office on the North Western Railway since 1930, as it was found possible to recruit graduates in the lower grades. Orders were issued by the Railway Board in 1937, permitting 20 per cent. recruitment to categories other than the lowest.

(d) No.

REPRESENTATION OF MUSLIMS IN THE SUPERIOR SERVICES ON RAILWAYS.

248. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Communications please state :

- (a) whether it is a fact that the representation of Muslims in the superior services was 6.54 per cent. in 1928;
- (b) whether it is a fact that the representation of Muslims in 1938 was 9.85 per cent.;
- (c) whether at this rate it will take over a century and a half before Muslim representation in these services on the North Western Railway reaches the level of 60 per cent.; and
- (d) whether Government propose to take any steps to accelerate this rate of progress; if so, what; if not, why not?

The Honourable Sir Andrew Clow : On the assumption that the Honourable Member's question refers to the North Western Railway, the reply is :

- (a) No; the percentage on the 1st April, 1928, was 6.4.

(b) Yes, on the 31st March, 1938.

(c) No; the calculation involves a serious fallacy. If the rate of recruitment is maintained at 25 per cent. and if casualties are assumed to affect all communities equally, 25 per cent. of the Indian officers must be Muslims when the present officers are replaced, if not before that date.

(d) Does not arise.

Mr. Lalchand Navalrai : May I ask if it is a fact that on the North Western Railway they have a ratio of 67 per cent. already and they still want more?

The Honourable Sir Andrew Clow : I do not think the present ratio is 67 per cent.

Mr. Lalchand Navalrai : Even if it is 60 per cent, why should they ask for more?

The Honourable Sir Andrew Clow : 60 per cent. is the quota for recruitment, and not the percentage of the Muslims on the Railway.

Mr. Lalchand Navalrai : By distribution on the North Western Railway, 60 per cent. posts have to be given to the Mussalmans, and still they want more?

The Honourable Sir Andrew Clow : 60 per cent. is the quota for recruitment. It is not the present representation of Muslims.

REPRESENTATION OF MUSLIMS IN THE SENIOR SUBORDINATE SERVICES ON RAILWAYS.

249. *Khan Bahadur Shaikh Fazl-i-Haq Piracha : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that the representation of Muslims in the senior subordinate services was 12 per cent. in 1928;
- (b) whether it is a fact that this figure stood at 17.38 per cent. in 1938;
- (c) whether at this rate it will take over 80 years before the Muslim representation in this service on the North Western Railway reaches the level of 60 per cent.; and
- (d) whether Government propose to take any steps to accelerate this rate of progress; if so, what; if not, why not?

The Honourable Sir Andrew Clow : On the assumption that the Honourable Member's question refers to the North Western Railway, the reply is :

- (a) The percentage on the 1st April, 1928, was 11.9.
- (b) The percentage on the 31st March, 1938, was 17.3.
- (c) No: the Honourable Member appears to have fallen into the same error as was involved in part (c) of his previous question.
- (d) Does not arise.

**RULING RE MOTION FOR AN EXCESS GRANT NEGATIVED AT
A PREVIOUS SESSION.**

Mr. President (The Honourable Sir Abdur Rahim) : The House will remember that the Chair promised to give a ruling on the question whether the motion for an excess grant relating to Ajmer-Merwara, which is down on the agenda paper for today, was in order. As the Chair was not aware of any case in which a motion for an excess grant, having been once negatived, an identical motion was entertained at a later Session, the Chair wanted to consider what is the proper procedure to be followed in such circumstances. Standing Order 31 prohibits a motion which raises a question substantially identical with the one on which the Assembly has given a decision in the same Session and, therefore, impliedly permits such a motion if made in a subsequent Session. The general practice with reference to motions relating to Bills and other matters has always thus been based on the principle that the House is free to entertain any motion which has not been expressly prohibited by any Rule or Standing Order. It is true that special provision has been made in Standing Order 73 for restoring in a certain class of cases grants which have been refused by the Assembly, but assuming that Standing Order 73 applies to an excess grant—as it probably does—it does not follow that the Assembly itself cannot revise its own previous decision in the matter if the motion in that respect does not infringe the limitation laid down in Standing Order 31. The motion is in order.

STATEMENT LAID ON THE TABLE.

ACCEPTANCE OF TENDERS BY THE HIGH COMMISSIONER FOR INDIA.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I lay on the table a statement furnished by the High Commissioner for India showing that there have been no cases in which tenders other than the lowest have been accepted by him in purchasing stores for the Government of India, during the half year ended the 30th June, 1939.

Statement for half-year ending 30th June, 1939.

No cases in which tenders for stores demanded by the Central Government, other than the lowest complying with the technical description of the goods demanded, were accepted on the grounds of superior quality, superior trustworthiness of the firm tendering, greater facility of inspection, quicker delivery, etc.

**THE INDIAN AIR FORCE VOLUNTEER RESERVE (DISCIPLINE)
BILL.**

Mr. C. M. G. Ogilvie (Defence Secretary) : Sir, I beg to move for leave to introduce a Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty.

(684)

THE INDIAN AIR FORCE VOLUNTEER RESERVE (DISCIPLINE) BILL. 685

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

“ That leave be granted to introduce a Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty.”

The motion was adopted.

Mr. C. M. G. Ogilvie : Sir, I introduce the Bill.

THE REGISTRATION OF TRADE MARKS BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move for leave to introduce a Bill to provide for the registration and the more effective protection of Trade Marks.

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

“ That leave be granted to introduce a Bill to provide for the registration and the more effective protection of Trade Marks.”

The motion was adopted.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I introduce the Bill.

THE MOTOR VEHICLES (AMENDMENT) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I beg to move for leave to introduce a Bill to amend the Motor Vehicles Act, 1939, for certain purposes.

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

“ That leave be granted to introduce a Bill to amend the Motor Vehicles Act, 1939, for certain purposes.”

The motion was adopted.

The Honourable Sir Andrew Clow : Sir, I introduce the Bill.

THE INSURANCE (SECOND AMENDMENT) BILL.

Sir George Spence (Secretary, Legislative Department) : Sir, I beg to move for leave to introduce a Bill further to amend the Insurance Act, 1938, 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 Insurance Act, 1938, for a certain purpose.”

The motion was adopted.

Sir George Spence : Sir, I introduce the Bill.

THE DEFENCE OF INDIA BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, the amendment which was moved the other day was :

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

Sir, this part and the rule issued under the corresponding part of the Ordinance were considered in the Select Committee and the suggestion was accepted that the rule, that is to say rule 56 should be modified in a certain way. The first part of the Rule ran as follows :

“ The Provincial Government may by general or special order prohibit, restrict or impose conditions upon the holding of or taking part in public processions meetings or assemblies for such period as may be specified in the order ”.

The suggested amendment was that after the words “ Provincial Government may ”, the following should be added, namely, “ for the purpose of securing the defence of British India and public safety, the maintenance of public order or the efficient progress of war ”. That is to say, the suggestion was that the clause should remain as it was but that the rule issued under the corresponding clause of the Ordinance which would become the rule under the Bill as soon as it becomes law should be restricted in the manner that I have explained. That restriction has been carried into effect and it has already been gazetted. I would, therefore, submit that that understanding having been arrived at, the House should accept that modification and this amendment should not be insisted upon. In any case, I oppose the amendment as the rule has already been modified as suggested by the Select Committee.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Sir, I rise to support this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : I see that the Honourable Member is not addressing the House from the seat allotted to him.

Pandit Lakshmi Kanta Maitra : I have all along been sitting here. But if my seat is somewhere else, I shall go there.

(The Honourable Member then moved to the seat allotted to him.)

Sir, the Honourable the Leader of the House said in effect that certain rules had already been framed on the basis of this part and that they have already been in operation, and that, therefore, it is not open to them now to go back on them. That is what I understood the Honourable Member to say.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member has understood me absolutely and entirely wrongly.

Pandit Lakshmi Kanta Maitra : This shifting of seat is partly responsible. In the first place, the Honourable Member spoke in an undertone. In the second place, he spoke in a non-stop way, and for Members sitting in this part of the House it was extremely difficult to follow him.

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member had brought this to my notice while I was speaking, I would have raised my voice.

Pandit Lakshmi Kanta Maitra : Sir, the usual practice in this House has been that the Honourable Member in charge of a Bill usually moves his seat to the middle of the Treasury Benches so that all parts of the House can hear him properly. This has been so in the case of the Insurance Bill and the Motor Vehicles Bill. But this has not been followed in the present case.

Mr. President (The Honourable Sir Abdur Rahim) : That is not the usual practice.

Pandit Lakshmi Kanta Maitra : I have not been able to follow what the Honourable the Leader of the House said. Sir, we do not believe that in these matters, we should be guided by the principle of *fait accompli*. This provision seeks to arm the executive with very drastic and enormous powers. In the first place we must admit that in this country we have only a modicum of civil liberty and even that is hedged round and circumscribed by a vast body of legislative measures which have already been in existence on the Statute book and which have already been in operation to the detriment of people in the exercise of their elementary rights of citizenship. Sir, there is for instance the all comprehensive section 144 of the Criminal Procedure Code which may and which, as a matter of fact, has been employed effectively to regulate, check and even prohibit the holding of public meetings. We have had very bitter experience of the operation of that provision. There is also the Criminal Law Amendment Act which has also been freely used for the purpose. There are other measures also, e.g., the Police Act, under the provisions of which processions, fairs, meetings, etc., can be regulated or even prohibited. Now, what is the necessity of further arming the executive with these powers under the cloak of a war measure unless the idea is to effectively check and completely wipe out the slightest vestige of civil liberty that we have ? Sir, the war has now been on for about three weeks or so, and we are told that we are technically involved in the war. But in the actual belligerent countries, e.g., in London, we find that the normal activities are not interfered with. The cricket match has started, the cinemas are open, and all that we hear about the actual warfare is not of air raids, but leaflet raids and of making contacts. What has happened in India at the present moment that the executive here, removed

[Pandit Lakshmi Kanta Maitra.]

six or seven thousand miles from the actual scene of hostilities, should further subject this country to these measures curtailing all its normal and legitimate activities, when there are adequate provisions already in the Statute-book? I do not see any justification for it unless it is wanted for the deliberate purpose of crushing all life in this country. Sir, I think the House will realise the gravity and the enormity of this measure, and what it will mean to the people if it is enacted into law. Even before this Bill has been passed, we already find that, on the strength of the Ordinances and the rules framed thereunder, Government have been working havoc in this country. I know and the House knows by this time that the provisions of the Ordinance have been freely used to check the legitimate activities of political leaders, trade unionists and labour leaders. In Digboi, all processions and meetings have been stopped, and, to crown all, the Labour Union leader there has been arrested, taken right up to Gauhati and asked to leave Assam forthwith. Encouraged by these Ordinances and the rules framed, the Government of Bengal have already issued a communique prohibiting all manner of meetings, processions, etc. Therefore, we see that before this Bill has actually been passed into law, Provincial Governments have been rigorously applying its provisions to curtail the civil liberties of the people.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not discuss these cases. The Provincial Governments are not represented here.

Pandit Lakshmi Kanta Maitra : I am, showing how these provisions lend themselves easily to abuse at the hands of irresponsible executive and how, as a matter of fact, they are being abused now even before this Bill has become law.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not refer to what is done by the Bengal Government.

Pandit Lakshmi Kanta Maitra : I have no particular animus against the Bengal Government; the same thing has been happening in Madras, Assam, U. P. and elsewhere.

Mr. President (The Honourable Sir Abdur Rahim) : The actions of the Provincial Governments need not be brought into this debate.

Pandit Lakshmi Kanta Maitra : Though we belong to the Central Legislature, we cannot completely ignore what is happening in the provinces, because they give us the materials by which we can judge how the provisions are being applied.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had better accept the ruling of the Chair.

Pandit Lakshmi Kanta Maitra : So, in view of this gross abuse of powers already in evidence in the provinces, I submit that we shall not be justified in arming the executive with further powers. I know that we cannot carry this amendment in this House, because of the empty opposition benches, but we have this moral conviction that we shall be failing in our duty to the country if we be a consenting party to this absurd piece of legislation. Sir, I support this amendment.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, the Honourable the Leader of the House has drawn our attention to rule 56 under the Ordinance as amended now in accordance with the suggestion of the Select Committee. I will invite the attention of the House to another part of the same rule, namely, sub-rule (3) of rule 56 which lays down this :

“ Any police officer may take such steps and use such force as may be reasonably necessary for securing compliance with any order made under this rule.”

Let us analyse this rule, “ Compliance with any order made under this rule”. Any order may be passed under clause 2, sub-clause (2) by an officer or person empowered by the Central Government. So, in the first place, the order, compliance with which is sought to be secured by this rule, need not be an order passed by the Central Government but may be passed by any other authority or any other person. In the second place who is to secure the compliance with the order? Any police officer can do it and I have sought in vain for a definition of “ police officer ” in these rules. Therefore, the phrase “ any police officer ”,—I stress the word “ any ”,—may include any one, from the Inspector-General down to the meanest constable or chaukidar. Then, in carrying out the order he is given the enormous power of taking such steps and using such force as may reasonably be necessary. Who is to consider whether that force is necessary or not? Certainly the police constable, if he is the man in question. Therefore, the implications of this rule are far-reaching. If you want to inaugurate a police *raj* in this country for three or four years during the continuance of the war, you are welcome to have this, but not otherwise.

Then, Sir, another point that I want to make is this. As my Honourable friend, Pandit Maitra, has pointed out, the arm of the law as already exists in this country is long enough to reach anybody and to prohibit and regulate any meetings. We know how those sections of the Criminal Procedure Code which are intended for quite a different purpose, e.g., sections 144, 107, 108, 109, etc., have been used or abused during all these years ever since 1906 when the Swadeshi movement started in Bengal. In fact it may be said without any exaggeration that the application of those sections is a scandal and one of the blackest spots in the British administration of India during the last so many years. It was not there in the Act of 1915 : and although that Act of 1915 was amended later on as occasion was found necessary, we find that this particular provision was not put in any of those later amending Acts. It is said that the purpose has been mentioned. So far so good. But one of those purposes is the maintenance of public order. Is it seriously suggested that there was no law in this country for the maintenance of public order? It was for that obvious reason that this provision is not to be found in the corresponding Act of 1915. Under the cloak of public order any meeting can be roped in and prohibited. This is really calculated to break the back-bone of our people for some time. The war is being fought for democracy. But these powers are sought for throttling democracy. I would point out another thing. This is bound, as it has done in the past, to create panic and alarm in the country. That is not my apprehension alone. That was the apprehension of His Excellency the Viceroy when the Bill was introduced in

[Mr. Akhil Chandra Datta.]

1915. He felt that there would inevitably be alarm in the country, but he sought to allay the alarm in this particular way : he said or rather the then Home Member of the Government of India said :

" That the Government consider that the present measure has now become necessary need cause no alarm to the country at large. Apart from the military interests involved it indicates nothing more than that there are in some parts of the country sporadic manifestations of disorder which require to be nipped in the bud lest they should grow and spread."....

The Honourable Sir Muhammad Zafrullah Khan : May I respectfully ask you, Sir, if all this is relevant to the particular amendment before the House ? To the general principle of the Bill, yes : but it seems to me it is hardly relevant to the amendment we are discussing.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair thinks the Honourable Member is....

Mr. Akhil Chandra Datta : My point is this, Sir. This is a provision which is bound to cause panic and alarm in the country, an alarm which was apprehended actually by the Government of India themselves when introducing this measure in 1915.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable the Deputy President has just pointed out that this provision did not find place in the old Act of 1915 and he still harks back to that Act and says it is a cause for alarm.

Mr. Akhil Chandra Datta : My friend does not understand that what he has just pointed out goes in my favour, and not in his favour....

The Honourable Sir Muhammad Zafrullah Khan : The argument....

Mr. Akhil Chandra Datta : I do not give way.

The Honourable Sir Muhammad Zafrullah Khan : I am taking a point of order. The point of order is that the Honourable the Deputy President's argument is not relevant to the amendment under discussion.

Mr. Akhil Chandra Datta : It is no point of order : it is too vague.

Mr. President (The Honourable Sir Abdur Rahim) : The question raised is whether the argument advanced by Mr. Akhil Chandra Datta as regards the general effects which a clause of this nature is likely to produce in the country is relevant to the amendment before the House. The Chair is not prepared to go so far as to hold that the Honourable Member's argument on the amendment is not relevant, but the Chair thinks his speech ought to be confined more strictly to the terms of the amendment before the House, and it ought not to be a general disquisition on the evils the Bill, as a whole, is likely to produce.

Mr. Akhil Chandra Datta : My point is this. The amendment seeks to omit this clause altogether, about prohibiting or regulating meetings. My submission is that although this particular provision was not in the old Act still the Government of India apprehended that panic and alarm might be created : and they sought to allay that panic by saying that these provisions would be restricted to particular parts of the country ; whereas this particular provision now before us under discussion goes beyond that....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has said all that.

Mr. Akhil Chandra Datta : That was all that I was saying, to which the Honourable the Leader of the House thought fit to object. I support this amendment.

Sardar Sant Singh (West Punjab : Sikh) : Sir, the Honourable the

12 Noon.

Leader of the House has agreed with the Select Committee, when he so promptly published the modified rule in the Gazette of India. So far it can safely be said that the modified rule is an improvement on the rule as it stood before. But again certain questions arise which are of very great importance, particularly in these days when the Provincial Governments are not, in my opinion—others may or may not agree with me,—so responsible to those legal maxims which are the very essence of a democratic Government. The position is this : that in this rule power is given to a police officer to disperse meetings which are of the nature described in the modified rule. May I ask who is to decide this issue at the time when the meeting is going on ? My friend cannot ignore the fact that the person on the spot may be a foot constable and may have to make a decision of the utmost importance to the liberties of the people. He has not modified this rule giving this power to some higher official, say to a person of not lesser rank than the Superintendent of Police. In the absence of such safeguard, we, as representing the electorate of our provinces, cannot permit this general rule to find place on the Statute-book. We are agreed that these are very drastic provisions. At the same time my Honourable friend should be aware of this fact that so far in India there is no trouble, there is no internal disorder, absolutely nothing. But yet we find the Provincial Governments of certain provinces taking steps against those who do not belong to the party which is in power. This is true of the Punjab, this is true of Bengal, and probably this is true of other provinces as well. Under the circumstances, without casting any reflection upon any particular Government, I must have the safeguard in the rule itself. As no safeguard is forthcoming, there is no alternative left but to move for the deletion of this clause. At the same time I may inquire from the Honourable the Leader of the House one important fact. He, at my suggestion, at the time of the consideration of this Bill, re-read the speech of Mr. Churchill and gave certain assurances which were given in the House of Commons. But may I ask him whether, since then, the Government of India have issued any instructions to the Provincial Governments as to how they are to be guided as to the interpretation of these rules, what is the meaning of public safety, what will be included under maintenance of law and order, and what will be the scope of 'the successful prosecution of the war'. Sir, these are phrases too vague and liable to very wide interpretation. These have been left entirely to the discretion of very low officials who are expected to carry out the policy of the Government of India. Under the circumstances, Sir, it is absolutely essential that some directions should be issued to the Provincial Governments telling them when this Act should be put into force, at what stage these drastic provisions should be put into action. In the absence of such instructions, it is due to the public that we should voice their feelings in this House, and not be a party to too drastic a measure as

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[Sardar Sant Singh.]

this. I need not inform my friend, which I shall do at some later stage, about the dangers of such vast powers being vested in such petty officials. I trust, in the light of what we have stated here, the Honourable Member in charge will issue the necessary instructions to Provincial Governments or re-frame this rule by giving the power of dispersal of meetings or processions and such like things to officers not less in rank than that of Superintendents of Police. Unless this is done, I am afraid I cannot give my support to this drastic rule. Sir, I support this amendment.

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

“ That part (xxx) of sub-clause (2) of clause 2 of the Bill be omitted.”

The Assembly divided :

AYES—9.

Aney, Mr. M. S.
Banerjee, Dr. P. N.
Datta, Mr. Akhil Chandra.
Lalchand Navalrai, Mr.

Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Parma Nand, Bhai.
Sant Singh, Sardar.
Som, Mr. Suryya Kumar.

NOES—45.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Aiyar, Mr. T. S. Sankara.
Bewoor, Sir Gurunath.
Bhandarkar, Mr. K. Y.
Boyle, Mr. J. D.
Bozman, Mr. G. S.
Buss, Mr. L. C.
Campbell, Mr. D. C.
Caroe, Mr. O. K.
Clow, The Honourable Sir Andrew.
Crofton, Mr. D. H.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Hodson, Mr. D. C.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Kamaluddin Ahmed, Shams-ul-Ulema.
Khaleeli, Mr. A.
Khan, Mr. N. M.
Khurshaid Muhammad, Khan Bahadur Shaikh.

Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Miller, Mr. C. C.
Mody, Sir H. P.
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Mukerji, Mr. Basanta Kumar.
Nehru, Mr. B. K.
Ogilvie, Mr. C. M. G.
Rahman, Lieut.-Colonel M. A.
Raisman, The Honourable Sir Jeremy.
Roughton, Mr. N. J.
Scott, Mr. J. Ramsay.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain Sardar Sir.
Sivuraj, Rao Sahib N.
Spence, Sir George.
Sukthankar, Mr. Y. N.
Talukdar, Mr. J. N.
Thorne, The Honourable Mr. J. A.
Wakely, Mr. L. J. D.
Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

“ That in part (xxxi) of sub-clause (2) of clause 2 of the Bill, after the word ‘ insignia ’ the words ‘ of His Majesty’s forces ’ be inserted.”

Sir, in the Bill as reported by the Select Committee, we find the following addition to the original provision :

“ any use, calculated to prejudice the public safety, the maintenance of public order, the defence of British India or the prosecution of war.”

But even then the House will realise that it is very difficult to understand what is exactly meant by this provision. This part deals with the use of uniforms, flags and insignia. What uniforms, what flags, and what kind of insignia are meant ? We in this country have not got much of insignia, neither have we got anything in the nature of uniforms unless a particular form of dress which certain class of people, or people holding certain political views wear—unless that is construed to be a uniform, there is nothing like a uniform or insignia used by the people of this country. There are no doubt flags. I want to know from the Honourable the Leader of the House whether by “ flags ” is meant to include the tri-colour flag of the Congress, or the flag of the Hindu Mahasabha, or the Muslim League, or the flag or insignia of the labour unions in this country, and if so, what is sought to be gained by the Government by prohibiting their use. I can understand if any private institution or any body of persons use any flag or uniform or insignia which is similar to that used by His Majesty’s forces—then it may create some confusion and Government would be perfectly justified in stopping its use. But I fail to understand why should Government take the power to prohibit by a general order the use of a certain class of flag, or even the use of certain forms of dress such as a Gandhi cap, khaddar coat or shirt or khaddar cloth—which may be construed as a uniform ? Why should it be prohibited, why should it be regulated, and what purpose is such power going to serve in the effective prosecution of the war ? I do not understand. Sir, I move.

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

“ That in part (xxxi) of sub-clause (2) of clause 2 of the Bill, after the word ‘ insignia ’ the words ‘ of His Majesty’s forces ’ be inserted.”

The Honourable Sir Muhammad Zafrullah Khan : As the Honourable the Mover has himself pointed out, the clause was restricted in a certain manner in Select Committee to set at rest certain apprehensions. Government are unable to further restrict the clause in the manner suggested by the Honourable Member.

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

“ That in part (xxxi) of sub-clause (2) of clause 2 of the Bill, after the word ‘ insignia ’ the words ‘ of His Majesty’s forces ’ be inserted.”

(A division being challenged, Mr. President asked Members to rise in their places for and against, and declared that the motion was negatived.)

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

"That for part (xxv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

'empowering any civil or military authority to enter and search any place if such authority has reason to believe that such place is being used for any purpose prejudicial to the public safety or to the defence of British India and to seize anything found there which he has reason to believe is being used for any such purpose'."

Sir, this is a verbatim reproduction from the old Defence of India Act. I hope that no objection will be taken to it.

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

"That for part (xxv) of sub-clause (2) of clause 2 of the Bill the following be substituted :

'empowering any civil or military authority to enter and search any place if such authority has reason to believe that such place is being used for any purpose prejudicial to the public safety or to the defence of British India and to seize anything found there which he has reason to believe is being used for any such purpose'."

Mr. Akhil Chandra Datta : As the Honourable the Mover has said, this is a verbatim reproduction from the old Defence of India Act of 1915. May I bring out the difference between the present provision and the old provision? The old provision sought to empower any civil or military authority to enter and search any place. There is no such specification here. In other words, anybody empowered by the Executive could enter, or any person, to quote the word which is to be found in the various parts of this Bill—that is point No. 1. The next point is, if such authority has reason to believe, etc. In the present Bill all that is said is, "reasonably suspected of being used for any purpose....." Suspected by whom? By any responsible authority? In the third place, the power of seizure under the old Act was to seize "anything found there which he has reason to believe...."; that is the civil or military authority and not a man in the street. In addition to all these, as regards the purpose, we have, "prejudicial to the public safety or interest, to the defence of British India...."—up to this point it is identical with the old provision, but then there is an addition made here, namely, "or to the efficient prosecution of war". These short but pregnant words have been added to the old provision. On this point I made a submission on a similar provision the other day. I find that the Honourable the Law Member said in one of his speeches with regard to this point, namely, the efficient prosecution of war :

"I suppose the Honourable the Deputy President's idea is that India should be defended by doing whatever may be necessary to secure it against direct aggression, but we should permit activities to be undertaken in India which might cause direct injury to Great Britain."

I can assure the House that I have never said or suggested anything of that sort.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not take this opportunity to explain. He should have given an explanation then.

Mr. Akhil Chandra Datta : I shall certainly obey your ruling, but may I point out that it is the usual course.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had an opportunity at the time to explain, but he missed it, and he cannot do it now.

Mr. Akhil Chandra Datta : But apart from the observations of the Honourable the Law Member, may I point out that there is a lot of difference between a sin of omission and a sin of commission because if those words were here, namely, efficient prosecution of the war—my point is this. Part (xxiv) of sub-clause (2) of clause 2 says :

"the requisitioning of any property, movable or immovable, including the taking possession thereof."

Under this rule, if I understand English, it is quite competent for the Central Government to make rules for asking people to part with their cash. If it is necessary for the defence of India, I am prepared to make any sacrifice whatsoever. I am prepared to give my life and property and everything for that purpose, but I do not know if Indians can be reasonably asked to give away all they have for the efficient prosecution of war, remembering the definition of war, namely, any war in which for the time being His Majesty may be engaged. My point is this. We are not prepared to give power to the Central Government to enact a rule like that. You can search any house if you suspect that the man is concealing something prejudicial to defence of India but my submission is that you should not have that drastic power for the efficient prosecution of the war. We protest against a rule like this and that is the reason why we seek to reproduce the old rule. Sir, I support the amendment.

The Honourable Sir Muhammad Zafrullah Khan : May I assure the House that there is no intention to empower, as Mr. Datta has stated, the man in the street to enter and conduct searches. As a matter of fact, the expression 'civil or military authority' in itself is pretty wide. In the Select Committee, certain Honourable Members pointed out that they found it difficult to understand the meaning of 'authority'. I am glad that they have now sponsored an amendment when the meaning of 'authority' has become clear to them.

Mr. M. S. Aney (Berar : Non-Muhammadan) : On a point of order. Discussions in the Select Committee are considered confidential and is it in order for the Honourable Member to refer to it?

The Honourable Sir Muhammad Zafrullah Khan : I am to this extent in order in referring to it that when it was sought to empower an "authority" criticism was made that "authority" was too wide. I am merely seeking to draw from that support for my suggestion that 'civil and military authority' is almost as wide, if not quite as wide, as "authority" in the Bill.

Mr. M. S. Aney : I am not disputing the argument. I am raising a point of order whether a Member is right in referring to the discussion in the Select Committee.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair takes it that all that the Honourable the Leader of the House means is that certain suggestions were made in the Select Committee and Government are not inclined to go any further than what was agreed upon there.

The Honourable Sir Muhammad Zafrullah Khan : So far as the interpretation that is sought to be put upon this clause by the last speaker is concerned, I am quite sure the House will agree that it is not capable of bearing the fantastic and, if I may be permitted the use of the word, absurd interpretation that this clause is likely to empower anybody to go and search for Rs. 50 that a man may have concealed in his House, because that Rs. 50 was required for the efficient prosecution of the war. We must look at these clauses in a reasonable manner and put upon them the interpretation which they are reasonably capable of bearing. The only real and substantial difference that I can discover between the amendment proposed and the clause as it stands is that the maintenance of public order and the efficient prosecution of the war have been added in this Bill in addition to the defence of British India and public safety which occurred in the old Act. That is a difference which was laboured to a very large extent when the Bill as a whole was under discussion and I really do not see that any purpose is served by reiterating the same thing over and over again. The House has accepted the principle that on the occasion of this emergency the maintenance of public order and the efficient prosecution of the war have been validly added to the sub-clause, as the objects for securing which these rules may be made. I am quite aware that to a certain section of the House this is unwelcome but it really adds nothing to the argument to point out the difference between the old Act and the present Bill at every step. Sir, I oppose the amendment.

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

“ That for part (xxxv) of sub-clause (3) of clause 2 of the Bill the following be substituted :

‘ empowering any civil or military authority to enter and search any place if such authority has reason to believe that such place is being used for any purpose prejudicial to the public safety or to the defence of British India and to seize anything found there which he has reason to believe is being used for any such purpose ’.”

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in part (i) of sub-clause (3) of clause 2 of the Bill, the words ‘ or reasonably suspected of contravening ’ be omitted.”

Part (i) of sub-clause (3) provides for the arrest and trial of persons contravening or reasonably suspected of contravening any of the rules. Government seek to bring within the ambit of this measure people against whom there may not be any legal proof but only reasonable suspicion. This, I submit, is a violent departure from the established canons of criminal jurisprudence. I do not think any lawyer can be a consenting party to this provision. It means that any person can be arrested, convicted and sentenced to any term of imprisonment on what may eventually turn out to be mere suspicion. The difference between the trial of civil and criminal cases in this country is that in civil cases the judge may well rest content with the balance of probabilities. In criminal cases, probability will not suffice, it must amount to moral certainty and I do not see any reason why Government should make a departure from that salutary principle. I understand, however, that Government are willing to accept my amendment. So I need not proceed further. Sir, I move :

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

“ That in part (i) of sub-clause (3) of clause 2 of the Bill, the words ‘ or reasonably suspected of contravening ’ be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I accept the amendment.

Pandit Lakshmi Kanta Maitra : Thank you, Sir,

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

“ That in part (i) of sub-clause (3) of clause 2 of the Bill, the words ‘ or reasonably suspected of contravening ’ be omitted.”

The motion was adopted.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in part (ii) of sub-clause (3) of clause 2 of the Bill, for the word ‘ seven ’ the word ‘ five ’ be substituted.”

Sir, the purpose of this amendment is simply to reduce the maximum sentence. I think that seven years is far too severe, and we believe that a five years' maximum would meet the ends of justice. Sir, I move.

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

“ That in part (ii) of sub-clause (3) of clause 2 of the Bill, for the word ‘ seven ’ the word ‘ five ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, there is no absolute criterion by which to judge whether a maximum sentence of seven years or of five years would be appropriate. In the first place, there is the safeguard that courts of justice in awarding sentence would have regard to the criminality of the act which has been proved, and next, the rules, as actually framed under the corresponding part of the Ordinance, do not in each case provide the maximum penalty of seven years ; in some cases it is only as light as six months, in some cases it is two years, in some cases three, in some cases five. The mere fact that a maximum sentence of seven years is here provided for does not necessarily mean that for the contravention of every rule the maximum penalty to be imposed will be seven years.

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

“ That in part (ii) of sub-clause (3) of clause 2 of the Bill, for the word ‘ seven ’ the word ‘ five ’ be substituted.”

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That part (iii) of sub-clause (3) of clause 2 of the Bill be omitted.”

Sir, part (iii), the deletion of which I move, provides for the seizure, detention and forfeiture of any property, etc. Now, this is a very extraordinary power and we have already provided, in other parts of the Bill, the powers by which all that is sought to be achieved by this provision is provided. I do not think this additional provision is necessary. Sir, I move.

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

“ That part (iii) of sub-clause (3) of clause 2 of the Bill be omitted.”

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The Honourable Sir Muhammad Zafrullah Khan : Sir, I am unable to accept the amendment.

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

“ That part (iii) of sub-clause (3) of clause 2 of the Bill be omitted.”

The motion was negatived.

Dr. P. N. Banerjea (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I want to move amendments Nos. 32 and 33 together, as they are connected.

Mr. President (The Honourable Sir Abdur Rahim) : No, the Honourable Member cannot do that. He can move only one amendment at a time.

Dr. P. N. Banerjea : Sir, I move :

“ That in part (iii) of sub-clause (3) of clause 2 of the Bill, after the word ‘ seizure,’ the word ‘ and ’ be inserted.”

Sir, this by itself is not sufficient. My object is that forfeiture should be excluded, and for that reason I wanted to move the two amendments together. However, for the present I move that after the word ‘ seizure ’ as above the word ‘ and ’ be inserted. Sir, I move.

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

“ That in part (iii) of sub-clause (3) of clause 2 of the Bill, after the word ‘ seizure,’ the word ‘ and ’ be inserted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, standing by itself—I know the real object of this amendment of course—it is absurd. I oppose the amendment.

Dr. P. N. Banerjea : That is the reason why I said I wanted to move the two amendments together.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member ought to have framed the amendment differently.

Dr. P. N. Banerjea : Sir, if I am allowed to move No. 33, then it will be really consequential. I ask for leave to withdraw amendment No. 32 and move No. 33.

The amendment was, by leave of the Assembly, withdrawn.

Dr. P. N. Banerjea : Sir, I move :

“ That in part (iii) of sub-clause (3) of clause 2 of the Bill, the words ‘ and forfeiture ’ be omitted.”

Sir, this part provides for the seizure, detention and forfeiture of any property in respect of which any contravention, attempt or abetment referred to in the previous clause may be committed. For the prosecution of the war it may be necessary to seize any property temporarily but it will be very undesirable to forfeit property permanently, that is, for all time to come. That would be going too far. Therefore, I urge that although temporary occupation of property may be necessary, permanent forfeiture is not desirable as that would entail a very great hardship on many. Sir, I move.

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

“ That in part (iii) of sub-clause (3) of clause 2 of the Bill, the words ‘ and forfeiture ’ be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am afraid the Honourable Member has completely misunderstood the purport of this part of the sub-clause. It does not provide for the seizure, detention and forfeiture of any property which may be necessary for the efficient prosecution of the war ; it provides for the seizure, detention and forfeiture of any property in respect of which an offence has been committed. What is the use of seizing and detaining it if you cannot pass an order with regard to its disposal ? If seizure and detention is to remain, I am afraid the power to forfeit in appropriate cases must also remain.

Pandit Lakshmi Kanta Maitra : There may be extenuating circumstances !

Sardar Sant Singh : Sir, I think the Honourable the Leader of the House has not fully appreciated the nature of the amendment that has been moved by my friend, Dr. Banerjea. The background of the whole Bill is the successful prosecution of the war, and all these drastic powers are being entrusted with a view to arming the Executive to carry on certain duties which are of an extraordinary nature during such a crisis. The position would be that, in the crisis, they may have powers to prevent certain offences which are admittedly very wide and of a drastic nature. It is not the purpose of these rules—and I do not think the Honourable the Leader of the House or the Government of India will ever claim—that the object of this rule is to penalize people for all time to come. These rules place extraordinary powers in the hands of the Executive and, as such, are destined to hold their ground during the time the crisis lasts and no longer. The object of this provision would be that a repetition of the crime should be prevented but the man will be penalized for all time to come. I may illustrate my point by referring to the use of the Defence of India Act of 1915 during the martial law days in the Punjab. Now, in the Penal Code itself there was a provision for the offence of waging war in which the forfeiture of property was an essential part of the offence. The result was that when men like Lala Harkishen Lal and others were tried, they were sentenced by a summary court to death and the whole of their property was forfeited. This House was called upon later on to amend the Penal Code and do away with forfeiture and to restore such property. I would ask the Honourable the Leader of the House to read that amendment which was carried in the House itself and the Penal Code has been amended since that day and forfeiture of property has been done away with.

Now, in the same way, if the forfeiture of property is insisted upon, the Executive in its over-zeal may carry the matter too far as they did in the Punjab during the last war.

The Honourable Sir Muhammad Zafrullah Khan : May I point out that this paragraph has nothing to do with the imposition of forfeiture of property as a substantive part of the sentence to which the Honourable Member is referring ? This refers only to property in respect of which an offence may have been committed.

Sardar Sant Singh : I am afraid my Honourable friend has not understood me again. I know that this forfeiture of property is connected with that property in respect of which such contravention, attempt, etc., is connected. I know that. But what is the object of this provision? What does he want this rule for? He wants this rule in order to carry out the successful prosecution of the war. Is it not limited in its scope? Therefore, why should he not limit the seizure and detention during the time the emergency lasts? Why should he go beyond that? The object is not to empower the Executive to carry out the forfeiture of property for all time to come. It may be a very good thing to prevent the repetition of the offence and it may be very good to seize and detain the article for the successful prosecution of the war. But the Executive cannot be allowed to do so when the war is over and no offence can be committed in respect of that property.

The Honourable Sir Muhammad Zafrullah Khan : Supposing it is an inflammatory book or an incendiary bomb, must that be necessarily returned?

Sardar Sant Singh : May I ask my Honourable friend if this power refers to the incendiary bombs or the gas bombs or some such bombs which are manufactured by a private individual? Has he not got that power under the Explosive Substances Act? Has he not got the power of forfeiture under the ordinary law of the land? He has got that power. The Government has been empowered in such cases by the Legislature to forfeit such things. But what I am referring to is something else. What about the case of the press? Supposing a false report is published in a printing press. Does he not want us to give him the power to forfeit the whole press under this provision? I would not permit him to forfeit the whole press for all time to come because one false report has been published by it. He can similarly seize other properties. He already possesses vast powers of seizure and detention under other rules. What I want to take away from him is the power to forfeit that property for all time to come. The object of the rule will be served and the object of the Executive will be served if we give them this power for the successful prosecution of the war and limit it to the duration of war. But if they ask for much more power than is necessary, then this House or any other elected House can hardly give. Therefore, I will ask him to reconsider the position and not to insist upon the pound of flesh if he wants the co-operation of this House in this important Bill.

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

“ That in part (iii) of sub-clause (3) of clause 2 of the Bill, the words ‘ and forfeiture ’ be omitted.”

(Division was claimed.)

Those Honourable Members who are in favour of the motion will rise in their places.....

Dr. P. N. Banerjee : Sir, we would like the names to be recorded.

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be allowed.

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in part (v) of sub-clause (3) of clause 2 of the Bill, the words ‘ and other persons ’ be omitted.”

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

“ That in part (v) of sub-clause (3) of clause 2 of the Bill, the words ‘ and other persons ’ be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, it would be noticed by the House that ‘ other persons ’ here does not occur in a clause in which any rulemaking authority is conferred upon any person. It occurs in a clause which says, ‘ may prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of the rules ’. This “ other persons ” does not stand on the same footing as the “ other person ” in sub-clause (2) where authority was sought to be given to ‘ any other person ’ to secure certain matters by making rules. This is a different matter. Sir, I oppose the amendment.

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

“ That in part (v) of sub-clause (3) of clause 2 of the Bill, the words ‘ and other persons ’ be omitted.”

The motion was negatived.

Dr. P. N. Banerjee : Sir, I beg to move :

“ That to part (vii) of sub-clause (3) of clause 2 of the Bill the following proviso be added :

‘ provided that the prohibition shall not apply to persons who stand in near relationship to each other ’.”

Sir, it is a recognised principle of criminal law that near relations are not bound to turn persons out of their houses who may live with them even if they committed any offence. I, therefore, hope that this amendment will be accepted by the House.

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

“ That to part (vii) of sub-clause (3) of clause 2 of the Bill the following proviso be added :

‘ provided that the prohibition shall not apply to persons who stand in near relationship to each other ’.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I have nowhere come across the doctrine to which Dr. Banerjee refers that in the case of near relations—and, incidentally, this expression is nowhere defined—the principle which he alleges is applicable. I do concede, however, that in some cases a husband or wife may be absolved from liability where other persons would be liable and, therefore, I am quite willing, if the House agrees and if you, Sir, permit, that for the words “ to screen from punishment any person ” the following may be substituted, namely, “ by any person to screen from punishment any one other than the husband or wife of such person ”.

Dr. P. N. Banerjee : In that case, Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Sir George Spence (Secretary, Legislative Department) : Sir, I move :

“ That in part (vii) of sub-clause (3) of clause 2 of the Bill, for the words ‘ to screen from punishment any person ’, the following be substituted :

‘ by any person to screen from punishment any one, other than the husband or wife of such person ’.”

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

“ That in part (vii) of sub-clause (3) of clause 2 of the Bill, for the words ‘ to screen from punishment any person ’, the following be substituted :

‘ by any person to screen from punishment any one, other than the husband or wife of such person ’.”

The motion was adopted.

Dr. P. N. Banerjee : Sir, I beg to move :

“ That in part (viii) of sub-clause (3) of clause 2 of the Bill, the words ‘ or person ’, wherever they occur, be omitted.”

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

“ That in part (viii) of sub-clause (3) of clause 2 of the Bill, the words ‘ or person ’, wherever they occur, be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I accept the amendment.

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

“ That in part (viii) of sub-clause (3) of clause 2 of the Bill, the words ‘ or person ’, wherever they occur, be omitted.”

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I beg to move :

“ That part (a) of sub-clause (4) of clause 2 of the Bill be omitted.”

Sir, even at the risk of being characterised as fantastic and absurd, I do submit that this delegation of the power from the Central Government to any official or authority subordinate to the Central Government is not a sound proposition.

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

“ That part (a) of sub-clause (4) of clause 2 of the Bill be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I must oppose the amendment.

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

“ That part (a) of sub-clause (4) of clause 2 of the Bill be omitted.”

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I beg to move :

“ That in part (b) of sub-clause (4) of clause 2 of the Bill, the words ‘ or by any officer or authority subordinate to such Government, or ’ be omitted.”

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

“ That in part (b) of sub-clause (4) of clause 2 of the Bill, the words ‘ or by any officer or authority subordinate to such Government, or ’ be omitted.”

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I beg to move :

“ That part (c) of sub-clause (4) of clause 2 of the Bill be omitted.”

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

“ That part (c) of sub-clause (4) of clause 2 of the Bill be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I oppose this amendment. This was added by the Select Committee.

Mr. Akhil Chandra Datta : But at the instance of the Government.

The Honourable Sir Muhammad Zafrullah Khan : Yes, but without any dissentient voice. It was adopted unanimously in the Select Committee.

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

“ That part (c) of sub-clause (4) of clause 2 of the Bill be omitted.”

The motion was negatived.

Mr. Lalchand Navaraj (Sind : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in part (c) of sub-clause (4) of clause 2 of the Bill, the words ‘ person or ’ be omitted.”

Sir, I do not think there will be any objection to my amendment, as a similar amendment has been accepted before.

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

“ That in part (c) of sub-clause (4) of clause 2 of the Bill, the words ‘ person or ’ be omitted.”

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I beg to move :

“ That sub-clause (5) of clause 2 of the Bill be omitted.”

[Mr. Akhil Chandra Datta.]

Sir, the same principle of devolution of power is involved, namely, from the gods to the tin gods.

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

“ That sub-clause (5) of clause 2 of the Bill be omitted.”

The motion was negatived.

Mr. Lalchand Navalrai : Sir, I beg to move :

“ That in sub-clause (5) of clause 2 of the Bill, the word ‘ person ’, occurring in the tenth line, be omitted.”

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

“ That in sub-clause (5) of clause 2 of the Bill, the word ‘ person ’, occurring in the tenth line, be omitted.”

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.

Clauses 3 and 4 were added to the Bill.

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

“ That clause 5 stand part of the Bill.”

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, I move :

“ That in sub-clause (1) of clause 5 of the Bill, the words ‘ death, or ’ be omitted.”

This is a temporary measure and transportation ought to be enough punishment. After a change of circumstances it will very likely be found that the men who had been transported were not so useless or dangerous to society and in many cases we have seen that such men have become very useful members of society. Here I say that a man's life should not be ended at all. Transportation should be sufficient and I appeal to the House to delete the sentence of death.

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

“ That in sub-clause (1) of clause 5 of the Bill, the words ‘ death, or ’ be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, the reason advanced by the Honourable the Mover is the old one whether the death penalty should continue to be imposed in any case whatsoever. I am afraid this is not the occasion to resolve that controversy.

Sardar Sant Singh : Sir, I want to point out a few implications behind this. Sections 121, 120-B, etc., of the Indian Penal Code deal with the offence of waging war or conspiring to wage war against the King and the death penalty is provided therefor. So that for waging war or conspiring to wage war the ordinary law of the land is enough. But under this clause what is proposed to be made punishable is the contravention of any provision of the rules made under clause 2 or any order issued under any such rule with intent to wage war against the King or to assist any State at war with the King. Therefore, a distinction has to be drawn between the two. If he actually assists in waging war or conspires in waging war he may be punished by section 121 and 120-B of the Indian Penal Code. But if his intention is to wage war and with that intention contravenes any provision mentioned in the clause he is to be punished with death. I may draw the attention of the Law Member to this point.

The Honourable Sir Muhammad Zafrullah Khan : It is no use drawing my attention to it now. The Honourable Member had an opportunity of speaking before me, and I could have answered his questions, but he deliberately refrained from doing so.

Sardar Sant Singh : In their zeal to see this enactment on the Statute-book Government are too much in a hurry to get up and reply before the matter is sufficiently threshed out. The Honourable the Leader of the House should have waited to see whether any other Member of the House wanted to make a speech.

The Honourable Sir Muhammad Zafrullah Khan : I certainly waited and looked at those Benches and only got up to speak when no one stood up on that side.

Sardar Sant Singh : I am submitting that we should be in no hurry to pass this legislation which may prove to be very harmful and injurious and which is covered by the already existing law of the land. If this provision means the same thing as is contained in the Indian Penal Code it should not be here but if it goes beyond that we should pause and think whether we should give our sanction to it. The question then would be, why not confine the punishment to the crisis through which the country is passing and why go beyond that ? Sir, we have got an Honourable Member here now who was punished with death on an interpretation of the Defence of India Act because he suggested a constitution for the future of India. Today this constitution-making is a hobby and even the Premier of the Punjab has a scheme of Federation which has been permitted to be published. In 1915 he would perhaps have been hauled up as a criminal and hanged. What is the meaning of the penalty here ? We know that emergency penalties are done away with as soon as normal conditions prevail. Why hang a person for having in the heat of the moment done something which the Executive do not like ? Therefore, for waging war or conspiring to wage war the provision already exists in the Statute. But if the pre-

[Sardar Sant Singh.]

sent provision goes beyond that they should do away with the death penalty and confine the punishment to transportation for life so that if in the heat of the moment any injustice is done it may be remedied when the emergency is over. Therefore, I once more appeal to the Government of India to consider their position and not to go beyond what is considered necessary or desirable in the interests of the security of the country.

Mr. M. S. Aney : Sir, I want to add one word to what has been said by my Honourable friend, Sardar Sant Singh. Here, the offence that is being punished is not waging war or conspiring to wage war but doing something against the rules that may be made under this Act, with an intention to wage war. Therefore, the actual offence is different from that for which the Indian Penal Code furnishes capital punishment. That point has been very lucidly put before the House by my Honourable friend, Sardar Sant Singh. Capital punishment is the last punishment and once that is inflicted there remains nothing else. In ordinary cases when the charge of waging war or conspiracy to wage war will be brought against a man under section 121 or any other section of the Indian Penal Code the procedure by which he will be tried is laid down in the Criminal Procedure Code. He will be hauled up before a committing magistrate first; then he will be taken to the Sessions Court and there will be a due trial with the aid of a jury or assessors as the case may be; and he will be given all the facilities for proving his innocence with the assistance of lawyers—one, two or three, whatever he can afford. If he cannot do that, the Government will give him the assistance of a lawyer. Having given all these facilities, if a man is found to be guilty, then there is some meaning in holding that the offence is really proved against him. Here, what is the position? I do not want to refer to subsequent sections which will be later on discussed, but once a man is to be hauled up for any offence under this, he will be tried by a special tribunal which is empowered to deal with the case in a summary way. Do you think that that is a proper tribunal to invariably come to a correct finding on that point? Emergency might excuse a decision which the court may come to and it may be even condoned on account of the existence of the emergency for the time being. If that is the position, why should we allow so much of our liberty and so much of our legal rights which we possess in the matter of trial to be given up? It is because of the existence of the emergency. But the punishment of death can be certainly reserved only for those offences and for such trials as can be properly made where the whole thing can be properly and strictly sifted according to the recognised principles of criminal jurisprudence. If all ordinary procedure is to be suspended and summary trial is to be made, I think the aims of justice will certainly be safe by transporting a man for life and we need not go to the extreme punishment, namely, infliction of the capital sentence. I, therefore, want to appeal to the Honourable the Leader of the House, to consider the point seriously in spite of the fact that he has got an opportunity of bringing a charge against me that I have deliberately sat down and did not get up earlier in the debate,—he can make that charge against me because I did not want to speak till now, but I find now there is a point here, a point which the Government ought to consider

seriously if they have got any respect for human life. The point is this. Emergencies may condone suspension of the ordinary procedure and infliction of punishment, but taking away the life of a man, who cannot have a proper and fair trial, is something of a very dangerous nature and I, therefore, think that the Honourable the Leader of the House should see that the special tribunals are not armed at least with the power of inflicting the extreme punishment on a criminal who cannot have a proper trial under these circumstances. I, therefore, support the amendment which has been moved.

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

“That in sub-clause (1) of clause 5 of the Bill, the words ‘death, or’ be omitted.”

The Assembly divided :

AYES—9.

Aney, Mr. M. S.
Bauerjea, Dr. P. N.
Dutt, Mr. Akhil Chandra.
Lalchand Navalrai, Mr.

Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Parma Nand, Bhai.
Sant Singh, Sardar.
Som, Mr. Surya Kumar.

NOES—42.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Aiyar, Mr. T. S. Sankara.
Bewoor, Sir Gurunath.
Bhandarkar, Mr. K. Y.
Boyle, Mr. J. D.
Bozman, Mr. G. S.
Campbell, Mr. D. O.
Caroe, Mr. O. K.
Clow, The Honourable Sir Andrew.
Crofton, Mr. D. H.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Hodson, Mr. D. C.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Kamaluddin Ahmed, Shams-ul-Ulema.
Khaleeli, Mr. A.
Khan, Mr. N. M.

Khurshaid Muhammad, Khan Bahadur Shaikh.
Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Miller, Mr. C. C.
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Mukerji, Mr. Basanta Kumar.
Nehru, Mr. B. K.
Ogilvie, Mr. C. M. G.
Rahman, Lieut-Colonel M. A.
Roughton, Mr. N. J.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Kadir Muhammad.
Sheehy, Mr. J. F.
Sivaraaj, Rao Sahib N.
Spence, Sir George.
Sukthankar, Mr. Y. N.
Talukdar, Mr. J. N.
Thorne, The Honourable Mr. J. A.
Wakely, Mr. L. J. D.
Zufrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

The Assembly then adjourned for Lunch till Thirty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Dr. P. N. Banerjee : Sir, I beg to move :

"That in sub-clause (1) of clause 5 of the Bill, for the words 'and shall also be liable to' the words 'or with' be substituted."

In this sub-clause three alternative forms of punishment are provided, namely, death, transportation for life, and imprisonment, and fine is provided as an additional form of punishment. What I urge is that fine should also be provided as an alternative form of punishment. Why? Because there may be cases in which the offence may not be of a very grave character,—it may be of a very minor character,—and in such cases it would not be desirable to punish a man with imprisonment. Therefore, I urge that fine may be made an alternative form of punishment in this sub-clause. I move.

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

"That in sub-clause (1) of clause 5 of the Bill, for the words 'and shall also be liable to' the words 'or with' be substituted."

Mr. Lalchand Navalrai : I support this amendment. I see that the provision is made for this purpose, that when any offence under this Act or under any rules is committed, of such a nature as to be severely punished, the punishment provided is death, transportation for life or imprisonment, and he shall also be liable to fine, that is to say, it will be imperative upon the tribunal to impose fine as well. I do not think the object of this Bill is to make money. If it is professed that war requires money and that this is one of the circuitous ways of earning money for the war, then one can understand, but if the purpose of this Bill is to punish those people who go out of their way and wage war or commit any offence which is detrimental to the prosecution of the war, the punishment that is already provided is sufficient. But I go....

The Honourable Sir Muhammad Zafrullah Khan : The Party appears to be at loggerheads.

Mr. Lalchand Navalrai : About what?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member assumes that these words "and shall also be liable to fine" make a fine compulsory.

Mr. Lalchand Navalrai : Yes, I do.

The Honourable Sir Muhammad Zafrullah Khan : That is wrong.

Mr. Lalchand Navalrai : May be, but in practice I am saying....

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member saying, that does not alter the position.

Mr. Lalchand Navalrai : Even granting that what the Honourable the Leader of the House says is correct, I know in practice the Magistrates take it upon themselves that it is their imperative duty to impose a fine also. I do not know about the Punjab and other places, but I know of

Sind where this kind of thing happens. For instance, take perjury. It says, there shall also be a fine, and I have seen invariably that they impose a fine also. I give credit to the Honourable the Mover of this amendment who has asked that it should be in the alternative. Let the fine be imposed for war or for any other purpose, but it should be in the alternative. If the Honourable the Leader of the House interprets the phrase as leaving a discretion to the Magistrate, then why not say so, so that the Magistrate may be clear on the point and there may not be any difference of opinion as there is at present between myself and the Honourable the Leader of the House? Therefore, I would submit that this is an amendment which should be accepted.

Pandit Lakshmi Kanta Maitra : I could not really understand what the Leader of the House said.....

The Honourable Sir Muhammad Zafrullah Khan : I do not wonder.

Pandit Lakshmi Kanta Maitra : Don't be in a huff.

Dr. P. N. Banerjee : Is that sarcastic—what the Leader of the House said?

Pandit Lakshmi Kanta Maitra : I wanted to know from the Leader of the House whether this phrase, "and shall also be liable to fine" is not a mandatory provision.

The Honourable Sir Muhammad Zafrullah Khan : I shall explain when my turn comes.

Pandit Lakshmi Kanta Maitra : As my Honourable friend, Mr. Lalchand Navalrai, has said, it has been our experience and I think also the experience of my Honourable friend the Leader of the House—that the provision has, as a matter of fact, been construed in law courts to impose a mandatory duty and the magistrate rightly or wrongly feels that he is not complying with the requirements of the law if he does not impose a sentence of fine in addition to a substantive sentence of imprisonment. Therefore, in order to clarify the situation, we want to make it an alternative provision so that if there be circumstances which may be pleaded in extenuation of the offence an alternative sentence of fine may be imposed and that the accused may not be twice mulcted with imprisonment and also a fine. I think this clarification of the position is necessary. If the Honourable Member thinks that he cannot accept this amendment may I suggest to him that the mandatory character of "shall" may be changed into "may", so that the phrase will be, "and may also be liable to fine".....

The Honourable Sir Muhammad Zafrullah Khan : "and may also be liable to fine"! With all respect that will be absurd.

Pandit Lakshmi Kanta Maitra : I quite realise, I quite see it. I am only making a suggestion, I am not saying that that should be the particular wording, but if the Honourable Member thinks that he can accommodate us in this matter, we can then evolve a phraseology which will not have a mandatory import but will at the same time provide for some alternative form. Sir, I support the amendment.

Sardar Sant Singh : After this wordy passage at arms between the Leader of the House and one of the Members of my Party I really want to understand whether the principle underlying this amendment is acceptable to the Government or not. Here, as I read the clause, with the substantive punishments which are provided there of imprisonment, the punishment of fine is mandatory. The principle underlying the amendment is that it should be discretionary and not mandatory. It should be left to the magistrate. That is the principle underlying the amendment. I think the Honourable the Leader of the House is too experienced a lawyer not to understand the difference between the language used in the two cases. The phrase 'shall also be liable to fine' means that the magistrate shall be bound when inflicting punishment of imprisonment to inflict the punishment of fine as well.

The Honourable Sir Muhammad Zafrullah Khan : No. The wording is "shall be liable".

Sardar Sant Singh : So far as I know, the three phrases used in the Indian Penal Code in this connection are, imprisonment and shall also be liable to fine, imprisonment or fine, imprisonment as well as fine.

The Honourable Sir Muhammad Zafrullah Khan : I would challenge the Honourable Member to cite one section in the Penal Code which prescribes "as well as fine".

Sardar Sant Singh : I should like to accept the challenge of my friend. There are several sections in the Indian Penal Code in which the phrase 'as well as' has been used. If you agree to the principle underlying the amendment, it is not the words that matter. Then, Sir, another consideration is this. I ask is it the intention of Government by this drastic measure to raise revenue. Is it a revenue consideration or a penal consideration. If it is a revenue consideration, of course there can be no controversy. It is open to the Government to say that the provision is being made in order to pay for the special tribunals who may be appointed later on. But if it is a penal provision, I will insist that it should be judged by juristic principles and not by revenue considerations. That is the point on which I should like the Honourable the Leader of the House to enlighten the House.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I was guilty of saying and I repeat that the different sections of the Nationalist Party appear to be at loggerheads with regard to the object of this amendment.

Dr. P. N. Banerjee : Is my object clear to you ?

The Honourable Sir Muhammad Zafrullah Khan : I thought something was beginning to be clear to me when the Honourable Member was speaking but when he began to be reinforced by his colleagues, I found that they had understood him in quite a different sense from that in which I had understood him. The object of the amendment, as I see it,—I may be entirely wrong—is that it should be open to a court trying an offence under this section to award any of the punishments mentioned in this section or only to award a fine. That I understand to be the object of the amendment.

An Honourable Member : We are all agreed upon that.

The Honourable Sir Muhammad Zafrullah Khan : Some Honourable Members have inquired why have a provision with regard to fine at all ? It was suggested we are enacting these clauses for the purpose of revenue.

Mr. M. S. Aney : Why have a mandatory provision for inflicting fine ?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the mandatory provision, I may say at once that not till this day has this phrase 'and shall also be liable to fine' been interpreted by any court in India as meaning that fine must be added to a sentence of imprisonment. 'And shall also be liable to fine' means and has always been construed to mean that if having regard to the criminality of the act of which a person is convicted and to the other circumstances of the case, the court so chooses and considers fit it can also add a sentence of fine to a sentence of imprisonment. That is the meaning. The effect of the amendment would be that a court could, if it so chose in a particular case, inflict only a sentence of fine and would not be bound to inflict a sentence of imprisonment. The object of the amendment is that a court should not be bound under this section to award a sentence of imprisonment in all cases of conviction. My reply is that that is not an unusual provision. There are scores of sections in the Penal Code in which a similar provision is made. True, occasionally, a case may arise as cases arise under the provisions of the Penal Code also, where a court may be of opinion that a substantial term of imprisonment is not necessary to be inflicted. Having regard either to the offence committed or say, to the position of the accused, or some other factor it may think that a substantial fine would meet the requirements of the case. In that case, it would be open to it to impose a sentence of imprisonment till the rising of the court and a substantial fine. That is done very often in cases of conviction under section 325 of the Penal Code. There is no particular hardship in the phraseology of this section being adapted to the phraseology which has been so often employed in the Penal Code. Sir, I oppose the amendment.

Mr. M. S. Aney : The first thing that I want to draw the attention of the Honourable the Leader of the House to is this. He says that the phrase 'as well as' is never used. I wish to bring to his notice section 64 which reads :

"In every case of an offence punishable with imprisonment as well as fine, in which the offender, etc., etc."

The Honourable Sir Muhammad Zafrullah Khan : That section does not provide a punishment. That is entirely different from what Sardar Sant Singh said.

Mr. M. S. Aney : This is a comparatively unimportant point. The real point is this. The Honourable the Leader of the House has made it perfectly clear that a fine need not necessarily be imposed in every case of imprisonment. That is the interpretation he has given. Now, cases under this clause will be tried by special tribunals and it is better that we try to have our phraseology here as free from objection as possible and not rely upon the interpretation of it as given in the law reports. If that is the real object, I think he should have no objection in

[Mr. M. S. Aney.]

the first place to changing the word "shall" and having the word "may" there. That will keep the matter entirely beyond doubt and there will be no possibility of misconstruing the words "shall also be liable to fine". My friend's amendment is for a different purpose. There should be an alternative punishment—that is what we want, and not that there should be only discretion for the court to award imprisonment with or without fine. That is not his point. On that point I want the House to consider the amendment on its own merits, but so far as the question of language is concerned, I believe nothing of the force of this clause will be lost if the word "shall" is changed and the word "may" is put in there. I think if the Leader of the House himself may move that suggestion, the House will agree to that change, because the spirit in which he reads the section is the same. The word "shall" is liable to be misunderstood and misconstrued.

The Honourable Sir Muhammad Zafrullah Khan : Sir, a word of personal explanation. I said and I repeat it that, where the Penal Code prescribes a penalty, it never expresses itself in the form that a person shall be liable to imprisonment "as well as fine". Section 64 is one of the general sections which provides what shall happen in certain cases; it explains the effect of a sentence where imprisonment as well as fine are awarded. But there is no section where the penalty is expressed in those terms; there may be cases in which a man is sentenced to imprisonment as well as fine but in no case does the penal code prescribe imprisonment as well as fine. That may be the effect of the sentence.....

Sardar Sant Singh : Please refer to sections 312 to 314.

The Honourable Sir Muhammad Zafrullah Khan : That is, after all, a small point. Assume that the Penal Code does use that expression. The effect of "and shall also be liable to fine", nevertheless, is that the court has discretion in the matter to impose a fine or not.

Sir Muhammad Yamin Khan : But he has suggested that the word "shall" may be changed to the word "may"?

The Honourable Sir Muhammad Zafrullah Khan : Take section 379 dealing with theft :

"Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

Then, take section 380 :

"Whoever commits theft in any building, tent....shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Then, take section 381 :

"Whoever.....shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Then, take section 382 :

"Whoever commits theft.....shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine."

Now, why should I go out of the way to coin a new expression when there is a perfectly well-understood expression which I have taken from the Indian Penal Code?

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

"That in sub-clause (1) of clause 5 of the Bill, for the words 'and shall also be liable to' the words 'or with' be substituted."

The motion was negatived.

Dr. P. N. Banerjee : Sir, I move :

"That in sub-clause (2) of clause 5 of the Bill, after the words 'five years' the words 'or with fine' be inserted."

Here, again, I suggest that fine should be prescribed as a form of punishment in the alternative. This sub-clause provides that the punishment may extend up to five years' imprisonment. This is somewhat more lenient than the form of punishment prescribed in the previous sub-clause. I do not think that any harm will be done if fine is prescribed as an alternative form of punishment because in the case of some minor offences, instead of awarding the sentence of imprisonment, the court will be entitled to award a sentence of fine only, and that would meet the ends of justice.

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

"That in sub-clause (2) of clause 5 of the Bill, after the words 'five years' the words 'or with fine' be inserted."

The Honourable Sir Muhammad Zafrullah Khan : Sir, this is an amendment similar to the one that the House has just disposed of and in support of what I have said before I may say that I have looked up for my satisfaction as well as for the satisfaction of Sardar Sant Singh sections 312, 313 and 314 of the Penal Code to which he referred me so kindly. The expression there used is "shall also be liable to fine".

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

"That in sub-clause (2) of clause 5 of the Bill, after the words 'five years' the words 'or with fine' be inserted."

The motion was negatived.

Dr. P. N. Banerjee : Sir, I move :

"That in sub-clause (2) of clause 5 of the Bill, for the words 'and shall in either case also be liable to' the words 'or with' be substituted"

Here, Sir, fine is provided as an additional form of punishment. But my object in moving this amendment is that fine should be provided as an alternative form of punishment.

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

"That in sub-clause (2) of clause 5 of the Bill, for the words 'and shall in either case also be liable to' the words 'or with' be substituted."

The motion was negatived.

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

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

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

“ That clause 6 stand part of the Bill.”

Sir George Spence : Sir, I move :

“ That in sub-clause (3) of clause 6 of the Bill, for the word, brackets and figure ‘ sub-section (4) ’, the word, brackets and figure ‘ sub-section (1) ’ be substituted.”

This, Sir, merely corrects a mis-citation.....

Pandit Lakshmi Kanta Maitra : We cannot hear you. Please speak up.

Sir George Spence : I said, “ Sir, I move ” ; then I recited the words contained in amendment No. 49 and then I proceeded to say that this corrects a mis-citation arising out of a mis-print.

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

“ That in sub-clause (3) of clause 6 of the Bill, for the word, brackets and figure ‘ sub-section (4) ’, the word, brackets and figure ‘ sub-section (1) ’ be substituted.”

The motion was adopted.

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

“ That clause 6, as amended, stand part of the Bill.”

The motion was adopted.

Clause 6, as amended, was added to the Bill.

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

“ That clause 7 stand part of the Bill.”

Sir George Spence : Sir, I move :

“ That in sub-clause (1) of clause 7 of the Bill, for the word and figure ‘ section 6 ’ the word and figure ‘ section 5 ’ be substituted.”

This corrects another misprint.

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

“ That in sub-clause (1) of clause 7 of the Bill, for the word and figure ‘ section 6 ’ the word and figure ‘ section 5 ’ be substituted.”

The motion was adopted.

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

“ That clause 7, as amended, stand part of the Bill.”

The motion was adopted.

Clause 7, as amended, was added to the Bill.

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

“ That clause 8 stand part of the Bill.”

Mr. Lalchand Navalrai : Sir, I move :

“ That in part (i) of sub-clause (2) (b) of clause 8 of the Bill, the words ‘ Chief Presidency Magistrate, Additional Chief Presidency Magistrate ’ be omitted.”

The meaning of this will be quite apparent to those who know that the object of this Bill is that a Tribunal should be appointed. Now, it is not denied but on the contrary admitted by the Government so many times that this Bill is very drastic. I would say that it is something like giving a blank cheque to be used in any manner they like and get the money and use it.

The Honourable Sir Muhammad Zafrullah Khan : Provided you get the money !

Mr. Lalchand Navalrai : You will get the money all right. I want that in such an extensive Bill at least some semblance of justice and fairness should be shown and that is the reason why I am moving this amendment. If the object is to give justice, then this Tribunal should be of a judicial character. The clause itself says that the Provincial Government may constitute a special Tribunal and those who will be its members are mentioned in the sub-clause. Now, in sub-clause (i) it is said that there shall be the Additional Sessions Judge. That is all right because he is a judicial officer. But I object to the justice which you propose to give in a half-hearted manner in the case of appeals.

The Honourable Sir Muhammad Zafrullah Khan : In those cases it is full.

Mr. Lalchand Navalrai : I have searched the Honourable Member's heart and when I come to that I will ask him whether in the case of 10 years' punishment there should also be no appeal. Then, we will be able to see what tender heart the Honourable the Leader of the House possesses. Sir, what I submit is this. You should show at least some semblance of justice and fairness to the public. When you are going to have a Tribunal of such a nature and when you propose to give it so many powers, why not restrict it to the judicial officers ? Why should you put the Presidency Magistrates, the Additional Presidency Magistrates and the District Magistrates on it ? Now, let us see how the judiciary is being worked in India under the present constitution. We have Presidency Magistrates in the Presidency Towns and the District Magistrates in the district towns. They are the persons who are the guardians of justice, guardians of police and guardians of everybody that can possibly come under their clutches. What I submit is this that the District Magistrate will be the prosecutor in cases of this important nature.

The Honourable Sir Muhammad Zafrullah Khan : This clause does not refer to the District Magistrates.

Mr. Lalchand Navalrai : If the Honourable Member had heard me, I did say that in the Presidency Towns there will be Presidency Magistrates and the same powers are being used in the districts by the District Magistrates. Therefore, my argument is relevant. Generally, what happens is this that the District Magistrate orders certain prosecutions and he is responsible for the executive duties of the district just as the Presidency Magistrates are responsible for the executive duties of the

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Presidency Towns. The Government has the most trusted agent in the District Magistrate who is also the Collector of the district. Now, that gentleman will be the prosecutor. I do not know if they will have a public prosecutor to conduct these cases. If they are going to do it, then he will also be the creature of the Presidency Magistrate and the District Magistrate.

Sir Muhammad Yamin Khan (Agra Division : Muhamamdan Rural) : Not the same man will sit on the Tribunal ?

Mr. Lalchand Navalrai : It may be the same : where have you provided the other way ? I hope the members of the Muslim League Party will permit me to say that they should have made no pact or alliance with the Government on a Bill of this magnitude. They have all been sitting mum. Not one Member has spoken a word on all these amendments. In their heart of hearts they must be feeling that this is a very hard thing which they have done.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : On a point of order, Sir. The Honourable Member has no business to talk of the Muslim League Party. He does not know what the Muslim League Party did in the Select Committee. We talked on all these things there and settled all these points. Of course, if we choose to speak on any point now, we are at liberty to do so, otherwise we will keep silent. The Honourable Member should mind his own business.

Mr. Lalchand Navalrai : I did not say that with any hostile attitude. If what was done in the Select Committee was sufficient, then you should have passed this Bill there. Why did you bring it to the House ? My humble submission is—and I am only appealing to the Honourable Members of the Muslim League Party—that some of the provisions are so hard that their heart ought to melt. The point as to who should try these persons is a very important point. Then, there will be the point whether there should be an appeal for the offences which are different from those.....

Sir Muhammad Yamin Khan : Does the Honourable Member think that for each case there ought to be a special Tribunal appointed to try that particular case ? If he does not think so, then he should remember that once a Tribunal is constituted, the District Magistrate or the Presidency Magistrate will no longer be in charge of that district because he will be sitting somewhere else.

Mr. Lalchand Navalrai : How is the Honourable Member going to satisfy me that the general mentality of the District Magistrate remains where it is : he is not a judicial officer ? The Honourable Member must have known the habits of these District Magistrates and how they behave. My submission to the House is that if you are going to have a Tribunal, let it be wholly judicial. Sir, I move.

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

"That in part (i) of sub-clause (2) (b) of clause 8 of the Bill, the words 'Chief Presidency Magistrate, Additional Chief Presidency Magistrate' be omitted."

Sardar Sant Singh : Sir, this Clause 8 of the Bill is a crucial clause and the various amendments suggested which will follow one after another—they cannot all be moved together—raise certain common principles which with your permission, I shall discuss.

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

First of all, I want the House to appreciate this one factor that the courts of justice are too sacred institutions to be lightly meddled with. The security of the administration, mind, not the security of the people alone, the security of the executive government presupposes that courts of justice should in fact as well as in law administer legal justice in accordance with the sanctioned forms. The Judges presiding over such courts not only should do justice to people, but the people should feel that justice is being done. That is the crucial point that is involved in the conception of a court of justice.

Then, again, Sir, the Government should remember that the ordinary function of a court is the administration of legal justice. That is the function of the civil courts of a country that have been established, courts that have come to enjoy certain prestige, courts that have come to enjoy certain confidence of the people. Therefore, when occasions arise, when the welfare of the State compels that the ordinary civil courts of a country should be superseded, such supersession can only be justified, in the interests of State and for no other considerations. It is only when the existence of the State is threatened that such supersession is permissible. I am afraid, Sir, the Government of India do not fully appreciate the implications of the concession the Opposition has made when it agreed to the supersession of ordinary courts. In view of this great concession that the Opposition has made the Government of India were expected to welcome such a gesture and to make a suitable response. The Opposition have agreed to the supersession of the ordinary civil courts of the land. Once having agreed to this, the Government should appreciate this concession and they should feel grateful to the sense of responsibility on the part of the Opposition. They should not talk as if this House is not helping them in the passage of this emergency legislation. By not moving the deletion of the clause constituting new Tribunals,—we have made a concession, and let the Government understand that that concession has been made in the full realisation of the crisis and the emergency that is facing this country. I may say, Sir, that in this respect we have shown a greater sense of responsibility towards the Executive Government than the Executive Government have shown towards us. (Interruption.) My Honourable friend may give expression to reasons in support of this clause, but I dare say that he is not speaking his real mind, after having had experience of special tribunals in the Punjab. I know what a special tribunal implies and that is why I want the House to appreciate the tremendous sacrifice we are making by agreeing to the establishment of these special tribunals. My Honourable friend also knows it. I cannot forget the memory of the scores of my countrymen who were swung on the gallows on flimsiest evidence by such tribunals constituted under Defence of India Act, 1915, on the evidence that was not sufficient to hang a dog. This happened in martial law days in the Punjab and also before that. A

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man of the position of a High Court Judge presided over such a tribunal. I need not remind my Honourable friend as to who that judge was. He was transferred from the High Court Bench to be the President of the Tribunal. What kind of language he used during the trial, how he set aside all judicial considerations, judicial acumen in his misconceived zeal to save the country from a supposed rebellion. The records of these trials are still available to substantiate my charges. Therefore, I say, Sir, that it is a great point we are conceding when we agree to the appointment of special tribunals again. I submit my Honourable friend should have more confidence in us than he has in his own words or in his own power backed by the solid votes behind him. I know he has got a solid phalanx of votes behind him and he can defeat us easily. But he shall not go unchallenged on any point relating to the administration of justice.

Therefore, Sir, after having conceded to the suppression of the ordinary civil courts of the land, our demand is very ordinary. We want a judicial tribunal, a tribunal consisting of judicial men. We know the difference between England and India. We know the training of judicial persons in England, we know how they are scrupulous in sticking to the principles of justice even in emergent times. I may remind the House, Sir, of the famous speech which was delivered by one of the King's Counsel in England when he was defending a person who was accused of espionage in the last war. In that speech he made his position clear. Though he was defending a spy, a criminal most dangerous in times of war, a spy who could probably have turned a victory of the Allies into a defeat, yet the King's Counsel made it clear that it was at such a time, at such a critical and emergent hour that justice should be kept clear, free and clean. I submit, Sir, that so far there is no emergency in this country—but if an emergency does arise and even in the trials of those who are accused of such heinous offences as spying, and espionage, the principles of justice ought not to be lost sight of. With regard to the judiciary of my province, or even with regard to the judiciary of India generally, I am afraid I cannot say the personnel is judicially minded to that extent. I cannot say that members of the executive government have got that judicial training or that regard for judicial principles which we wish them to be possessed of.

After all what do we demand? We demand the continuance of that rule of law in the country which we have. We do not want the rule of the Executive in its entirety in the country. Whom do we want to be placed in such tribunals? Situated as we are, even the best of the Sessions Judges and even the High Court Judges will lose their balance of mind when executive considerations prevail. But we cannot help that. We are helpless, because unfortunately the material that is available in the country for filling up these sacred judicial appointments is not good. We must use the material such as it is. But at the same time, we do not want to add another disadvantage, namely, that the men trained as executive officers should be made eligible as Judges. Here comes the difference. I want the executive government should know that in the critical times, if you want more powers, we want more safeguards in the use of those powers. At any rate we want such safeguards as are humanly possible in the circumstances in which we are placed.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must really deal with the specific amendment before the House. The Honourable Member need not dilate on these general questions.

Sardar Sant Singh : The point is this. I was making out the point that we do not want those persons to be placed on these tribunals who have been trained in the executive side, whose prospects in life depend upon executive favour, whose promotion and future career depends upon the executive's goodwill. And the Chief Presidency Magistrate, the District Magistrate and the Additional District Magistrate are such persons. With High Court Judges we have some consolation that, after all, if they do not do justice they will be militating against the very principle which they have been laying down in their judgments. But in the case of the District and Additional District Magistrate and the Chief Presidency Magistrate there cannot be that satisfaction and that consciousness. Therefore, Sir, Government should pause and consider before they decide to take steps which are calculated to lose the confidence of the public. The public cries against it. If the emergency develops and things become more critical,—though I hope it will not develop,—Government will need the co-operation of the people to maintain law and order. You are now offending the people in the name of co-operation.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has repeated that more than once.

Sardar Sant Singh : It needs further repetition because Government are quite blind to the facts and the realities of life.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has said that too.

Sardar Sant Singh : I think I may rub in the position.

Mr. President (The Honourable Sir Abdur Rahim) : There is no question of rubbing in.

Sardar Sant Singh : My submission is that the Government of India are dealing with fundamental rights of the people, rights, the existence of which is most vital to the elementary principles of liberty. If Government reject the co-operation that is offered by this House the time will not be far off when they will have to repent. Therefore, I say with regard to this amendment and the amendments which follow which are all based on the same principle that the Government of India should pause and consider before the Government of India stand committed to the contemplated step. The Government are giving too wide powers to the Executive. The Chief Presidency Magistrate or the District Magistrate may be a third Judge. Probably the two other judges may form a majority but in case they differ the final decision will be that of the man with an executive mind and training. In the circumstances Government should see that with the procedure curtailed and the right of appeal and revision gone such a man should not have the final word in such grave decisions. Therefore, Government cannot expect us, situated as we are, to be judged according to the standards prevailing in England and Great Britain. The standard is different there. We have past experience of these judges and know what they do. With that past experience Government cannot surely

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expect of us to bow down and say "because there is war in Europe which may extend to India we must surrender our body and soul to the executive government". That is a position which we refuse to be willingly reduced to. I must say that this is a very crucial amendment. Government have already rejected the amendment to do away with the death penalty and there is a greater responsibility upon them to win the confidence of the people. By appointing executive-minded magistrates on these tribunals they will be cutting their own feet and the time will come when they will repent of it. Things are getting more and more critical. It is to their ultimate interest to approach the real leaders of the people and not be guided by the majority which they have here today. The Congress Party is absent and the Muslim League somehow or other have decided to adopt a particular attitude. I do not quarrel with that attitude but our Party is fighting upon principles. We come with facts and figures and ask that they should pause and consult the leaders of the people. Sir, I support the amendment.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am rather surprised at the quantity of heat that has been engendered in the course of the consideration of this amendment. To begin with I may point out that,—though perhaps that will give no satisfaction to Sardar Sant Singh but it should to the majority of the House,—the setting up of these tribunals will be in the hands of the Provincial Governments.

Sardar Sant Singh : So much the worse.

The Honourable Sir Muhammad Zafrullah Khan : Apart from the fact that in the majority of the Provinces power is in the hands of Ministers who should be, to say the least, fully alive to the considerations that Sardar Sant Singh has put forward, for his special satisfaction there is this consideration that one Honourable Minister in a certain Province to which he referred during the previous stages of the debates on this Bill has had experience of the kind which Sardar Sant Singh has had. Therefore, I think that is a sufficient guarantee that in setting up tribunals of this kind care will be taken that they should be comprised of men who have had plenty of judicial experience. Secondly, I may draw his attention to the fact that the clause, as it has emerged from the Select Committee, now makes it compulsory that at least one member of these tribunals shall be qualified for appointment as a High Court Judge. I am conscious of the fact that the clause, as it has emerged from the Select Committee, now grievously on the last occasion.

Sardar Sant Singh : Did they not? What is your experience?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I was not in the unfortunate position of Sardar Sant Singh. But then, as he himself has said, members of these special tribunals have to be appointed from the material available. I have not the low opinion of the judiciary of this country that Sardar Sant Singh has. I have pointed out that at least one member of a special tribunal must be qualified as a High Court Judge; and if there is only one member so qualified one other member must be qualified under sub-clause (2) (b) (i). The third consideration is this: that if there were no special tribunals, 99 per cent. of these cases, that is to say, cases where the capital sentence cannot be imposed, would

be triable by only a single one of these magistrates—a Chief Presidency Magistrate, or Additional Chief Presidency Magistrate or District Magistrate or Additional District Magistrate—under the ordinary procedure. In a special tribunal, you will have three judges instead of one: and at least one of them qualified as a High Court Judge.....

Dr. P. N. Banerjee : Any pleader of ten years' standing is qualified whether he has any practice or not!

The Honourable Sir Muhammad Zafrullah Khan : What is the objection to that? That is the qualification. Would you say that only that pleader of ten years' standing should be qualified to be a High Court Judge who has during the five years immediately preceding paid so much income-tax on so much professional income? You could not import that kind of qualification in a Statute. Sir, I should have thought that the objection was to people drawn from the magistracy who have also executive functions to perform and not to people drawn from the bar. As I have said before, on most of these matters Members of the Nationalist Party seem to be at loggerheads with each other and I am not surprised at that. But I would draw Sardar Sant Singh's attention to these factors. In spite of the unfortunate experience which he says he had during the martial law days, ordinarily a tribunal of that kind would be a very much better court to go before than the ordinary magistracy, according to him, of the province to which he has the misfortune to belong.

Sir Muhammad Yamin Khan : Sir, I want to draw attention to what is apparently a misprint here—that is my excuse for intervening in this debate—in sub-clause (3), last but one line where it says "exclusive of those specified in sub-clause (ii) of the said clause (b)". That means District Magistrate, or Additional District Magistrate. If there is only one man out of this category, that is, qualified to be a High Court Judge, then one must necessarily be a person who is qualified to be a District Magistrate.....

The Honourable Sir Muhammad Zafrullah Khan : No. It is entirely the contrary of what the Honourable Member has understood.

Sir Muhammad Yamin Khan : It says :

"At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2)."

That is all right. It continues :

"and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b)."

The Honourable Sir Muhammad Zafrullah Khan : The clause amounts to this: one member at least shall be qualified under (a), that is, as a High Court Judge: if out of three there is only one so qualified, then at least one more shall be qualified under (b), but not under (b) (ii)—therefore, under (b) (i)—"shall be qualified under (b) exclusive of the qualifications under (b) (ii), i.e., under (b) (i)."

Sir Muhammad Yamin Khan : That is not very clear. That ought to be made clear.

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

“ That in part (4) of sub-clause (2) (b) of clause 8 of the Bill, the words ‘ Chief Presidency Magistrate, Additional Chief Presidency Magistrate ’ be omitted.”

The Assembly divided :

AYES—8.

Aney, Mr. M. S.
Banerjee, Dr. P. N.
Datta, Mr. Akhil Chandra.
Lalchand Navalrai, Mr.

Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Parma Nand, Bhai.
Sant Singh, Sardar.

NOES—45.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Aiyar, Mr. T. S. Sankara.
Bewoor, Sir Gurunath.
Bhandarkar, Mr. K. Y.
Boyle, Mr. J. D.
Bozman, Mr. G. S.
Buss, Mr. L. C.
Campbell, Mr. D. O.
Caroe, Mr. O. K.
Clow, The Honourable Sir Andrew.
Crofton, Mr. D. H.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Hodson, Mr. D. C.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Kamaluddin Ahmed, Shams-ul-Ulema.
Khaleeli, Mr. A.
Khan, Mr. N. M.
Khurshaid Muhammad, Khan Bahadur Shaikh.

Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Miller, Mr. C. C.
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Mukerji, Mr. Basanta Kumar.
Nehru, Mr. B. K.
Ogilvie, Mr. C. M. G.
Rahman, Lieut.-Colonel M. A.
Raisman, The Honourable Sir Jeremy.
Roughton, Mr. N. J.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Kadir Muhammad.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain Sardar Sir.
Sivaraj, Rao Sahib N.
Spence, Sir George.
Sukthankar, Mr. Y. N.
Tahukdar, Mr. J. N.
Thorne, The Honourable Mr. J. A.
Wakely, Mr. L. J. D.
Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I beg to move :

“ That part (4) of sub-clause (2) (b) of clause 8 of the Bill be omitted.”

The arguments advanced in connection with the amendment which has been disposed of just now apply with greater force to the case of recruitment of members for the Special Tribunal from the category known as District Magistrates and Additional District Magistrates. Sir, I listened to the arguments of the Honourable the Leader of the House with close attention. He stated that there was a very salutary safeguard in the provision that one of the members of the Special Tribunal would be a man with qualifications for appointment as a High Court Judge. We

quite see that, but it is not provided anywhere that such a member of the Special Tribunal would actually be a High Court Judge. The minimum qualification laid down for appointment to Judgeship of the High Court is, in the case of lawyers, that they should be of at least 10 years' standing. I can well imagine how even this provision will be actually worked. Public Prosecutors and Assistant Public Prosecutors with little or no knowledge of criminal or judicial procedure or even of sifting evidence who might all along be acting on the instructions of the Court Inspectors and Superintendents of Police may be patronised by the Provincial Governments by conferring on them these jobs, and it might be pleaded that the requirements of the first part have been complied with. If there is any complaint, it will of course be effectively muzzled, and it will be met by saying that a person qualified to sit on the High Court Bench has been appointed. Is that the kind of thing that we really want? Does it really meet with the demands of those who want a purely Judicial Tribunal? The provision desired, I believe, by the members of the Select Committee was that some form of safeguard should be provided by enjoining appointment of some, one who has a judicial trend of mind, who has had experience in the matter of sifting evidence, who is thoroughly versed in matters of practice and procedure, but the very purpose might be defeated if it is operated in the way I am suggesting. If that main safeguard goes, then you fall back upon two other categories from which the rest of the tribunal must be appointed. The third category is the category of District Magistrates and Additional Magistrates. Members of the heaven born service, popularly known as the Indian Civil Service, of which my Honourable friend, Mr. Mackeown, is one—he has been whipping people here,—for them it will be an easy walk over, because the very fact that they are members of the Indian Civil Service gives them certain exceptional privileges in the service. Ordinarily in Districts I. C. S. officers are first made to serve a period of apprenticeship for some months, then they are given the designation of Joint Magistrates—some faces are withering at my remarks,—and at the end of two years or so they become Additional District Magistrates. So generally in two or three years' time they begin to officiate as Additional Magistrates. These District Magistrates are ordinarily entitled to hear appeals from judgment of third class and second class Magistrates. This is the power they have got, but when they would be elevated to the Special Tribunal, they would be authorised to try any case coming under this Act or other Acts and to inflict any sentence including the sentence of death. I do not know what kind of sophistry would be advanced to gloss over this fact. It has been very clearly pointed out by us that, these people are, by their nature, by their training, by their inclination and by their traditions, bound to the chariot wheels of the bureaucratic executive Government, and they cannot easily be made to get over those tendencies and to fairly adjudicate upon, or to apply their mind judicially to, matters that may come up before them. This is really a matter for very serious consideration. I know that Presidency Magistrates in Presidency towns have enormous powers to exercise. For instance, they can send a man to prison for six months without recording even a line of evidence; they enjoy such powers because of their position and experience, but the same cannot be said of District Magistrates. Very often overzealous Deputy Magistrates are promoted to the rank of Magistrates and Additional Magistrates in supersession of the claims of more capable and deserving officers. They may be further patronized by the

[Pandit Lakshmi Kanta Maitra.]

Government and be appointed members of the Special Tribunal. So, we cannot view the situation with indifference. We feel that the Government ought to constitute the tribunal in such a manner that these chances may be eliminated and that a thoroughly judicial body set up which will try the cases and exercise these powers. Sir, enough has been said about it and I would again appeal to the Honourable the Leader of the House to see if he can eliminate at least this category of people. That will not take away from the Bill any very valuable powers so far as the Government are concerned in the matter of effective prosecution of the war, but it will be going a great way in allaying the suspicions of the people by excluding from appointment to the Tribunal a class of officers who are not fit to try cases of this grave nature involving as it may the extreme penalty of the law, that is, transportation for life or death. Sir, I move.

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

“ That part (ii) of sub-clause (2) (b) of clause 8 of the Bill be omitted.”

Sardar Sant Singh : I find, Sir, that the executive Government in India are not in a mood to listen to reason from the popular side of the House and it is useless to appeal to them in the name of justice, in the name of humanity, what to say of liberty or such noble sentiments which are ornaments of humanity and civilization. They say that they are fighting for democracy. Well, I will reply to them on the third reading of the Bill, but I will ask them, is it democracy to appoint the District Magistrate or an Additional District Magistrate as members of the tribunal with power to punish any man to any period of imprisonment, without any right of appeal, without any procedure as prescribed in the Criminal Procedure Code ? Is it democracy that we are asked to fight for ? It is a shame that in the name of democracy they are appealing to us that we should help them and co-operate with them in this war—I know that loyalty has gone mad in my province and that fact alone makes the danger of trusting the executive there greater and greater. My Honourable friend in his reply to my previous remarks has told me that popular Ministers will be in charge of the appointment of tribunals, and at least one of the Ministers is a man who suffered at the hands of the tribunal. May I ask him whether he suffered rightly ? Did that tribunal do justice to him, a man whom the executive Government today considers to be fit to control the jails and some other portfolios in a major province ?

The Honourable Sir Muhammad Zafrullah Khan : So far as I am aware, that Honourable gentleman was acquitted. If that was not doing justice to him, I suppose the Honourable Member means he should have been convicted.

Sardar Sant Singh : May I ask him why he was arrested ? Was it necessary for the successful prosecution of the war ? Was he not arrested because he was a trustee of the *Tribune* and the *Tribune* wrote an article, “ The Blazing Indiscretion of Sir Michael O'Dwyer ”.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go into all that. The Honourable Member himself has said more than once that there is one principle governing all these clauses and he has dealt with it at length.

Sardar Sant Singh : I am not repeating the old arguments. I am only telling the Government that they should beware of the reactions that will follow their attitude in this House. District Magistrate and fight for democracy are two things that cannot be reconciled in any manner. He is a Hitler, and why fight the German Hitler ? Here in India they want to adopt methods which savour of Hitlerism and not French and British methods. We want them to be honest to themselves if they cannot be honest to others. You appeal to the country to enlist their sympathy for the fight in favour of democracy, but here you are thinking of appointing District Magistrates and Additional District Magistrates, that wretched class of people who do not know law, or how the law is administered. The word “ judicial ” is not to be found in their dictionaries. You propose to vest these men with such vast powers and yet you ask us to fight for democracy ! What a shame ! My submission is, I cannot tolerate the inclusion of District Magistrates and Additional District Magistrates in the tribunal. (Interruption.) They are incapable of doing justice. Even if they occasionally try to do justice, it is because there is a salutary provision that there is a right of appeal against their decisions. Here you have no recording of evidence, you are doing away with the normal procedure....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is repeating the same argument over and over again.

4 P. M.

Sardar Sant Singh : I am bound to repeat it. If the Government appeals to the country by statements and by other methods, I am bound to tell the people, here is a Government which is not worth cooperating with. They are treating our co-operation with contempt simply because in the absence of the Congress Party Government enjoys majority. The Government is showing regrettable callousness in the House. I wish that they would take the lesson to their heart. They will have to come to us six months hence asking for our co-operation. And I tell you that the co-operation of reasonable men will be given only on reasonable terms. From the very beginning of the Session I have asked the Government to show confidence and trust in the Legislature if they want that the Legislature should trust them. You are not showing that trust and confidence in us. Therefore, I will say, whatever happens, I am very strong,—I told them in the Select Committee, and also before that, that I want the little rule of law that we have to be allowed to remain in the country. I do not want the rule of law to be replaced by placing District Magistrates and Additional District Magistrates on the tribunal, and to have the rule of the executive under a different garb. (An Honourable Member : “ The rule of the jungle.”) If they want the rule of the executive, why not come straightaway ? Let them be honest to us, let them be honest to themselves, honest to the country. Why not say, that the executive Government shall dispose of these cases without recording evidence, without having any procedure, without doing anything, only the Regulation of 1818 will be applied, warrant issued, the man shut up, and that is the end of all, why the poor taxpayer should be made to pay for these tribunals ? If you were going to do so, why all this expense to the poor taxpayer ? I really cannot understand. This is an attitude which is highly deplorable, especially at this

[Sardar Sant Singh.]

time. This was the time when the Government of India should have come to the Legislature with confidence....

Mr. President (The Honourable Sir Abdur Rahim) : The Chair must ask the Honourable Member not to repeat his own argument so often.

Sardar Sant Singh : May I ask, without repeating it, you and through you the Government of India what their mental attitude is today? Do they mean to trust us or not? If they do not mean to trust us, say so. We will frame our own policy about it. But if they mean to trust us, they must respond to us as reasonable men. we feel very strongly on the constitution of this tribunal; there is no doubt about it. And, if they are not listening to us, we will be compelled to frame our policy accordingly. With these words I support the amendment.

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

“ That part (ii) of sub-clause (2) (b) of clause 8 of the Bill be omitted.”

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in part (ii) of sub-clause (2) (b) of clause 8 of the Bill, the words ‘ Additional District Magistrate ’ be omitted.”

Enough has been said on this subject, and I hope that at least this amendment will be accepted. Sir, I move.

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

“ That in part (ii) of sub-clause (2) (b) of clause 8 of the Bill, the words ‘ Additional District Magistrate ’ be omitted.”

The motion was negatived.

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

“ That clause 8 stand part of the Bill.”

The motion was adopted.

Clause 8 was added to the Bill.

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

“ That clause 9 stand part of the Bill.”

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 9 of the Bill, all the words occurring after the words ‘ section 2 ’ be omitted.”

We have now passed clause 8 as part of the Bill. We have constituted special tribunals for the trial of offences. The next question arises as to what are the offences which ought to be tried by this special tribunal. That question is answered in clause 9 which provides that special tribunals shall try two distinct classes of offences—any offence under rule made under section 2 and any offence punishable with death, transportation or imprisonment for a term which may extend to seven

years. In other words, it is laid down here that the special tribunal would deal with two classes of offences. One is the new offences created by this Emergency Act. To put it shortly, these are war offences and the second class of offences are offences which are not created by this Act and which may or may not have anything to do with war. These are offences which were created about 80 years ago by the Indian Penal Code. These are ordinary offences committed in times of peace and have nothing to do with war. The original provision was far more drastic. It said that special tribunals shall try all offences, whether created by this Act or by the Penal Code or any other law. That has been modified. With your permission, I am prepared to confess that I had something to do with the provision as it now stands. On further consideration, I thought there was something dangerous in this and I am under no obligation to stick to what I did in the past. I am open to conviction, which is not the case with many other people connected with this Bill. This provision was taken from the Act of 1915. The question arises as to why the old Act also provided like this. To answer that we must go to the Statement of Objects and Reasons of the Bill of 1915.

The Honourable Sir Muhammad Zafrullah Khan : Need we go into all that. You can advance your arguments on this clause?

Mr. Akhil Chandra Datta : Why are you so impatient?

The Honourable Sir Muhammad Zafrullah Khan : Because I thought your first thoughts were best.

Mr. Akhil Chandra Datta : I do not appreciate this interruption coming from the Leader of the House. He ought to be more dignified.

The Honourable Sir Muhammad Zafrullah Khan : I strongly object to that. If it comes to a question of dignity, the House knows who observes dignity and who does not.

Mr. Akhil Chandra Datta : The House knows it. However, Sir, I was submitting in a dispassionate way as to why this provision was taken from the old Act. We find reasons given in the Statement of Objects and Reasons. It is said there that as regards offences created under the War Act, there is a special tribunal. Certainly the special tribunal will try those cases but here are offences which are punishable under the Penal Code and the procedure is laid down in the Criminal Procedure Code. Therefore, the question was raised—why not restrict the jurisdiction of the special tribunal to only the first class of cases, namely, the offences created by the Emergency Act. That was the objection taken. The answer of the Government was this. I can assure the House at the very outset that I am not going to read all those proceedings. The answer of the Government was that they did not dispute the principle. They admitted that all these offences should not be made triable by the special tribunal but their justification for putting in these offences was this. It was said that this provision was meant to meet the abnormal situation created by the state of lawlessness and crime in two provinces in India, namely, Bengal and the Punjab. And then it was said—we admit the principle that the jurisdiction should not be extended to all offences,

[Mr. Akhil Chandra Datta.]

but there is the difficulty of drafting, namely, how to make a schedule for those offences which the Government intend to be tried by the Special Tribunals. That was the simple reply of the Government. They did not dispute the principle.....

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member referring to what happened in the Select Committee ?

Mr. Akhil Chandra Datta : I am referring to what happened during the debate in the open House in 1915.

Now, Sir, that was the objection raised. It was said that " we are bound, in the circumstances, in view of the difficulty of drafting a schedule for those offences which are intended really to be tried by a special tribunal " and it was on that ground that this sub-clause (b)—of course this clause was not there,—I mean, the offences specified in sub-clause (b) of this clause were retained in the corresponding clause of the Act. Now, they made a clear-cut distinction between war offences and ordinary offences. But what is the position now in India ? There is no indication, there is no complaint that there is any disturbance in any part of the country like the abnormal disturbances that existed in 1915 in those two Provinces, viz., the Punjab and Bengal. If this is so, it is very difficult to understand why these offences should be inserted in this clause as triable by a special tribunal. May I ask whether, if the statement that I have made with regard to the actual position in 1915 is correct, with regard to the ground on which this was inserted, and the ground on which it was not dropped altogether, and if my statement of fact is correct, may I ask the Government of today if they are prepared to accept the principle that was laid down in 1915 by the then Government, because as a matter of fact up till now, during any stage of this Bill, there has never been any allegation made whatsoever that any of these provisions of this Bill are warranted and necessitated by internal disturbances in India ? Now, Sir, I have got to add this, that although, in view of the difficulty of drafting, they had to retain this provision with regard to offences punishable under the ordinary law committed even in peace time, yet the Government in 1915 did their best to minimise the evil as much as possible, and that is to be found in section 1, sub-clause (3), where it was laid down that only sections 1 and 2 would come into force immediately,—that is, war offences, the provisions relating to war offences. But as regards the rest of the Act, including the provisions about a special tribunal and so on, they laid down that that portion of the Act was not to come into operation at once but that the remaining portion of the Act would be extended as occasion arose in any particular province or in any particular district of any particular province by a special notification in the Gazette. But, as a matter of fact, we know that all the provisions about the special tribunals and so on were not extended to all the provinces. Not only were they not extended to all the provinces but even in the case of those provinces to which those provisions were extended by a special notification in the Gazette, they were extended only to particular isolated districts where the Government thought that there was disturbance and lawlessness,—and that was done after the greatest discrimination, because it would appear from the notification on the subject that in some provinces they

were not extended at all and in the same Province, of two adjoining districts there was one district in which there was lawlessness and these provisions were extended thereto by a special notification, while in the neighbouring district they were not so extended.

Therefore, Sir, my submission is—starting with this central, cardinal fact, viz., that there is no disturbance now in India as there was in 1915 in two of the Provinces—that there is no justification for the insertion of these offences in this clause. Now, Sir, this clause is a very important one because, after all, what is the result of all this ? The result is the suspension of the ordinary law and the suspension of the ordinary law courts and their supersession by summary courts of special jurisdiction. Sir, I am afraid that the Government of today are rushing in where the Government of 1915 feared to tread. Now, Sir, the country has certainly to organize itself for war and victory, but it cannot be organized by resorting to pure bureaucracy ; it can only be successfully organised by willing co-operation and not by causing irritation and dissatisfaction, and not by creating panic and alarm. Sir, repression always frustrates its own object. That is the verdict of history. Sir, I move.

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

" That in clause 9 of the Bill, all the words occurring after the words ' section 9 ' be omitted."

Mr. M. S. Aney : Sir, I have nothing to add to what has been said by my friend, the Deputy President. The question is this. What is the scope of this legislation which is of a very peculiar and extraordinary nature ? It is intended to meet the requirements of an emergent situation and for that purpose we are arming the executive Government with extraordinary powers. The special tribunals are intended, therefore, to meet the requirements of the situation. We have, therefore, to see whether, in defining the powers and jurisdiction of the special tribunal, these cardinal points are definitely kept in view or not. I am afraid the language in which section 9 is worded gives a very comprehensive jurisdiction to the special tribunals. As has been rightly pointed out, sub-clause (b) of clause 9 enables the special tribunal to try offences :

" punishable with death, transportation or imprisonment for a term which may extend to seven years triable by any court having jurisdiction within the local limits of the special tribunal and may in any such order direct the transfer to the special tribunal or any other criminal court not being a High Court."

The idea underlying this clause seems to be that, if there is a special tribunal created and the jurisdiction or the local limits of the jurisdiction are specified, then, for the purposes of those offences which are mentioned here, all other tribunals shall cease to have any jurisdiction at all. Ordinary tribunals will not function for the trial of offences mentioned in sub-clause (b). Not only that, but if they are already seized of the jurisdiction of those offences and the trials are going on, power is given here to transfer those cases from those courts and bring them within the jurisdiction of the special Tribunal. I do not understand why the Government think it necessary to deprive the ordinary tribunals of trying cases punishable with these punishments if those offences are not at all connected with anything for the defence of India or for the prosecution of the war. If ordinary offences are committed, then why should the ordinary tribunals be deemed incompetent to try the accused persons

[Mr. M. S. Aney.]

under conditions laid down in the Criminal Procedure Code simply because a special Tribunal has been set up to try offences arising out of war situation. I am afraid that the existence of the war emergency is made the pretext by the Executive to deny the people the ordinary rule of law in such localities as they may deem proper. The plan contemplated appears to be that the Tribunals should be set up and their local limits of jurisdiction should be defined. Wherever the Local Government or the Central Government think that a special Tribunal has to be set up in particular cases, it seems to me that in the case of those offences which are covered by these clauses, ordinary courts will have nothing to do with these offences. It shall be the special Tribunal alone that will be able to deal with those cases. I cannot understand the rationale that is underlying this kind of conferring of comprehensive jurisdiction on special tribunals and the denial of jurisdiction to the courts which have been exercising those powers till the establishment of these special Tribunals. Any offences which have got some relation to the war or to the situation arising out of the war or matters that have got some remote connection with war preparations or matters arising out of the contravention of rules or matters provided for by rules made under clause 2, can be dealt with in a special way and, therefore, there should be a special Tribunal to deal with them in a summary manner. But why those offences which have nothing to do with the war should not be dealt with under the ordinary law, I have not been able to understand. Why should the ordinary law be suspended at all? That is the point which has to be clearly grasped by the Honourable the Leader of the House and those who want to sponsor this Bill. This occasion of the war and the emergency arising out of it ought to be used for the limited purpose for which this legislation is being brought and it ought not be made an occasion for enlarging the powers of the Executive and of special Tribunals in such a way as to supersede everything else. Is the ordinary rule of law going to come to an end in this country? Is that going to be the position? If that is so, what are you going to do with your First class and Second class Magistrates? Under the terms of sub-clause (2) almost all the important offences are likely to be dealt with as war offences and most of the First and Second class Magistrates will have practically nothing to do at all. Their work will either be transferred to the special Tribunal and the Magistrates themselves will be asked to work on the special Tribunal if they are eligible to be there or they shall be getting their salaries for doing nothing. Are you going to create and keep up the situation like that? I think a situation like that is going to arise if the jurisdiction of the special Tribunal is not confined to what my Honourable friend, the Deputy President, said are war offences or offences arising out of the provisions made for the purpose of the prosecution of the war and for the defence of India or for the public safety and security and public interest as has been laid down in the preamble of this Bill.

Then, Sir, I do not know why care has not been taken in this Bill to specify that the establishment of these special Tribunals and the extension of powers to them shall be used in the same discriminate manner in which it was used in 1915, that it shall be extended in accordance with certain procedure and that it shall not be extended to every part of British India as appears from certain clauses of the Bill.

My objection is this. We are conferring unnecessarily wide powers on the special Tribunals. They are not required by the situation as it exists today and they shall not be required even if the situation becomes worse hereafter. If it becomes worse, it is open to the Governor General in Council to have another Ordinance to provide for the situation. But taking the situation of the country as it is, I believe the powers that are being extended to the special Tribunals are unnecessarily wide and therefore the amendment which my Honourable friend, the Deputy President, has moved deserves not only to be considered but accepted by the House. Sir, I support the amendment.

Sardar Sant Singh : Sir, I think the House will be interested to know what sort of offences this present provision embraces. The special Tribunal shall try any offence punishable with death, transportation or imprisonment for a term which may extend to seven years. Those illustrative offences will probably be sufficient to open the eyes of the House whether the Government should be armed with this power or not. I have taken only a few of them, e.g., abetment of suicide by a child or insane person. That may be necessary for the prosecution of the war. Then there is the abetment of suicide or attempt to commit suicide. Then, there is the causing of miscarriage without woman's consent. That is punishable by 10 years' imprisonment. Then, there is the death caused by hurt done with intent to cause miscarriage. Then, there is the act, done with intent to prevent child being born alive. Then, there is the other class of offences. Intentional omission to apprehend on the part of a public servant bound to apprehend a person. I do not want to read further but this list will show what a comprehensive jurisdiction has been given to them. Are these the offences which are necessary for the successful prosecution of the war or for the maintenance of law and order or for public safety?

Sir Muhammad Yamin Khan : These special Tribunals shall not try all such offences, but some of them.

Sardar Sant Singh : I have given the illustrative list. Now, my Honourable friend Sir Muhammad Yamin Khan's objection is that the Provincial Government has not gone mad to empower this Tribunal to try all such cases.

Sir Muhammad Yamin Khan : That is right.

Sardar Sant Singh : That is the objection and my answer to that objection is a very simple one. Review the past record of these Tribunals. Even adultery cases were tried by these Tribunals; cheating cases were tried by these Tribunals. Now, you will be satisfied that our stand on this point is not without a strong foundation. But I am afraid it is difficult to take the Government seriously as it is constituted today. I am tempted to relate a story which will probably humour the House to some extent. A mother was very much annoyed with her child and wanted to abuse the child. She wanted to use strong language in the abuse and she said "I wish you were bitten by a dead snake" and still apprehending lest the dead snake bite the child, the mother immediately added "by the tail side". So the Government of India are afraid that the dead snake might bite their child, so they assure themselves to put the tail end of it. What is this nonsense of a special tribunal that is to be constituted with

[Sardar Sant Singh.]

men, men who have been working in executive capacity. Then the Provincial Government is to be delegated the power to nominate this tribunal and to crown all, the ordinary power vested in civil courts for any offence should be superseded. The procedure also is to be modified. An offence whether bailable or not should be modified by rules; even the commitment is gone and every sort of safeguard which a civilised society considers essential for the security of life, liberty and property is dispensed with. I still ask the Honourable the Leader of the House who is sponsoring this Bill, who is in charge of Law Department, whether he has forgotten all the principles of jurisprudence. Will he hand over all those sacred principles of jurisprudence which govern the administration of law and justice in the country to the executive for the mere satisfaction of his colleague. He is now under this Bill surrendering those principles without the least demur on his part.

Mr. F. E. James (Madras : European) : They are sacred principles in debate, but not in war.

Sardar Sant Singh : I wish my Honourable friend, Mr. James, had talked like this against the rule of law in his own country, and I should like to see what the *London Times* writes about him.

The Honourable Sir Muhammad Zafrullah Khan : The *London Times* will ignore him altogether.

Sardar Sant Singh : I do not think so. I submit that these wide and drastic powers should not be given. Sir, I do not want to make further speech on this point. I will certainly say that if the Government of India should consider that their prestige will suffer if they agree even to any reasonable amendment of our party, are the Government prepared to issue executive instructions to Provincial Governments in which way to act in the constitution of these tribunals and in the exercise of these powers. I do not think the Honourable the Leader of the House would be prepared to give even this modest guarantee to this House and in that event there is no course open to me except to support the amendment which aims at the deletion of such wide powers as are proposed to be vested in the tribunal.

Mr. Lalchand Navalrai : Sir, I rise to put one question to the Honourable the Leader of the House. Does he mean that under this clause 9 powers are being given to the Tribunal to try all ordinary offences which would come under the Indian Penal Code?

The Honourable Sir Muhammad Zafrullah Khan : No power is being given to the Tribunal as such. Power is being given to the Provincial Governments "which may, by general or special order, direct that a Special Tribunal shall try any offence :

(a) under any rule made under section 2, or

(b) punishable with death, transportation or imprisonment for a term which may extend to seven years."

The Provincial Governments may not send any of these offences for trial to a special tribunal; they may send only a certain class of offences. they may send all these offences for trial to a special tribunal. All will depend upon the circumstances obtaining in a particular Province.

Mr. Lalchand Navalrai : Will they be offences punishable under this Act or under the Indian Penal Code? I want this point to be elucidated. The Provincial Governments by rules would ask a tribunal to try certain cases. But then when it is said any offences, I may say there are offences provided in this Act. There are also other offences provided under the rules. I am, therefore, asking whether this section will be restricted to those offences or any offences under the Penal Code.

The Honourable Sir Muhammad Zafrullah Khan : Sub-clause (a) is restricted to any offence under any rule made under section 2; and sub-clause (b) relates to any offence punishable with death, transportation or imprisonment for a term which may extend to seven years.

Mr. Lalchand Navalrai : Under any law?

Pandit Lakshmi Kanta Maitra : You want a special tribunal for the trial of ordinary offences also?

The Honourable Sir Muhammad Zafrullah Khan : This clause invests the Provincial Governments with certain powers. It has been assumed by Honourable Members that those powers will be, from the very beginning, exercised to the fullest extent. That assumption is entirely misconceived. No doubt power is being taken that Provincial Governments should be able to give those directions.

Sardar Sant Singh : Why?

The Honourable Sir Muhammad Zafrullah Khan : Because there may be a recrudescence of all kinds of lawlessness in the country under the stress of war. There may, for instance, be a large number of dacoities in certain Provinces.

Sardar Sant Singh : Will they not come under clause 2 of the Bill. I think there is a comprehensive and all embracing clause on that point. Dacoities and the recrudescence of riots and lawlessness will fall under the public safety, and maintenance of law and order clause. That is already provided for in clause 2.

The Honourable Sir Muhammad Zafrullah Khan : It would depend upon how the Rules are framed; whether a particular kind of lawlessness is or is not comprised within the rules framed, and if it is not so comprised, it will have to be dealt with otherwise.

Mr. M. S. Aney : Then we do not know what we are legislating for.

The Honourable Sir Muhammad Zafrullah Khan : I thought the Honourable Member had finished his speech.

Mr. M. S. Aney : I am not making any fresh speech.

The Honourable Sir Muhammad Zafrullah Khan : So the apprehension, that adultery, abortion and offences of that kind, in which a certain Honourable Member appears to be so keenly interested, will be tried by these special tribunals, is entirely misplaced.

Sardar Sant Singh : The Provincial Governments may be interested in such things.

The Honourable Sir Muhammad Zafrullah Khan : Obviously the Provincial Governments will direct offences to be tried by these special tribunals with regard to which some special need has arisen. If the ordinary judicial machinery is adequate to deal with the situation there is no reason why special tribunals need be set up at all. But if the ordinary machinery is not adequate power must be taken that these special tribunals may be set up and that they shall have jurisdiction to try these offences.

With regard to the reason why the clause stands in its present form it is quite enough to repeat what the Honourable the Mover of this amendment has said that it was put in this form by the Select Committee because he himself suggested that it should take this form.

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

“ That in clause 9 of the Bill, all the words occurring after the words ‘ section 2 ’ be omitted.”

The motion was negatived.

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

“ That clause 9 stand part of the Bill.”

The motion was adopted.

Clause 9 was added to the Bill.

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

“ That clause 10 stand part of the Bill.”

Mr. Lalchand Navalrai : Sir, before amendment No. 58 is moved, I submit that amendments Nos. 59 and 60 should be moved first. My reason is that those amendments are very comprehensive and ask that all the evidence should be taken *in extenso*. If those are lost, it will be for amendment No. 58 to be moved.

Mr. President (The Honourable Sir Abdur Rahim) : No. 58 seeks to substitute a different clause for the clause of the Bill and should be moved first.

Sir Muhammad Yamin Khan : Sir, I move :

“ That in sub-clause (2) of clause 10 of the Bill, for the words ‘ In trials before a Special Tribunal it shall not be necessary ’ the words ‘ Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a Special Tribunal ’ be substituted.”

I should not have moved any amendment as I had fully explained our attitude, but as it is a consequential amendment to the one which had been made by the Select Committee in clause 13, I am obliged to move this. I have cleared this point in the general discussion.

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

“ That in sub-clause (2) of clause 10 of the Bill, for the words ‘ In trials before a Special Tribunal it shall not be necessary ’ the words ‘ Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a Special Tribunal ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, this is not a consequential amendment, but I accept it.

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

“ That in sub-clause (2) of clause 10 of the Bill, for the words ‘ In trials before a Special Tribunal it shall not be necessary ’ the words ‘ Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a Special Tribunal ’ be substituted.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : No. 59 is now barred.

Mr. M. S. Aney : Sir, before Sir Yamin Khan moved his amendment, the point was raised that amendments Nos. 59 and 60 should be given preference and precedence over amendment No. 58. We were not quite able to follow what you decided. But if you have decided that 58 is to be moved first, it means that you have allowed 59 and 60 to be moved after 59 is disposed of. But if you have decided.....

Mr. President (The Honourable Sir Abdur Rahim) : The practice is that any amendment which wants to substitute a different clause for the clause in the Bill is to be taken first. If that is thrown out, the other amendments are to be moved.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That sub-clause (3) of clause 10 of the Bill be omitted.”

Sir, there may be occasions when it may be argued by these special tribunals that an application for adjournment will not be in the interest of justice. Even when an accused person is brought before a special tribunal there may be good reasons for getting an adjournment on various grounds, such as the absence of witnesses owing to illness or on account of their being in another place wherefrom to bring them some time will be necessary. In all these cases the special tribunal, which is charged with the duty of speedy disposal of cases and of summary dispensation of justice, may be led to think that applications for adjournment on these grounds are all frivolous applications made for getting time. In criminal trials it very often happens that the failure to grant adjournment virtually ends in miscarriage of justice. That has been the experience of many of us in the law courts. In the present case it will not be an ordinary judicial machinery which is guided and regulated by practice and precedents prevailing in the ordinary courts. We are having special tribunals without any tradition behind them either of practice or of precedent and this provision might lend itself to abuse resulting in failure of justice. I think if this provision is eliminated it will not interfere with the smooth working of special tribunals for they will always have the power to grant adjournment on suitable occasions and to refuse adjournment when they consider it unnecessary in the interests of justice. They have got that inherent power. All courts have got that inherent power even if it is not specifically provided ; but to go out of the way and to provide specifically that in no circumstances should an adjournment be granted unless it is in the opinion of the tribunal absolutely necessary for the ends of justice is quite unnecessary ; and as I said it may operate to the prejudice of the accused. We must bear in mind the very unfortunate position in which

[Pandit Lakshmi Kanta Maitra.]

the accused is placed when he is on trial, and the difficulty of his position is sure to be greatly enhanced by reason of the fact that he is not before an ordinary court but before a special tribunal charged with the special duty of administering speedy justice without recording evidence *in extenso*, except in cases where capital sentence or sentence of transportation for life can be given. In these circumstances I think that this power of refusing adjournment should not be granted. If this provision is allowed to remain there will be another danger. In entering on his defence the accused may not know at first what exactly the charge against him is and what evidence is going to be tendered against him. Until and unless he has been thoroughly posted with the charge and the evidence against him he may not be able to understand what evidence, if any, he will have to adduce to rebut the charge against him. There has been a well-established practice in the sessions courts that when an accused is first committed, whether he is on bail or not, he is asked beforehand, long before the trial commences, as to what would be his defence, if any. He gets a chance beforehand because in the lower court he knows the charge against him. In the commitment proceedings more or less a *prima facie* case is made out before he is committed and he knows the charge he will be called upon to meet and accordingly with the help of his legal advisers he is in a position, long before he is made to stand his trial before the court of session, to know the charge and be ready with his evidence. In the particular class of cases which may be brought before the special tribunal, cases which may not be penalised with death sentence or sentence of transportation for life, we have not provided for the recording of the evidence in full and he will feel considerable difficulty, if he does not get adjournment, to consult his people, his legal advisers and to send for witnesses, to give them notice and so on and so forth. I am apprehensive that the power that is sought to be given under this provision may be tantamount to a denial of defence in his case.....

Mr. President (The Honourable Sir Abdur Rahim) : It is five o'clock.
5 P.M. If the Honourable Member wants to continue, he can do so tomorrow.

Pandit Lakshmi Kanta Maitra : All right, Sir. Tomorrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 20th September, 1939.

LEGISLATIVE ASSEMBLY.

Wednesday, 20th September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

PROVISION OF WATER AND DRAINAGE SYSTEM IN KAROL BAGH, DELHI.

†250. ***Bhai Parma Nand** : Will the Secretary for Education, Health and Lands please state :

- (a) whether Government are aware of the fact that so far the Karol Bagh area is concerned, the Delhi Improvement Trust is sanctioning only the plans of those houses which provide flush latrines, etc. ;
- (b) whether it is a fact that many houses have already been completed and others are under construction ;
- (c) whether it is a fact that without the provision of water and proper drainage it is not possible to use the flush latrines so provided in the houses ;
- (d) what steps the Delhi Improvement Trust have taken or propose to take for having the water and drainage system laid in the lanes and streets of Karol Bagh where new houses have either been built or are under construction before resorting to sanctioning only such plans for houses which contain flush latrines ;
- (e) whether it is a fact that on account of the delay in the supply of water in the old and newly constructed houses, the people are greatly inconvenienced ;
- (f) how many new connections for the supply of water have been sanctioned for the Karol Bagh area by the Delhi Municipal Committee since 1st January, 1939, and how many of them are still awaiting the opening of water connections, and why ; and
- (g) whether Government propose to have the matters expedited so that people may not suffer from any delay in the Delhi Municipal Office or the Improvement Trust ; if not, what are the circumstances which prevent Government from

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

taking the action suggested and when it is likely that water connections in all the houses will be opened and when the drainage system will be in working order ?

Mr. G. S. Bozman : (a) Yes, except in the areas intended for poor class people where public water-borne latrines are provided at the expense of the Trust.

(b) and (c). Yes.

(d) Water sub-mains and branch sewers have been laid throughout the Karol Bagh area.

(e) Not that Government are aware.

(f) The figures asked for are not readily available.

(g) The water supply and drainage systems are in working order and connections can be given as and when people apply for them.

ALLEGATIONS AGAINST THE STAFF EMPLOYED AT BHOLI BHATYARI TANK NEAR KAROL BAGH, DELHI.

†251. ***Bhai Parma Nand :** Will the Honourable Member for Labour please state :

(a) whether Government are aware that a large number of residents of New Delhi, Paharganj and Karol Bagh go out for walk every morning and evening on the ridge between New Delhi and Karol Bagh where there is an open unfiltered water tank near Karol Bagh known as " Bholi Bhatyari tank " ;

(b) whether it is a fact that whenever any person happens to touch the water of the tank, to wash his hands in it or to peep over it, he is shouted at by the menials employed at the tank in the most insulting language and on protest, he is escorted to the out-houses at the tank and is given a severe beating there and at the same time the telephone on the spot is used for giving a message to the police in their self-defence ;

(c) whether it is a fact that a large number of cases of assault and rioting have occurred on this tank and in several cases, besides insulting and beating, small sums of money have been extorted from people on pain of handing them over to the police ;

(d) whether it is a fact that in some cases obstruction to the pedestrians from using the public road by the side of the tank has been caused by some members of the menial staff only recently ;

(e) whether it is a fact that the above-mentioned staff in some cases commit cognisable offence and a large number of respectable persons have often witnessed such criminal actions on the part of this staff ;

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

(f) whether it is a fact that while assaulting persons the menial staff shout that they have instructions from their *Sahab* to beat anyone, and also to inform the police in case anyone touches water or comes to the tank, and in spite of the fact that complaints have come to the notice of the departmental officers both verbally and in writing no notice has ever been taken ; and

(g) whether Government are prepared to state what action Government propose to take against the officer and his head clerk who are responsible ; if not, why not ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :
(a) I am prepared to take it from the Honourable Member that the road near the Bholi Bhatyari reservoir is a place of resort. The reservoir is not, however, open to the road ; it is in a fenced enclosure.

(b) As already explained the reservoir is in a fenced enclosure. It is not a public place ; the water is not potable ; and the reservoir is not safe for swimmers. The watchman has orders to keep the public out.

(c) Government are not aware of any such incidents.

(d) and (e). No.

(f) No. There is no basis for these allegations.

(g) Does not arise.

CONTROL OF PRICES.

252. ***Mr. H. M. Abdullah :** Will the Honourable the Commerce Member please state :

(a) whether the Government of India issued a *communiqué* warning dealers against speculation in commodities when they were contemplating bringing into force machinery to restrict profiteering ;

(b) whether it has come to the notice of the Government of India that prices of staple commodities have risen between thirty to fifty per cent. during the last few days particularly in Lahore ; and

(c) if so, whether Government propose to take immediate steps to control prices to stop the panic prevailing amongst the masses and the profiteering at present being carried on by traders ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar :
(a) A *communiqué* was issued on the 25th August, warning dealers against speculation in necessities such as foodstuffs.

(b) Government are aware that in the beginning of this month prices of certain commodities rose in many places including Lahore.

(c) The attention of the Honourable Member is invited to the notification issued by the Department of Commerce, No. 20, dated the 8th September, 1939, published in the Gazette of India Extraordinary of the same date. Copies of the Gazette are in the Library of the Legislature.

BLASTING OF ROCKS BY GUN POWDER IN KAROL BAGH, DELHI.

†253. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) whether Government are aware that quite recently (2nd August, 1939) a daughter of one Tej Khan of Naiwala (NN Block), Karol Bagh, Delhi, died in a hospital after having received fatal injuries in her head from a stone blown off as a result of the use of gun powder for blasting a hard rock under the direction of a Government contractor there ;
- (b) whether Government took any action against the contractor or his agents through whose negligence the hard rock in close proximity of the populated area was blown off and due to which the incident took place ;
- (c) whether any compensation has been paid to the girl's father ; if so, how much and by whom ;
- (d) whether Government are aware that blasting of rocks is carried out by contractors in Karol Bagh by gun powder indiscriminately and to the detriment of the life and property of the areas ;
- (e) whether any contractor or contractors were ever warned by the Central Public Works Department or the Delhi Improvement Trust for using gun powder for blasting against the terms of the contract ; if so, who were they and when each one of them was warned ;
- (f) whether it is a fact that the rates given to the contractors for the works on or near the hard rock are much higher than the ordinary one and in order to save labour, etc., they do not observe the conditions of the contract in regard to this matter ; and
- (g) whether Government are prepared to consider the desirability of stopping altogether the use of gun powder in Karol Bagh area or near about in order to save the life and property of poor people of the area ; if not, what are the reasons ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Information has been called for and will be supplied in due course.

INSTALLATION OF SANITARY FITTINGS, ETC., IN KAROL BAGH, DELHI.

†254. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) how and when the Delhi Improvement Trust proposes to enforce the installation of sanitary fittings including flush latrines, etc., in Karol Bagh area ; and

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

- (b) whether Government are aware that all the leaseholders of the plots who are having their plans for houses passed or sanctioned now are required to have flush latrines and other sanitary fittings laid down ; if so, when it proposes to order the sanitary installation in the houses already existing in Karol Bagh area and have its sanitation improved on the lines of New Delhi ?

Mr. G. S. Bozman : With your permission, Sir, I shall answer questions Nos. 254, 255, 256 and 258 together.

I have asked for certain information and will furnish replies as soon as it is received.

INCREASE IN THE RENTS OF NAZUL LAND IN DELHI.

†255. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) whether the Delhi Improvement Trust has so far revised and increased the rents payable by the lessees of the Nazul land leased out by the Nazul Officer ; if so, on what lines the increase in rents has been adopted ; if not, what would be the basis of the increase in rents and whether the Delhi Improvement Trust intends to take full advantage of the provisions of the clause in the lease that the rents on revision after first 20 years could be doubled and proposes to increase it by nothing less than cent. per cent. without inspecting the economic condition of the tenants of the localities, e.g., Karol Bagh, Shidipura, etc. ; and
- (b) whether Government are prepared to consider the desirability of not only allowing a small increase in the rents but to have lower rate of the rents fixed in cases of the disposal of new plots by the Delhi Improvement Trust with a view to helping the lower and middle classes of the population ; if not, why not ?

UNSATISFACTORY SANITARY CONDITION OF NAIWALA IN KAROL BAGH, DELHI.

†256. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) whether Government are aware that the sanitary condition of the Naiwala, Karol Bagh, is far from satisfactory and that in spite of the fact that the Health Officer, Delhi, was many a time approached and taken round, the sweepers and others not caring for any complaint or orders continue to throw rubbish around the locality and keep it very dirty ;
- (b) whether Government are aware that carcasses of animals from the city are also brought and dumped in close proximity of the locality which worsens the conditions and makes it still more unhealthy to reside there ;

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

†For answer to this question, see answer to question No. 254.

- (c) whether the desirability of bringing Karol Bagh area under the charge of the Health Officer, New Delhi, was ever considered ;
- (d) whether Government propose to issue special instructions to the Health Officer, Delhi, to see that the locality is kept clean and not allowed to be made insanitary by the dumping of rubbish, etc. ;
- (e) what steps, if any, have so far been taken by the Delhi Improvement Trust to improve the insanitary condition of Karol Bagh and particularly the area close to the ridge or near Bhuli Bhatnari ;
- (f) whether Government are aware that the dirty condition of Karol Bagh greatly affects the climate of New Delhi also and unless efforts are made to have the Karol Bagh area equally neat and clean as is New Delhi, the conditions in the latter would not improve ; and
- (g) whether Government are prepared to order the disposal of the dead animals across the Jumna river and have the sanitation of the Karol Bagh locality improved in a satisfactory way ; if not, why not ?

CREATION OF THE APPOINTMENT OF ADDITIONAL CIVIL SURGEON FOR DELHI.

†257. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) when the appointment of additional Civil Surgeon for Delhi was created and what has been the additional cost therefor per year ;
- (b) the circumstances which made the Government of India to agree to this additional appointment in these days of economy ;
- (c) whether Government are satisfied that the Civil Surgeon (Chief Medical Officer), Irwin Hospital, Delhi, has been left with sufficient original work to attend to ;
- (d) if so, how many operations—major and minor separately—were performed by the Civil Surgeon (C. M. O.) during each of the last 12 months and how the same figures compare with those of 1935 and 1936 ;
- (e) the stations in India where there are three Civil Surgeons for as much population as Delhi has ; and
- (f) whether Government are prepared to examine the case afresh and see the desirability of bringing the staff to a minimum ?

Mr. G. S. Borman : (a) and (b). I invite the Honourable Member's attention to the reply given by Sir Giria Shankar Bajpai to Mr. K. S. Gupta's starred question No. 1710 on the 14th April, 1939. The post of the Additional Civil Surgeon costs approximately Rs. 10,000 per year.

(c) Yes.

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

(d) I have asked for the information and will furnish a reply as soon as it is received.

(e) There is one Civil Surgeon for New Delhi who moves to Simla when a large proportion of the population of New Delhi also moves there. The true comparison, therefore, is as regards the two Civil Surgeons in Old Delhi. There are at least four towns with a lower population than Old Delhi where there are two senior medical officers.

(f) Government consider that the present staff is the minimum and no new facts have been brought to their notice which call for a reconsideration of the matter.

OPENING OF MORE AYURVEDIC AND UNANI DISPENSARIES IN NEW DELHI.

†258. *Mr. Suryya Kumar Som : Will the Secretary for Education, Health and Lands please state :

- (a) whether on the permanent location of the Government of India offices at New Delhi from next October, the New Delhi Municipal Committee have considered the desirability of opening more *Ayurvedic* and *Unani* Dispensaries in a place to serve the Minto Road area and the new locality behind the Model School, New Delhi ; and
- (b) if the reply to part (a) above be in the negative, whether Government propose to do so now ?

HOLDING OF AUTUMN SESSIONS OF THE LEGISLATIVE ASSEMBLY.

†259. *Mr. Suryya Kumar Som : Will the Honourable the Leader of the House please state :

- (a) whether Government are aware that the proposal to hold the autumn Session of the Legislative Assembly at New Delhi sometime after the middle of September in future would afford very little intervals between the autumn and the winter Sessions ; and
- (b) whether Government are prepared to consider the desirability of holding the future autumn Sessions from early September or the end of August ; if not, what the difficulties are ?

The Honourable Sir Muhammad Zafrullah Khan : (a) It is contemplated that future autumn Sessions will open on such date in September, whether before or after the middle of that month, as will ensure their completion by the first week of November, allowing for a break for the Dusehra holidays. Government do not consider that the interval between the two Sessions will be unduly short.

(b) The possibility of the autumn Session opening early in September is not excluded. The commencement of the Session in August would be inconsistent with the decisions of Government in regard to the Simla exodus.

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

†For answer to this question, see answer to question No. 254.

CONVENTION OF THE ANGLO-INDIAN SEAT IN THE LEGISLATIVE ASSEMBLY FROM A NOMINATED TO AN ELECTED ONE.

Mr. J. D. Boyle (on behalf of Lieut.-Colonel Sir Henry Gidney) : Will the Honourable the Leader of the House please state whether it is a fact that it is the intention of Government to convert the Anglo-Indian seat in the Central Legislative Assembly from a nominated seat, as it is at present, to an elected one ?

The Honourable Sir Muhammad Zafrullah Khan : No.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State, which reads as follows :

“ Sir, I am directed to inform you that the Council of State at its meeting held on the 18th September, 1939, agreed without any amendment to the following Bills which were passed by the Legislative Assembly at its meetings held on the 4th, 5th and 8th September, 1939, namely :

1. A Bill to provide for certain matters in connection with the taking of census ;
2. A Bill further to amend the Indian Salt Act, 1882, for certain purposes ;
3. A Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose ;
4. A Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose ;
5. A Bill to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935 ;
6. A Bill further to amend the Indian Tariff Act, 1934, for a certain purpose, and to validate the levy and collection of certain duty under that Act ; and
7. A Bill to amend the Law of Evidence with respect to certain commercial documents.”

THE DEFENCE OF INDIA BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences, as reported by the Select Committee. The House will now deal with clause 10. Pandit Lakshmi Kanta Maitra was moving his amendment No. 62* yesterday.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Sir, before the House adjourned yesterday, I was trying to show that the provision contained in sub-clause (3) of clause 10 of the Bill is not intended to further the cause of justice in as much as it would create difficulties in the way of successful defence of an accused, who might be placed under restraint, before being placed before a

“ That sub-clause (3) of clause 10 of the Bill be omitted.”

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Special Tribunal. In this connection, I pointedly drew the attention of the House to the practice that prevails in the trial of sessions cases where questions of adjournment seldom arise, as there are preliminary proceedings which rule out all possibility of asking for adjournments. But the same considerations will not apply to people who may be placed on trial before a Special Tribunal. In the elaborate provisions for the constitution of Special Tribunals as also for the trial of offences, provisions have been made in this Bill, which make a further departure from those that obtain in the Criminal Procedure Code. I do not understand, Sir, why the inherent right which all courts possess in this country of granting or refusing an adjournment should be circumscribed by a mandatory provision like this. I want to make it perfectly clear that it is absolutely necessary to see that ultimately justice is done. These provisions might promote despatch or expedition, but this will be at the cost of justice. I believe, Sir, that when we provide in a substantive sub-clause that a special Tribunal shall not be bound to grant an adjournment, however much you may try to modify it by the words that follow it, it will greatly prejudice the minds of the members of the Special Tribunal and they may be led to think that they are required to speed up trial, and not to comply with those forms of procedure which are really great safeguards for the accused in the trial of criminal offences. I think, Sir, it is not justice,—rather it is a travesty of justice,—to deprive these courts, I mean the special Tribunals, of their power of exercising free discretion by fettering them with a provision like this. It will not serve the ends of justice, rather it will end justice. Sir, there is a peculiar atmosphere, as we all know, in law courts—where the judges sit in summary jurisdiction ; they feel that they can make short work of the forms of procedure laid down and there is always a feeling of insecurity, it may be reasonable or unreasonable, in the minds of the accused,—a haunting sense of insecurity that justice will not be done. It is for that purpose, Sir, that I want the deletion of this sub-clause. Sir, mere speedy disposal of cases does not inspire confidence in the public mind when justice is not done. I am reminded of a case in which the aggrieved party pathetically shrieked out : “ *Huzoor, insaff keejeeyae* ” ; and promptly came the reply from the Court “ *Mai file-saff ke liye hun, “ Mai insaff karne ke liye nahi hun* ”. This practice of scavenging the files by Judges is not unknown in this country.

An Honourable Member : Judges also do scavenging ?

Pandit Lakshmi Kanta Maitra : I am not making any reflection, Sir, files sometimes.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot make any reflection on the Judges.

Pandit Lakshmi Kanta Maitra : I am not making any reflection, Sir,

Mr. President (The Honourable Sir Abdur Rahim) : He is making a reflection.....

Pandit Lakshmi Kanta Maitra : I am speaking of some Judges.

Mr. President (The Honourable Sir Abdur Rahim) : He cannot do that.

Pandit Lakshmi Kanta Maitra : Very well, Sir. What I say is that some judges have an inordinate zeal for speedy disposal of cases in total disregard of how it may affect the accused awaiting trial before them. Therefore, I submit that this provision is wholly uncalled for, it is redundant, and will serve no useful purpose except that it will create misapprehension in the minds of the accused. Sir, I move.

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

“ That sub-clause (3) of clause 10 of the Bill be omitted.”

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I was rather surprised to hear from the Honourable the Mover that the speedy disposal of cases causes dissatisfaction even though justice may be done.

Pandit Lakshmi Kanta Maitra : At the cost of justice.

The Honourable Sir Muhammad Zafrullah Khan : I heard the Honourable Member say, even though justice may be done.

Mr. M. S. Aney (Berar : Non-Muhammadan) : He never said that. You have misheard him.

Pandit Lakshmi Kanta Maitra : Did not the Honourable Member hear me ? I am always very loud.

Mr. President (The Honourable Sir Abdur Rahim) : But still the acoustics of the House are very bad.

The Honourable Sir Muhammad Zafrullah Khan : I agree that dissatisfaction would be caused wherever injustice is done, irrespective of the fact whether the trial was speedy or protracted, but on the question whether people prefer a protracted trial to a speedy trial one has always heard that justice delayed is justice denied. Therefore, everything that helps a speedy and efficient disposal of a case, provided no injustice is done, ought to be welcome.

Dr. P. N. Banerjea (Calcutta Suburbs : Non-Muhammadan Urban) : That is a big proviso.

The Honourable Sir Muhammad Zafrullah Khan : Does the Honourable Member object ?

Dr. P. N. Banerjea : It does not always take place.

The Honourable Sir Muhammad Zafrullah Khan : The presumption ought to be that people who are placed in these responsible positions would discharge their duties efficiently and with a full sense of their responsibility. In any case I do not see what grievance the Honourable the Mover has against the clause. It does contemplate that there shall be no unnecessary adjournments.....

Pandit Lakshmi Kanta Maitra : Where is that provision here ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already spoken. He should have taken that point.

The Honourable Sir Muhammad Zafrullah Khan : I said the clause does contemplate that there shall be no unnecessary adjournments.

Pandit Lakshmi Kanta Maitra : I wanted to know from the Honourable Member where that provision is which he is referring to. I am perfectly entitled to ask him that.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already made his speech.

The Honourable Sir Muhammad Zafrullah Khan : Very good. If the Honourable Member thinks that that meaning does not underlie the clause, may I assume the contrary that the clause contemplates that there will be unnecessary adjournments, in which case the Honourable Member can have no objection to the clause. I was stating his objection and I suppose that is the grievance—that the clause contemplates that ordinarily there will be no adjournments, but it does provide that where in the opinion of the tribunal it is necessary to adjourn a trial in the interests of justice an adjournment shall be granted. Expressed in that way, I really do not see what grievance the Honourable Member has. Does he want that ordinarily there shall be adjournments whenever the accused person says that the trial should be adjourned for his convenience ? He has raised one specific point that an accused person when he hears the substance of the prosecution case against him will not know how to meet the charge and, therefore, will not be able to cite and summon his witnesses. I am certain that whenever that contingency arises there is bound to be an adjournment to enable the accused person to put in a list of his witnesses and to have them summoned to give evidence. That is one of the cases where the interests of justice will require that there should be an adjournment. There has been a good deal of criticism of judges and magistrates during the course of these debates, but, after all, we must assume that, though possibly there may be some irregularity, occasionally, —human frailty I suppose is to be met with in all walks of life—the ordinary, normal, presiding judge in a court will do his duty conscientiously. That being so, and adjournments being provided for wherever the interests of justice demand, I do not think that anything further is necessary.

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

“ That sub-clause (3) of clause 10 of the Bill be omitted.”

The motion was negatived.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I beg to move :

“ That part (iii) of sub-clause (7) of clause 10 of the Bill be omitted.”

This clause lays down the procedure which will be adopted by the tribunal. It is said :

“ The Provincial Government may, by notification in the official Gazette, make rules providing for—

(iii) the procedure generally to be followed by Special Tribunals, where no procedure is prescribed by this Act.”

Two points arise. One is whether the Bill has provided the procedure which will be adopted by the tribunal, and the second would be whether this Bill has made any provision in case no procedure is prescribed,—what procedure to follow, whether any provision has been made with regard to that absence of procedure also. If both are laid down in this Bill, then I do not think that there is any necessity for empowering the Provincial Governments to make rules when there are no rules, as the Bill itself provides for that. On the first point whether a procedure and an exhaustive procedure has been provided for the tribunals in this

[Mr. Lalchand Navalrai.]

Bill or not, we find the procedure laid down here,—how this tribunal will be constituted, how it will sit and where and at what time it will sit. Further, it is provided how they will conduct the cases and take down evidence—that has also been provided, though in a summary manner, with some exception in cases where the offence is punishable with death or transportation. Then, coming down, we find procedure regarding adjournments. Then, we find that if the accused does not appear, then also there is a procedure laid down. Then, in case of a difference of opinion between the members of the special tribunal there is a procedure laid down. Then, it is also laid down what procedure should be followed if an accused is prevented from attending throughout the trial. Therefore, I submit that almost all the procedure has been laid down. There is a second point also which conclusively answers the proposal that this new amendment giving power to the Provincial Government does not arise at all. If you read sub-clause (8) of this clause, you will find that the special tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or the rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates. Consistently with this, my second amendment comes in, “or by rules made thereunder” being omitted. I say, this part (iii) is redundant and unnecessary.

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

“That part (iii) of sub-clause (7) of clause 10 of the Bill be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : I accept the amendment. There will have to be a consequential amendment, transferring the “and” at the end of sub-clause (ii) to the end of sub-clause (i).

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

“That part (iii) of sub-clause (7) of clause 10 of the Bill be omitted.”

The motion was adopted.

Sir George Spence (Secretary, Legislative Department) : Sir, I move as a consequential amendment :

“That in sub-clause (7) of clause 10, the word ‘and’ at the end of part (ii) be transferred to the end of part (i).”

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

“That in sub-clause (7) of clause 10, the word ‘and’ at the end of part (ii) be transferred to the end of part (i).”

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I move.....

The Honourable Sir Muhammad Zafrullah Khan : May I point out that this is not really consequential. There are still parts (i) and (ii) under which rules may be made.

Mr. Lalchand Navalrai : Then, I do not move this amendment.

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

“That clause 10, as amended, stand part of the Bill.”

Sardar Sant Singh (West Punjab : Sikh) : Sir, though a small mercy has been shown by the Government in accepting the amendment just now moved by my colleague, Diwan Lalchand Navalrai, and though some amelioration has been done by accepting the amendment of Sir Muhammad Yamin Khan yesterday, where it has been made incumbent upon the special tribunals to take down the evidence at length in certain cases punishable with more serious punishments, yet I find myself unable to agree to the clause as it stands. I will oppose this clause not because I want to unnecessarily obstruct the passage of this Bill but because I find myself unable to support a tribunal which refuses to record the evidence of the witnesses in full. My experience at the bar....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has told his experience so often that everybody remembers it.

Sardar Sant Singh : I am entitled to bring to the notice of the House my experience of the summing up of the evidence and the later developments of interpretations which are placed upon the evidence when the case comes to be summed up both by the presiding officer as well as the counsel on either side. Certain points which are regarded as of very little importance during the course of the trial come to play a deciding part in the disposal of the case one way or the other. Therefore, I am not irrelevant or out of order when I say that the recording of the evidence in full is a matter of vital importance both for the prosecution as well as the defence.

My Honourable friend, the Leader of the House, from his long experience at the bar, must be aware that a proper appreciation of the evidence is only possible when the judge or counsel sits at home and reads the whole evidence in a connected form. In my own experience, many judges, when they came prepared fully with the record of the case, discover that they did not pay full attention to a particular point which proved to be of the utmost importance and turned the scale one way or the other. In a recent murder case, the judge had come fully prepared with the records and yet a simple point in the *post mortem* examination brought out in the medical evidence was omitted by him. The stomach of the murdered person was found full of slightly digested food. The judge did not pay attention to this small matter in the evidence of the medical man. Ultimately, in cross examination, it was brought out from the eye witnesses that the deceased had not taken food at the time when he was alleged to have been murdered. Later on, by comparing the medical evidence with the statement of the alleged eye witnesses it was proved to the satisfaction of the judge that all eye witnesses were making a false statement and that the time and place of the murder were found to be absolutely false. This small piece of evidence turned the scales in favour of the accused. Now, here is a point which might have been considered an irrelevant piece of evidence but which was of the utmost importance in deciding the fate of the case one way or the other. But that was a piece of evidence that turned the scale in favour of the accused and against the prosecution and proved the prosecution version to be false. So, Sir, to say that the tribunal will be of such an all-embracing intellect and of such an all-embracing intelligence that they would not miss any point and would appreciate the trend of the cross-examination of the

[Sardar Sant Singh.]

defence counsel or of the examination of the public prosecutor is to say something which is not correct in fact. Therefore, so long as this provision remains in this clause that the tribunal shall not be bound to take in full the evidence of the prosecution witnesses or defence witnesses, my submission is that this will amount to a dangerous and a mischievous provision. In the face of such a provision I would not like to support this clause and I, therefore, oppose this clause as it stands.

The Honourable Sir Muhammad Zafrullah Khan : Sir, it is rather hard to be accused by Sardar Sant Singh of failure to respond to non-official suggestions with regard to this clause when the actual situation is that only three amendments were moved to this clause, all from non-official Benches, two of which have been accepted by Government, and the only one that Government have been unable to accept was an amendment to the clause which provides that there shall not be unnecessary adjournments. I really do not see what grievance the Honourable Member has over the attitude of Government in respect of this clause.

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

“ That clause 10, as amended, stand part of the Bill.”

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clauses 11 and 12 were added to the Bill.

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

“ That clause 13 stand part of the Bill.”

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That for sub-clause (2) of clause 13 of the Bill the following be substituted :

‘ (2) The provisions of sections 410, 418, 419, 420, 421, 422, 423, 426, 428, 429, 430 and 439 of the Code ‘.....’

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member does not say what Code or what Act ?

Pandit Lakshmi Kanta Maitra : The Criminal Procedure Code. Sir, I move :

“ That for sub-clause (2) of clause 13 of the Bill the following be substituted :

‘ (2) The provisions of sections 410, 418, 419, 420, 421, 422, 423, 426, 428, 429, 430 and 439 of the Criminal Procedure Code shall apply to sentences passed by the Tribunal ‘.”

Sir, on the subject-matter of this amendment we have already had a very detailed general discussion in connexion with the other amendments just disposed of. So I simply move this amendment now. Sir, I move.

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

“ That for sub-clause (2) of clause 13 of the Bill the following be substituted :

‘ (2) The provisions of sections 410, 418, 419, 420, 421, 422, 423, 426, 428, 429, 430 and 439 of the Criminal Procedure Code shall apply to sentences passed by the Tribunal ‘.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, the attitude of Government in regard to this motion has been made sufficiently clear during the debate, but, incidentally, I might point out that the acceptance of this amendment would render some of the other provisions of the Bill which have already been accepted by the House inconsistent with this clause, for instance, sections 426 and 428 which refer to revision and appeals.....

Mr. M. S. Aney : That has yet to come—about appeals ?

The Honourable Sir Muhammad Zafrullah Khan : But apart from that, whether they would or would not be inconsistent, Government feel that the modifications which they have made in the procedure in the clauses are absolutely necessary.

Sardar Sant Singh : Sir, clause 13 of the Bill is sub-divided into three sub-clauses. I have no quarrel with the first clause. As regards the second clause, this is one of those clauses which takes away the right of appeal,—not only the right of appeal but the right of revision even, and it supersedes the jurisdiction of the High Court in its entirety. The amendment of my Honourable friend relates to the application of those sections of the Criminal Procedure Code which deal with the provisions relating to appeals from the convictions of a subordinate trial court to a higher court. I do not think the Honourable the Leader of the House was right in saying, when he referred to the fact that this amendment is inconsistent with any of the provisions referred to already.....

The Honourable Sir Muhammad Zafrullah Khan : I corrected myself.

Sardar Sant Singh : We made it clear on the point that all the sections quoted in this amendment refer to the right of appeal and the right of revision against the order passed by the trying magistrate. There are two aspects of this question. One aspect is this, that the very existence of a right of appeal against the orders of a trial court has a salutary effect, a salutary check upon the idiosyncracies of a trying magistrate. If some of those idiosyncracies have not been found in the trial of the most executive-minded officer, this is due to the existence of this check in the Criminal Procedure Code. Again, there are occasions when in the hurry of the moment or in the heat of the atmosphere prevailing all round on account of certain circumstances that have arisen in the country, the trying magistrate thinks that he is doing right and probably he might be honestly feeling that he is doing right, but he does not do justice in the sense of what is called legal justice. He may be influenced by extrajudicial considerations, by information received from sources other than those brought to him in the course of the trial and, thus, in his zeal of doing substantial justice or sometimes mis-named moral justice, he may be doing injustice in reality to the accused. Therefore, Sir, the existence of a provision of appeal against this order is a salutary check upon such idiosyncracies.

The second point in respect of this question is that human institutions are fallible at the best. The most conscientious magistrate may err. To err is human, and for this purpose it is necessary to provide for revision or for review of the orders passed by such a magistrate. No doubt there will be cases in critical times when the ordinary functions of a court may be reduced to a more speedy method, but that

[Sardar Sant Singh.]

speedy method does not mean that we should arm the Executive with powers which are not necessary. I hope the Government of India will agree with me that they are not in favour of doing away with the judicial methods entirely. They may need summary trials, they may need quick disposal of cases, but not with a view to doing injustice to persons brought before such courts. Therefore, Sir, looking at it from all aspects it is absolutely essential not only for the accused alone but for the executive Government, in their own interests, that they should have this healthy check and safeguard provided in the Bill itself. The present provision is of such a drastic nature that one fails to understand how this provision will help the prosecution of the war. No doubt, a concession was made in the Select Committee and we find in the clause as it stands now that the right of appeal has been conceded in cases where the sentence of death or transportation for life has been passed. But may I ask why the same concession should not be allowed where the sentence of ten years' rigorous imprisonment or even five or seven years' rigorous imprisonment is passed? Is the duration of imprisonment and the restriction of liberty which it involves are so negligible factors that there should be no right of appeal or correction by the higher court? After all, why should the Government of India distrust their own judiciary sitting in the highest court in the land. I mean, the Judges of the High Courts.

The Honourable Sir Muhammad Zafrullah Khan : You do not trust them.

Sardar Sant Singh : It is all very well for the Honourable Member to say that I do not trust the High Court Judges.....

The Honourable Sir Muhammad Zafrullah Khan : What is the use of taking an appeal to a Tribunal which you do not trust?

Sardar Sant Singh : It ill suits the Government of India to say that they have no faith in the Judges of the highest courts in the land.

The Honourable Sir Muhammad Zafrullah Khan : The Government of India have complete faith not only in the Judges of the High Courts but also in the Judges who may be appointed to these Special Tribunals.

Sardar Sant Singh : I am glad to hear that the Government of India have been cornered into making a statement that they have complete faith in the Judges of the High Court. Then, why not allow this right of appeal? What prevents you from doing it?

The Honourable Sir Muhammad Zafrullah Khan : Because you have no trust in them and you would not be satisfied even then.

Sardar Sant Singh : I may tell you that I have very little faith in the Judges in India when they are trying political cases.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not go on discussing the Judges like that.

Sardar Sant Singh : Sir, when the Leader of the House invites a reply, what else can I do?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must not cast any reflection on the Bench. It is against the rules.

Sardar Sant Singh : Very well, Sir. Apart from this wordy tug-of-war with the Leader of the House I want to ask him if he has faith in the Judges of the High Courts, why does he not provide the right of appeal to the High Court? What prevents him from giving us the right of appeal? We want the right of appeal to the Judges in which they say they have faith, but their conduct is just the reverse of their professions. They profess one thing and do another thing. How do they reconcile the two positions? We do not want anything else. We have agreed to the curtailment of the procedure: we have agreed to the doing away of the commitment proceedings: we have agreed to many other things in their interests: and yet they are not agreeing to give us a right of appeal to the very Judges whom they have appointed and in whom, they say, they have faith. This position is inconsistent. Therefore, I say that if they really mean what they say, then their professions ought to be consistent with their conduct and they should accept this amendment and grant us the right of appeal to the Judges. My submission is that this is a provision which safeguards to a great extent the liberties of the people. This is a provision which safeguards the public from the acts of terrorism that may be committed in the name of the Defence of India Act as they were committed under the Defence of India Act of 1915. I want to see that they should go on with the successful prosecution of the war. I have no quarrel with them on that point. I have made this point abundantly clear today and yesterday. But I do not want under the guise of the successful prosecution of the war for which this Defence of India Act is apparently meant that they should terrorise my countrymen in India. I, therefore, ask them once more with vehemence to reconsider their position. They cannot expect us to hand over our country to a regime of military law or martial law under the pretence of the successful prosecution of the war. We are willing to go with them on that point as far as we can but we are not willing to hand over the country to martial law. I would ask the Government of India to be more responsive, to be more considerate of the feelings of the people, and to be more judicially-minded than they are at present. Therefore, I would say that this is an essential and a vital amendment and we on this side of the House regard it as a matter of great importance. On this point we are at one with the amendments tabled by the Muslim League Party and I am sure the Muslim League Party will now get up and support this demand of ours for a right of appeal against all sentences, irrespective of the fact whether they are for a few years or whether they are for transportation of life or death. Sir, I support the amendment.

Mr. M. S. Aney : Sir, this is a very crucial clause. I can understand an emergency measure providing the doing away with the detailed procedure and with provisions that are likely to delay the justice. I can understand all that, but if we are anxious that, in spite of the handicaps that exist, the Special Tribunals should mete out justice, then there must be some kind of safeguard provided in the Act itself. It has been already argued that the right of appeal by itself is an immense check and that the judgment which a particular Judge is going to write is likely to be appealed against before some other Tribunal has a very salutary effect upon the Judge himself and, therefore, he is in a way required to look into the matter more carefully than he would otherwise be inclined to

[Mr. M. S. Aney.]

do. When a man knows that whatever he does is final, then it all depends upon the temperament of the man how to deal with the matter. If he is really a judicially-inclined man, he might see that there is an immense responsibility hanging on him and he will very conscientiously go into the whole matter. But if he is a light-hearted man, as sometimes we find some Judges to be, then he may not be inclined to look into the matter so seriously as he should do. Therefore, the right of appeal is an important thing. As a matter of fact, the importance of the right of appeal has been recognised in a way by the Select Committee itself. If we have to put implicit confidence in the presiding Judges, where was the need for providing a right of appeal in the case of those accused persons who will be sentenced to transportation of life and death? So, it is recognised that at least in certain cases it becomes necessary that the right of appeal must be conceded. It implies that the possibility of an error of judgment does exist and, therefore, a safeguard in the shape of a right of appeal is deemed necessary. Therefore, I want to know from my Honourable friend, the Leader of the House, as he found it necessary to provide for some kind of right of appeal in the case of certain accused who will be tried by the special tribunal, whether he would extend his mind a little further and apply the same kind of reasoning and then I am sure he will see that it is also necessary to provide for appeal in the case of other accused who will be awarded punishment of imprisonment, short of death or transportation for life. Even if his broad-mindedness and sense of justice, sitting as he is as the custodian of the precious lives of the people, do not permit him to go so far as to provide a right of appeal, I expect that he would at least grant the right of revision to people who will be awarded such punishment. Some such amendment should have been brought by him at least to meet the ends of justice, but I find that he is sitting adamant, he is sitting tight in his seat and he is not thinking of the matter at all. I want him to consider carefully the arguments which induced him to grant the right of appeal in the case of an accused who will be given transportation for life or death sentence. If he sees some good reasons behind it why does he not think that at least a right of revision should be left open to those who will be awarded similar punishment because, thereby, he concedes the possibility that the Special Tribunal is likely to commit an error of judgment. If the Special Tribunal can commit an error of judgment in the case of those who are sentenced to death or transportation for life, it is the same Tribunal which must be considered to be possessed of the same weakness which may lead it to commit the same error of judgment in the case of the other accused also. I appeal to my Honourable friend, the Leader of the House, to see that this precious right of revision at any rate is conceded in this provision. If he cannot show a concession like that, then it would be necessary for us to think what we should do with this Bill as a whole. In the absence of any safeguard like that, I think it is impossible to leave matters as they stand and to delude ourselves into the belief that we have done justice to the people who will be unfortunate enough to be tried by this Special Tribunal. I have thrown the hint and I leave it to the Honourable the Leader of the House to take up that hint or reject it as he has done before in regard to so many of our suggestions.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I want to make one short observation. The safeguards contained in these sections of the Criminal Procedure Code enumerated in this amendment have always been considered to be essential to the protection of the accused even when they are tried under the ordinary procedure in an ordinary court of law normally. Therefore, I think these safeguards are all the more necessary in summary trials by summary courts.

(At this stage, Mr. Umar Aly Shah got up to speak.)

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not in his seat and he cannot address the House except from the seat allotted to him.

The question is :

"That for sub-clause (2) of clause 13 of the Bill the following be substituted :
(2) the provisions of sections 410, 418, 419, 420, 421, 422, 423, 426, 428, 429, 430 and 439 of the Criminal Procedure Code shall apply to sentences passed by the Tribunal."

The Assembly divided.

AYES—8.

Aney, Mr. M. S.
Banerjee, Dr. P. N.
Datta, Mr. Akhil Chandra.
Lalchand Navalrai, Mr.

Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Parma Nand, Bhai.
Sant Singh, Sardar.

NOES—43.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Aiyar, Mr. T. S. Sankara.
Bewoor, Sir Gurunath.
Bhandarkar, Mr. K. Y.
Boyle, Mr. J. D.
Bosman, Mr. G. S.
Buss, Mr. L. C.
Campbell, Mr. D. C.
Caroe, Mr. O. K.
Clow, The Honourable Sir Andrew.
Crofton, Mr. D. H.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Hodson, Mr. D. C.
James, Mr. F. E.
Kamaluddin Ahmed, Shams-ul-Ulema.
Khaleeli, Mr. A.
Khan, Mr. N. M.
Khurshaid Muhammad, Khan Bahadur Shaikh.

Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Miller, Mr. C. O.
Mudaliar, Mr. C. N. Muthuranga.
Mukerji, Mr. Basanta Kumar.
Nehru, Mr. B. K.
Rahman, Lieut.-Colonel M. A.
Raisman, The Honourable Sir Jeremy.
Roughton, Mr. N. J.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Kadir Muhammad.
Sheehy, Mr. J. F.
Shor Muhammad Khan, Captain Sardar Sir.
Sivaraj, Rao Sahib N.
Spence, Sir George.
Sukthankar, Mr. Y. N.
Talukdar, Mr. J. N.
Thorne, The Honourable Mr. J. A.
Wakely, Mr. L. J. D.
Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

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Pandit Lakshmi Kanta Maitra : Sir, before Mr. Lalchand Navalrai moves his amendment No. 66, I may be allowed to move my amendment which provides for appeals against any sentence of imprisonment exceeding five years. If mine is carried, the other one may not be necessary.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not know if Mr. Lalchand Navalrai wishes to move his amendment or not.

Mr. Lalchand Navalrai : Yes, Sir, I will surely move it. But before doing so I should like your permission to move another amendment of one or two words in the clause. I submit that after the word "a person" in the first line of clause 13 (2).....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has not given notice as required, and cannot move it.

Mr. Lalchand Navalrai : Sir, I move :

"That in sub-clause (2) of clause 13 of the Bill, after the word 'life' the words 'or imprisonment for a term which may extend to ten years' be inserted."

This clause gives the right of appeal to persons sentenced to death or transportation for life. My amendment, if accepted, would give that right also to persons sentenced to imprisonment extending to ten years.

The Honourable Sir Muhammad Zafrullah Khan : Which may mean everybody.

Mr. Lalchand Navalrai : No, it will not be everybody. It is said every now and then that Government are not going against the public, but doing justice. In the name of that justice, I ask whether this amendment should not be given due consideration. There are several clauses of this Bill where the sentences of death, transportation for life and ten years' imprisonment have been provided, e.g., in clause 5 and clause 6 (b) (1), for the offence of waging war against the King, etc. These three kinds of punishment are intended to be alternative. And when we find that there is not much differentiation between one and the other, why should there be this differentiation in the matter of appeal? Transportation for life is almost as severe as ten years' imprisonment. We are told that transportation for life is equivalent to 14 years, and, with remissions for good conduct and so forth, it comes generally to about 12 years or even less,—may be about 10 years. When transportation for life is given, there is a right of appeal, but if you give him ten years, then he has no right of appeal. There is another anomaly here. The words in the clause are "sentenced to death or transportation for life". If they had put in the words "punishable with" for the words "sentenced to", then it would have been very much better, because there would have been a right of appeal, even if the actual sentence given is ten years. I cannot understand why you do not give a right of appeal for a sentence of ten years. In the very beginning, a judge might have made up his mind beforehand and say to himself "If I give a sentence of death or transportation for life, I shall have to record the evidence *in extenso* and there will be a right of appeal. I shall, therefore, give ten years to avoid all this". I do not say that judges are not conscientious, but you are putting this sort of thing into their heads and making this loophole; and, being human, they might think like this: why, therefore, leave this loophole there?

The system of the Bill has been altered slightly and an amendment has been accepted whereby the judge shall have to record evidence even in the case of an offence punishable in the alternative with ten years—the evidence must be recorded *in extenso*: that was the amendment of Sir Muhammad Yamin Khan. The wording of the amendment is "punishable with death or transportation for life". Not having these words in this clause 13 would mean that it is only when a man is sentenced to death or transportation for life that he is entitled to appeal. According to the amendment that has been accepted, the judge will have to record the evidence even if the actual punishment awarded is only ten years. But, under this clause, he will have no right of appeal. What is the evidence then recorded for? There is some inconsistency in this. It is no use adducing more arguments, because arguments may or may not weigh, but justice should weigh, and I submit this amendment of mine is very important and should be accepted by Government. I have not lost hope, because sense will prevail after all, and it does not stand to reason that when you have provided for appeal in those cases, you should not give the same right in cases of imprisonment for ten years. The same system should be laid down and there should be an appeal in the case of sentences for ten years. Sir, I move.

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

"That in sub-clause (2) of clause 13 of the Bill, after the word 'life' the words 'or imprisonment for a term which may extend to ten years' be inserted."

Mr. Umar Aly Shah (North Madras : Muhammadan) : Sir, I rise to support Mr. Lalchand Navalrai's amendment. I do not want to crush British imperialism or the domination of British privilege. War has broken out, and since it may affect India, we are also ready to help the British Government with our brave and martial classes, particularly those 12,000 disciples who are in the spiritual field of culture sought to be developed by me in all the twelve districts of Andhra Desa, out of the 24 districts of the Madras Presidency.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member will speak to the amendment.

Mr. Umar Aly Shah : Speaking on behalf of the great Andhra districts from which I come, I am saying that I have received a message from the Divine Being that our British Government would win in the present war.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member's speech is not relevant. He must speak to the amendment before the House.

Mr. Lalchand Navalrai : He says that if my amendment is accepted, the war will come to an end.

Mr. Umar Aly Shah : The spiritual sphere contains many difficult questions which I need not detail here. The Honourable Sir Ramaswami Mudaliar does understand them. I cannot express them properly to the understanding of this House.

[Mr. Umar Aly Shah.]

The next thing is that this Bill contains 19 clauses and some were amended in the Select Committee; but, unfortunately, the Government did not take any steps.....

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot allow the Honourable Member to go on like that. If he has anything to say on the amendment, he can do so.

Mr. Umar Aly Shah : This is a life and death struggle....

Mr. President (The Honourable Sir Abdur Rahim) : Life and death struggle has nothing to do with this amendment. The Honourable Member cannot go on like that : he must speak to the amendment.

Mr. Umar Aly Shah : Yes, Sir. Ten years' imprisonment or transportation for life or hanging are all very severe punishments; and a judicial officer has to see that in all these cases innocent people are not punished. I say that as soon as the war is over, this Bill should be rejected and thrown out. I do not want the experiences of the Rowlatt Act to be repeated in this country in the name of an emergency, even after the emergency ceases. The Defence of India Act passed by the Imperial Legislative Council continued to be in force for two years after peace was concluded. I do not want this to happen with the present Legislature. Sir, I support the amendment.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I have not been able to follow what the object of the amendment is. The amendment, if accepted, would make the clause read :

"A person sentenced to death or transportation for life or imprisonment for a term which may extend to ten years shall have a right of appeal".

As it stands, it does not make sense, but the Honourable Member may have in his mind one of two objects in moving this amendment. One object may be, as his speech seemed to suggest, that sentences passed under clause 5 should all be appealable. He says there are three sentences provided for in that section, death, transportation for life and imprisonment which may extend to ten years, and he says : it is illogical that you should provide an appeal against a sentence of death and against a sentence of transportation for life, but should not provide an appeal against a sentence of imprisonment which may extend to ten years. He, therefore, says a sentence of imprisonment which may extend to ten years should be subject to appeal. That may be one meaning, but the implication of that is that, if a sentence of six months or one year, or two years or three years is imposed under that clause, the sentence should be appealable.....

Mr. Lalchand Navalrai : Which is impossible.

The Honourable Sir Muhammad Zafrullah Khan : It is not impossible.

Mr. Lalchand Navalrai : It is impossible to expect that there will be a sentence for six months.

The Honourable Sir Muhammad Zafrullah Khan : Certainly not, but shall we say for two, three or four years ?

I merely want to know what the meaning of this amendment is. Is the meaning this, that any sentence imposed under this section should be subject to appeal, or is the meaning this, that when a sentence of ten years' rigorous imprisonment.....

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Does it not refer to section 5 exclusively ?

The Honourable Sir Muhammad Zafrullah Khan : The amendment does not refer exclusively to clause 5, but the Honourable the Mover as an illustration referred to clause 5 and said this clause prescribes three kinds of punishments, namely, death, transportation for life, or imprisonment for a term which may extend to ten years.

Mr. Lalchand Navalrai : Will the Honourable Member accept the amendment if it extends not to ten years.....

The Honourable Sir Muhammad Zafrullah Khan : I am replying to the Honourable Member on both assumptions. My first point is, if the meaning is that there should be a right of appeal against all sentences passed under clause five, then he is seeking to give a right of appeal even in cases where the sentence may be any term of imprisonment say to one, two, three, four, five or six years in which case the serious difficulty which arises is this. The appeal, according to the Honourable Member, would then lie to the High Court, and if that is the meaning of the amendment, then not only under clause 5, but against all sentences of imprisonment passed by a special tribunal there will be an appeal to the High Court.....

Mr. Lalchand Navalrai : For such an offence so serious as that ?

The Honourable Sir Muhammad Zafrullah Khan : The question is not about the offence being so serious. The Honourable Member must know that, whatever the seriousness of the offence, appeals under the Criminal Procedure Code, are regulated either with reference to the sentence imposed or with reference to the court which imposes the sentence; and, ordinarily, appeals against a sentence of imprisonment up to four years lie to the Sessions Court, and not to the High Court.....

Sir H. P. Mody : May I ask a question, Sir ? Are there any offences which are punishable with imprisonment extending to a period of ten years which are not covered by section 5 ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, there may be. I would draw the attention of the Honourable Member to clause 9 (b).....

Mr. Lalchand Navalrai : But not along with transportation.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has made his speech.....

The Honourable Sir Muhammad Zafrullah Khan : There may be some.....

Mr. Lalchand Navalrai : With transportation or death—there is no lesser sentence—coupled with that. That is what I am drawing the attention of Sir Homi Mody.....

The Honourable Sir Muhammad Zafrullah Khan : The second part of clause 9 empowers a Provincial Government to direct that any offence punishable with seven years' imprisonment or more may be transferred for trial to a Special Tribunal, and, therefore, all sorts of cases might arise. Consequently, there would be a right of appeal against sentences passed by a Tribunal in all cases to a High Court. The High Courts would be snowed under by criminal appeals from Special Tribunals. On the other hand, if the object of the amendment is that against a sentence of ten years' imprisonment, there should be an appeal, then may I use the argument of the Honourable the Mover himself, not that I am afraid that that would happen, there may be sentences of nine years' rigorous imprisonment only. But the real point is this, apart from the meaning of the amendment: the constitution of these Special Tribunals is designedly such that there must be at least one member who is qualified for appointment as a High Court Judge, and if there is only one such member, then at least one other member must have exercised judicial powers as a Sessions Judge or as an Additional Sessions Judge, Chief Presidency Magistrate or Additional Chief Presidency Magistrate. A Special Tribunal will be so constituted because the whole scheme of the Bill is that there should be no right of appeal. The main safeguard against the possible vagaries of the kind of Magistrate to whom Sardar Sant Singh referred, is that there would be three Judges, two of whom will be qualified in that manner, and the third will be a person who has had at least three years' experience as a District Magistrate or as an Additional District Magistrate. It was because there was originally in the Bill no right of appeal that that was laid down as the composition of a Special Tribunal. And in addition now a most valuable concession,—even Sardar Sant Singh described it as a valuable concession in his minute of dissent.....

Sardar Sant Singh : I qualified it to some extent.

The Honourable Sir Muhammad Zafrullah Khan : I had better quote him :

“ We could secure only one valuable right of appeal against the orders of the Tribunal inflicting sentence of death or transportation for life, the wishes of the elected Members of the Congress Nationalist Party and the Muslim League Party on other matters of major importance were defeated by the casting vote of the Chairman..... ”

Sardar Sant Singh : May I ask you to refer to clause 1 ?

The Honourable Sir Muhammad Zafrullah Khan : I am not implying that Sardar Sant Singh did not desire that there should be a right of appeal in all cases. I am saying that, in spite of the original scheme of the Bill being that there should be no right of appeal, a valuable concession was made in providing for a right of appeal in cases where the sentence was death or transportation for life.

Mr. Lalchand Navalrai : Is not this valuable—ten years' imprisonment ?

The Honourable Sir Muhammad Zafrullah Khan : I suppose the reason why on this amendment no Honourable Member has referred to that supposed model of emergency legislation, the Defence of India Act, 1915, is that the Defence of India Act, 1915, did not grant a right of

appeal in any case whatsoever, and, therefore, in this respect the present measure goes much further. One point that was sought to be made by the Honourable the Mover of the amendment was, “ you have in clause 9 said that evidence shall be recorded *in extenso* where the offence under trial is punishable with death or transportation for life. Here you have granted the right of appeal only against a sentence of death or transportation ”. The reason for this difference is perfectly obvious. Evidence has to be recorded before a conviction is arrived at or a sentence is awarded. At that stage the Tribunal can have no idea whatsoever as to who may or may not be convicted at the end of the trial, and in case of conviction what the sentence may be. Therefore, the only manner in which you can provide that in certain cases evidence shall be recorded *in extenso* is by laying down that that shall be done where the offence is punishable with such and such a punishment. But when the state of appeal is reached you know exactly what you are appealing against, and, therefore, it is quite safe to provide that appeals shall lie against certain sentences and that is always the manner of providing for an appeal. I would, therefore, submit that the concession already made is an extremely valuable concession. So far as I am aware, whenever special Tribunals have previously been set up, there has never been a right of appeal at all. I oppose the amendment.

Sir H. P. Mody : I understand that the Honourable the Leader of the House is opposed to the amendment because, as it is worded, it would make appealable an offence which might, after all, be of a fairly trivial character and be punished with imprisonment for six months or a year.

The Honourable Sir Muhammad Zafrullah Khan : No,—on both grounds, I have said that.

Sir H. P. Mody : I hope he is not suggesting that an offence of a very grave character, such as is implied in clauses 5 and 6, namely, an offence committed by a person with intent to wage war against His Majesty or to assist a State at war with His Majesty,—such an offence should not be appealable in any circumstances. If my Honourable friend, Mr. Lalchand Navalrai, had only added these words in his amendment “ as covered by section 5 and section 6 ”, then he would have brought within the purview of his amendment only offences of a very grave character, and I submit that Government would be extremely unreasonable in opposing such an amendment. It may be that they have made valuable concessions in the Select Committee. That shows that they have approached this legislation in a reasonable state of mind, but it does not mean that after the Select Committee stage had been passed they should close their minds and hearts to every argument that may be adduced in favour of further amendment. This Bill is of a very drastic character. The country is submitting to it very willingly on the whole, and I submit that the Government would be well advised in themselves initiating an amendment of the character I have suggested, even if it was not covered by anything that my Honourable friend may have placed before the House. After all, offences which are punishable with a sentence of ten years, and which have been committed with intent to wage war against His Majesty or to assist any State at war with His Majesty are extremely serious and the accused person should have a right of appeal in those cases. I suggest

[Sir H. P. Mody.]

to my Honourable friend that he himself should ask your leave, Mr. President, to amend the amendment, and to allow an appeal in very serious cases.

Mr. M. S. Aney : I have listened to the arguments of the Honourable the Leader of the House with the utmost attention, but I fail to see the distinction that he was trying to draw between offences whose punishment may extend to ten years and offences covered by clause 5. I see the amendment, as it is, is likely to bring in cases which are not covered by clause 5; I concede that. I want you to bear in mind as to what right of appeal really constitutes. What is the exact meaning of right of appeal? It is not intended for mitigation of punishment; it is intended for clearing the man of his conviction for an offence. If a man who is likely to be punished under clause 5 is guilty of a very heinous offence, then I submit that the Leader of the House should concede that it is a fit case for allowing that man to go in appeal whether the punishment is death or transportation for life or any period that may extend to ten years, because even if he is punished for a lesser period the guilt of the man is there and he has no remedy to get himself acquitted of that offence at all. I submit that in conceding the principle of appeal against transportation the Leader of the House was conceding this fact that here is a heinous offence and the man must have an opportunity of going in appeal and getting his character cleared before a High Court or such other court as will, in due course, be entitled to hear the appeals. Therefore, inasmuch as the right of appeal is conceded in law, not on the ground of quantum of punishment that is given, but on the ground of the nature of the offence of which a man is convicted,—if that principle is conceded I think the Leader of the House will be doing a proper service in allowing this amendment to be amended in the way in which my Honourable friend, Sir Homi Mody, has suggested, namely, putting in clauses 5 and 6 so that cases of heinous offences only shall be deemed appealable and no further cases shall be deemed appealable in that way. The second difficulty which the Leader of the House suggested was: "Here is a peculiar kind of tribunal that is set up, and if a man is punished for this heinous offence for a period, say, two or three years, who shall hear the appeal? Under the ordinary Criminal Procedure Code, if that is to be applied here, a judge, other than the High Court, will be entitled to hear the appeal." But he forgets that the right of appeal provided in the Criminal Procedure Code lays down that an appeal shall be made to a particular judge if it be from the judgment of a particular kind of court. There is no provision whatever in the Criminal Procedure Code to govern the right of appeal against judgments given by Special Tribunals at all. It is not merely the period of punishment that determines it, it is the kind of the tribunal that awards the punishment which should be taken into consideration in fixing the right of appeal to the different courts. So, here, as we have been making rules for procedure and this and that, it would not be very difficult for the Leader of the House to make a provision to regulate the right of appeal against a judgment of the special tribunal in offences coming under clauses 5 and 6.

The Honourable Sir Muhammad Zafrullah Khan : What are the offences that the Honourable Member is thinking of under clause 6?

Sir H. P. Mody : Clause 6 (2) (b).

Mr. M. S. Aney : The difficulty that the appeal may go to a different court under the existing Criminal Procedure Code is not an insuperable one. In fact we have been laying down procedure under rules to be framed and those rules can certainly provide that in this case the appeal should go to the High Court only. Clause 12 says that a Special Tribunal shall have all the powers conferred by the Code on a Court of Session. So, if it is properly construed, it means it is a Court of Session and the appeal will go to the High Court but even if there be some doubt on that point it can be made clear by framing appropriate rules and providing a right of appeal. Considering the importance of the right of appeal to a man who will be convicted of heinous offences under clauses 5 and 6, the Leader of the House should not be reluctant to extend the privilege of the right of appeal to all the accused who can be tried under those two clauses. I trust he will bring in some appropriate amendment to cover this. If the words in clauses 5 and 6 be added to the present amendment, that will be suitable or another amendment would be in this very clause. Instead of 'sentenced to death or transportation for life' we can say 'punishable with' and in that way all the cases will be covered. If the Honourable Member accepts the reasonableness of the position we have taken up, then there will be no difficulty in bringing in an appropriate amendment. From the way in which the Honourable Member is listening to my arguments, I think he will be able to meet our wishes on this point.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : There are two kinds of offences in the Indian Penal Code. One class which provides imprisonment upto ten years and the other in which, as an alternative to transportation for life imprisonment upto ten years can be awarded. There are certain offences which give a punishment which is not as an alternative to transportation for life. I will quote the cases which may fall under this category. Mischief with intent to destroy or make unsafe a deck or a vessel of 20 tons burden. This offence under section 437, Indian Penal Code, is punishable with imprisonment for ten years and fine. There is another offence—running a vessel ashore with intent to commit theft. Section 439, Indian Penal Code, also provides imprisonment for ten years and fine. That may or may not be covered by this but these two cases would certainly be entrusted to the special tribunal. There is another case which I will show—house trespass with a view to the commission of an offence punishable with transportation for life and there are many others. In the case of the man running the vessel to shore punishment may be awarded up to ten years but actually it may be only six months or a year. In these circumstances, my submission is that the amendment as it stands is not right and proper. This tribunal will have three judges and the whole idea will be frustrated if you allow a right of appeal in these cases. If there is a single man sitting as a judge, then certainly a right of appeal should be allowed to anybody but when you have three judges sitting, you cannot go on allowing appeals when the sentence may be only for two or three days or till the rising of the court. Therefore, I cannot support the amendment.

Now, I come to the point that Mr. Aney made. That would have been certainly a suitable provision to make by Sardar Sant Singh or somebody else. Instead of the words 'sentenced to death or transportation for life' you may say 'a person convicted of offences described in sections 5 and

[Sir Muhammad Yamin Khan.]

6. If that had been there, that would solve the difficulty. If the Government will accept such a provision, then we certainly have no objection but I think it is too late to raise it now.

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

"That in sub-clause (2) of clause 13 of the Bill, after the word 'life' the words 'or imprisonment for a term which may extend to ten years' be inserted."

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

"That in sub-clause (2) of clause 13 of the Bill, after the word 'life', occurring in the second line, the words 'or sentence of imprisonment exceeding five years' be inserted."

The whole question of the right of appeal has been exhaustively dealt with on floor of the House and I need not add to or repeat the arguments already advanced. Sir, I move.

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

"That in sub-clause (2) of clause 13 of the Bill, after the word 'life', occurring in the second line, the words 'or sentence of imprisonment exceeding five years' be inserted."

The motion was negatived.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I would ask you kindly to hold over clause 13 for the present.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will let the clause stand over now.

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

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clauses 15 and 16 were added to the Bill.

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

"That clause 17 stand part of the Bill."

Pandit Lakshmi Kanta Maitra : Sir, I move :

"That sub-clause (2) of clause 17 of the Bill be omitted."

Sir, clause 17 has two parts which deal with the question of protection for action taken under this Bill. Sir, the first part refers to cases of action which will be protected if done in good faith by any officer or person authorised by the Government to exercise the powers under this Bill. I can understand that unless some provision of the nature of an indemnity clause is provided in the Bill or some insurance is made against any risk

or responsibility that may accrue as the result of the exercise of certain powers conferred upon a particular man by the Government, it will be very difficult for the person or authority to give effect to the provisions of the Bill, and to that extent I am prepared to admit that so long as the person acts in good faith under this Bill, he will be protected. But the amendment is directed against the second part which lays down an omnibus provision by which the Government want to be protected against any action sought to be taken against them by any aggrieved party, even though those actions of the Government may entail heavy loss, damage or inconvenience to them. Sir, this is absolutely unjustifiable. If the Government as a whole want that kind of protection, that kind of insurance against all risks that might incidentally follow as the result of the operation of this Bill, then I say all question of justice to the people concerned will be at an end and this omnibus indemnity provision will act as a sort of active encouragement or inducement to the officers to operate the provisions with more than ordinary zeal. There is nothing in the Bill to act as a check upon the reckless exercise of the powers sought to be conferred by this Bill. There is not a single provision anywhere which may be regarded as a sort of deterrent or a safeguard against abuse. On the contrary, there is this provision, couched in the most general terms, protecting not only the officers who would be exercising these powers but also the Government themselves would be delegating this authority to people not connected with them,—protecting the Government themselves, the fountain-head of all these powers, from any action by people who may have a genuine and legitimate grievance against them. Why should there be this provision? So long as such a provision is there, I submit that there will be an endless or unlimited scope for injustice and there will be no chance of redress. It might be argued, of course, that there are some provisions of the nature of giving compensation, but they have a very restricted application, and I am convinced that a provision like this will simply help or promote the abuse of the powers, but will never help the Government in the prosecution of the war. It will create a vast body of ill-will in the minds of the people who would be affected and no useful purpose would be served by its retention. It is opposed to all moral principles,—of which we hear so much in these days. This is opposed to public policy and I, therefore, submit that this complete immunity in the shape of an omnibus insurance against action for all manner of deeds of omission and commission should not be granted to the bureaucratic executive. Sir, I move.

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

"That sub-clause (2) of clause 17 of the Bill be omitted."

The Honourable Sir Muhammad Zafrullah Khan : Sir, wherever property is likely to be requisitioned under the provisions of this Bill, there are provisions for making full compensation, so that there can be no apprehension that all sorts of depredations may be carried out under the provisions of this Bill with impunity. That is one thing. Another safeguard is, that the Crown is protected from legal proceedings in respect of any damage caused or likely to be caused only by something which is done or intended to be done in good faith under the Act; and I would say that in an emergency legislation of this kind, it would be necessary to make a provision of the kind that is made in sub-clause (2).

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

" That sub-clause (2) of clause 17 of the Bill be omitted."

The motion was negatived.

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

" That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Sir George Spence : Sir, I move :

" That after clause 17 of the Bill the following clause be inserted, namely :

" 18. Every provision of law for the time being in force which gives protection, whether specifically or otherwise to members of His Majesty's military forces or of the police forces in British India from any prosecution or other legal proceedings or from any other liability shall apply also to members of the military or police forces respectively of any Indian State, while attached to, operating with or assisting any of His Majesty's military forces or any police force in British India."

and that clauses 18, 19 and 20 of the Bill be renumbered as clauses 19, 20 and 21 respectively."

Sir, certain Indian States have already made detachments of their military forces available for employment in British India and it is not improbable that similar arrangements will be made for the employment of members of State police forces. It is obviously essential that members of State military and police forces functioning in British India in pursuance of arrangements of this nature should enjoy the like protection as is accorded by the Statute law of British India to members of His Majesty's army and to members of British Indian police forces, and the object of this amendment is to secure the necessary protection. Sir, I move.

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

" That after clause 17 of the Bill the following clause be inserted, namely :

" 18. Every provision of law for the time being in force which gives protection, whether specifically or otherwise to members of His Majesty's military forces or of the police forces in British India from any prosecution or other legal proceedings or from any other liability shall apply also to members of the military or police forces respectively of any Indian State, while attached to, operating with or assisting any of His Majesty's military forces or any police force in British India."

and that clauses 18, 19 and 20 of the Bill be renumbered as clauses 19, 20 and 21 respectively."

The motion was adopted.

New clause 18 was added to the Bill.

Original clauses 18, 19 and 20 (19, 20 and 21 as re-numbered) were added to the Bill.

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

" That clause 1 stand part of the Bill."

Mr. Akhil Chandra Datta : Sir, I move :

" That for sub-clause (3) of clause 1 of the Bill the following be substituted :

" This section and section 2 shall come into operation at once. The Central Government may by notification in the official Gazette direct that the rest of the Act shall come into force in any province or part thereof on such date as may be specified in such notification."

In moving this amendment, I wish to make a very brief speech. The amendment seeks to substitute sub-clause (3) of clause 1 by this amendment. The difference is this. In sub-clause (3) of clause 1, which is sought to be amended, the provision is :

" It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf."

I take it and I hope it will not be contradicted that it is proposed to bring into operation this Act at once by the requisite notification. The result will be that under sub-clause (3) of clause 1, the Act shall come into force in the whole of India, whereas the amendment that I am moving makes this difference. So far as clauses 1 and 2 of the Bill are concerned, it is proposed that it is important from the point of view of the Government that they should come into operation at once. Now, as regards the rest of the Act, this amendment provides that the rest of the Act could be brought into operation in any province or in any part of a province by a special notification. So, my point is this that all these emergency measures that we have already accepted may be necessary or may not be necessary in any particular province or in any part of a province according to the circumstances prevailing in that province or in that part of the province. There may be lawlessness or heavy crime in one province or in one district of a province, and yet another province or any part of a province may be perfectly peaceful and may not require the operation of these emergency measures. Therefore, as was laid down in the preceding Act of 1915, this amendment provides that in some provinces a portion of the Act shall not come into operation at once, but whenever the Central Government find, either themselves or on the application of a Provincial Government, that there is something wrong in any part of the country, the rest of the Act will come into operation in that province or in that part of the province. That is the object of this amendment. Sir, I move.

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

" That for sub-clause (3) of clause 1 of the Bill the following be substituted :

" This section and section 2 shall come into operation at once. The Central Government may by notification in the official Gazette direct that the rest of the Act shall come into force in any province or part thereof on such date as may be specified in such notification."

The Honourable Sir Muhammad Zafrullah Khan : Sir, I may be able to meet the Honourable the Mover of this amendment and the House perhaps more than what he would secure by this amendment. The amendment says : " This section and section 2 shall come into operation

[Sir Muhammad Zafrullah Khan.]

at once". I doubt very much whether you can bring section 2 into operation without being forced to bring some of the other sections into operation. If you do that, I should imagine that that would be a case of swallowing the body and jibbing at the tail. The second portion of the amendment says :

" The Central Government may by notification in the official Gazette direct that the rest of the Act shall come into force in any province or part thereof on such date as may be specified in such notification."

I apprehend that the meaning of that would be that the Central Government would be under the necessity of bringing the whole of the rest of the provisions of this Act into force at one time. So that, I do not think the Honourable the Mover would gain very much. I am prepared to meet him and I hope the House will appreciate the very valuable concession I am about to make to meet the views of the Honourable the Mover which would not have been met by his own amendment if the House and you permit by accepting an amendment to the following effect :

" That in clause 1 of the Bill for sub-clause (3) the following sub-clause be substituted, namely :

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in such areas and on such date or dates as the Central Government may, by notification in the official Gazette, appoint."

Mr. Akhil Chandra Datta : Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Akhil Chandra Datta : Sir, I beg to move :

" That in clause 1 of the Bill for sub-clause (3) the following sub-clause be substituted, namely :

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in such areas and on such date or dates as the Central Government may, by notification in the official Gazette, appoint."

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

" That in clause 1 of the Bill for sub-clause (3) the following sub-clause be substituted, namely :

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in such areas and on such date or dates as the Central Government may, by notification in the official Gazette, appoint."

The motion was adopted.

Mr. Lalchand Navalrai : Sir, I beg to move :

" That in sub-clause (4) of clause 1 of the Bill, the words ' and for a period of six months thereafter ' be omitted."

The object of this measure is to give very wide and extensive powers to the executive Government, and it is but right that this Act should remain in force during the continuance of the war. I cannot see why the Damocles Sword should be kept hanging over the public for six

months after the cessation of the war. The object of my amendment is to restore liberty to the people as soon as the war comes to an end, and such powers as we are giving the executive Government should not be continued after the war.

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

" That in sub-clause (4) of clause 1 of the Bill, the words ' and for a period of six months thereafter ' be omitted."

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.

Sardar Sant Singh : Sir, the amendment moved by my friend, Mr. Lalchand Navalrai, should not arouse any controversy because it is entirely redundant to extend this Act to a period of six months after the war. The House is aware that the declaration of war has come by a Proclamation of His Excellency the Viceroy acting as the Crown Representative in India. The termination of the war will come when such Proclamation is made or when the Termination of War Act is passed by this Legislature. The House will be interested to know that on the last occasion although hostilities actually ceased on the 11th November, 1918, the Termination of War Act was passed some time in the year 1921, i.e., three years later ! There were no complaints made on that score and the provision that the Act will continue till the continuation of the war means that the same will automatically cease on the date when the war is officially terminated. Therefore, to say that it will last six months after that is not very desirable and, in the words of the Honourable the Mover, it will keep the sword of Damocles hanging over the head of the country. The present war is expected to take the same course as the last. The hostilities may come to an end and the actual warfare cease with the declaration of truce. Then there is no need to continue this Act for six months after. At the same time I want to inform the House of one important experience which we had after the last war and that is that the most damaging acts under the Defence of India Act of 1915 were done after the cessation of hostilities. The Punjab trouble which was then the subject of a Royal Commission of inquiry amply proved that the Act was employed after the cessation of hostilities for purposes which were in no way connected with the prosecution of the war. I can appreciate the desire of the Executive to settle the after-war problems and may be the after-war reactions after the cessation of hostilities. But I should say that the ordinary and normal functions of Government will be there and if any occasion arises the Legislature is there to pass the necessary legislation. The power under the Government of India Act given to the Governor General and the Governors to make Ordinances are there to meet such a contingency. Therefore, this extension for six months after the war is neither necessary nor desirable. There is only one reason for the Executive Government which can be advanced and that is the habit of tradition. Because

[Sardar Sant Singh.]

this expression was there in the Defence of India Act of 1915 it has probably been embodied here without considering the facts on which past experience should be our guide and give us some wisdom in appreciating the real value of this provision. I consider these words are unnecessary and I support this amendment.

The Honourable Sir Muhammad Zafrullah Khan : Sir, the matter was gone into very carefully in the Select Committee and I made an offer then which I am prepared to repeat now that the termination of this legislation may be worded as the termination of the emergency legislation in the United Kingdom is worded. I have not got that Act here but I will try to get it and frame an amendment to that effect if it is so desired. My impression is that there the termination of the emergency legislation depends upon an Order in Council issued by His Majesty declaring that the war has come to an end. If Honourable Members prefer that phraseology I am prepared to have an amendment drafted that this legislation shall continue in force till six months after such date as the Governor General in Council may by notification declare to be the date of the termination of the war. I am prepared to bring this part of the clause in accord with the corresponding clause in the British Emergency Act.

Sardar Sant Singh : Sir, my friend was not in his seat when I said that India has been declared to be at war by a Proclamation of His Excellency the Viceroy and the termination will be by the same method of Proclamation made by the Viceroy. There can be no other way. Then how does he propose.....

The Honourable Sir Muhammad Zafrullah Khan : That really makes no practical difference in the situation. If the actual declaration or termination of war lies with the Governor General or the Governor General in Council as the case may be, would it really make any practical difference to the Honourable Member if these words to which he objects remain or do not remain in the clause ?

Sardar Sant Singh : The practical difference would be that if you pass a Termination of War Act as you did last time or if you issue a Proclamation declaring that the war has terminated, this Act will not come to an end unless it is repealed or until six months after the termination of the war.

The Honourable Sir Muhammad Zafrullah Khan : Then the Honourable Member may rest assured that if there is no further need of this Act the earliest steps will be taken to repeal it.

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

“ That in sub-clause (4) of clause 1 of the Bill, the words ‘ and for a period of six months thereafter ’ be omitted.”

The motion was negatived.

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

“ That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, during the lunch interval, we on this side have considered the various points urged by Honourable Members from different parts of the House that the right of appeal given by clause 13 as it stands should be enlarged. This matter has been discussed in great detail and those details must be present to the minds of Honourable Members.

Clause 13, as it stands, gives a right of appeal against a sentence of death or transportation for life passed by a special tribunal. We were very strongly urged to consider the feasibility of providing for a right of appeal against sentences of imprisonment for ten years or over in cases falling within clause 5 and clause 6 (2) (b) of the Bill. I am prepared, with the leave of the House and with your leave, Sir, to have an amendment moved which would confer that additional right of appeal. It will give a right of appeal against sentences of death or transportation for life and of sentences of imprisonment for a term extending to ten years under section 5 of this Bill or under section 5 (4) of the Indian Official Secrets Act as amended by section 6 of this Bill. That would be the practical effect, since section 6 (2) (b) seeks to amend sub-section (4) of section 5 of the Indian Official Secrets Act. I hope that will meet the wishes of the House.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair thinks this amendment is welcome to the whole House.

Sir George Spence : Sir, I move :

“ That in sub-clause (2) of clause 13 of the Bill, for the words ‘ A person sentenced to death or transportation for life by a Special Tribunal shall have a right of appeal ’, the following be substituted, namely :

‘ A person sentenced by a Special Tribunal :

(a) to death or transportation for life, or

(b) to imprisonment for a term extending to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act,

shall have a right of appeal ’.”

Sir, I move.

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

“ That in sub-clause (2) of clause 13 of the Bill, for the words ‘ A person sentenced to death or transportation for life by a Special Tribunal shall have a right of appeal ’, the following be substituted, namely :

‘ A person sentenced by a Special Tribunal :

(a) to death or transportation for life, or

(b) to imprisonment for a term extending to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act,

shall have a right of appeal ’.”

The motion was adopted.

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

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

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

When moving for taking the Bill into consideration as reported on by the Select Committee, I drew the attention of the House to the modifications made in the provisions of the Bill by the Select Committee. Equally important and far-reaching modifications have been made in the Bill by the House in the consideration stage. I am happy that as the result of these modifications the Bill has become much more acceptable to certain sections of the House than it originally was. At this stage it is not my intention to comment in detail upon these modifications. As illustrations I may refer to two modifications made one just before the House rose for lunch, and the other after the House met after lunch—I mean the modification made in clause 1 as a result of an amendment moved by you, Sir, which I hope has set at rest a good many of the apprehensions expressed with regard to that clause. When speaking on that amendment I made it clear that Government were prepared to accept an amendment which was very much wider in scope even than the amendment moved by you, and we have just concluded the consideration stage by carrying into effect an amendment which meets the wishes of the House with regard to the right of appeal. We had already in the Select Committee modified the clause relating to the recording of evidence which secures that in all these cases where there may be the possibility of an appeal eventually, the evidence shall be recorded *in extenso*. Several other improvements have also been made in the Bill and, therefore, I do hope that those Honourable Members who at certain stages of the debates were of the view that Government had taken up an uncompromising attitude over this Bill will now be inclined to feel that though every one of the amendments suggested by them has not been accepted, Government have gone a considerable way to meet the wishes of the House with regard to many important features of the Bill. Indeed, Sir, it would have been impossible to accept all the amendments without radically changing the character of the whole of this legislation and rendering it almost useless for the purpose for which it is intended. And may I, at this stage, again assure the House that it is not intended, to begin with, to use every one of these powers with which the Central Government and the Provincial Governments are proposed to be invested by this Bill, unless the contingency justifies and calls for the use of those powers. Take this matter of the Special Tribunals with regard to which many apprehensions have been expressed. Though power is given to Provincial Governments to set up Tribunals of this kind, it is not the intention of the Central Government,—and I am sure the Provincial Governments will also take the same view,—that Special Tribunals must be immediately set up; when the normal judicial machinery of the Province proves inadequate to deal with any

contingency that might arise or where delay in the disposal of certain class of criminal cases might appear to be prejudicial to the interests of the community at large, then only will these Tribunals be set up. Similarly, there are other powers with regard to which there is the same intention that unless the need for them arises they need not as a matter of course be put into effect. On the other hand, there are certain other powers which, as a matter of insurance against lawlessness or mischievous or dangerous activities, must be put into effect immediately in the sense that everybody must know that those kinds of activities will be visited with penalties if they are indulged in. The apprehensions expressed with regard to what I might call the judicial provisions did strike me as extremely exaggerated. Time and again one Honourable Member made appeals to my own experience or knowledge of these matters in the Punjab during the martial law days. In the first place, as I explained at a previous stage, the machinery then set up was not, as alleged by the Honourable Member, set up under the Defence of India Act, but under the Martial Law Ordinances, and there is this real difference between the two situations that the Martial Law Ordinances were designed to meet a state of rebellion where there were those strained relations between a section of the population and the Government, and this legislation is designed to secure the safety of the country, the maintenance of public order to secure the defence of the country and the efficient prosecution of the war. The object is entirely different. On the other hand Honourable Members will realise that under the stress of the emergency with which we are faced and which daily grows worse instead of getting better, there may appear elements in the country which may have to be stringently controlled in the interests of the law-abiding population of the country itself, and that if these powers are not possessed by the Central and Provincial Governments, a great deal of mischief may be done before any kind of adequate remedy could be devised. Sir, I shall not take up any more time in commending this motion to the House that the Bill be now passed.

Dr. P. N. Banerjee : Sir, may I ask a question of the Honourable the Leader of the House ?

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

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

Dr. P. N. Banerjee : Sir, yesterday, an amendment of my friend, Sir Muhammad Yamin Khan, was accepted by the Government, No. 50A on the revised Consolidated List. That will remain, but in view of the provision which has now been accepted by the Government, what will be the position ? In sub-clause (ii) of clause 10 of the Bill, after the words "any trial before the Special Tribunal it shall not be necessary" the words "save in cases of trials of offences punishable with death or transportation for life", have been inserted. Would you not now add the words..... ?

The Honourable Sir Muhammad Zafrullah Khan : May I explain the position, Sir ? Clause 9 as it stands covers those cases in which the additional right of appeal has been given by amendment of clause 13. The additional right of appeal covers cases where a sentence of ten

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years' imprisonment may be imposed under certain clauses. If the Honourable Member will look at the relevant parts of clauses 5 and 6, he will find that cases in which a sentence of ten years' imprisonment can possibly be imposed are cases which are punishable with death or transportation, and, therefore, they are cases in which under clause 9, as it stands, a Special Tribunal is bound to record the evidence *in extenso*.

Sir H. P. Mody : Sir, before I offer a few observations on the Bill as it has emerged from our discussions I would like to congratulate my friend, the Honourable the Leader of the House, very heartily, on the spirit of accommodation he has shown in accepting the amendment which I in common with some of my friends pressed upon his attention. We are glad that he has not allowed petty considerations to stand in the way of meeting a point of view which was held very strongly by this side of the House.

The Bill is of a very drastic character, but it is noteworthy that, barring certain apprehensions which have been legitimately felt about the scope of some of its provisions, the country as a whole has accepted, not merely the principle of the Bill, but also most of its provisions. I venture to think, Sir, that that is entirely due to the fact that in this country, more than in most other countries, passionate sympathy is felt for all oppressed peoples, whether they belong to Abyssinia, China, Czechoslovakia or Poland. Another reason is that while democracy has been dethroned and discredited in a great many countries, in India there is unwavering adherence to its principles, and that, I think, largely arises from the fact that British institutions have left an indelible impress upon the political thought of this country.

Sir, it has been said in the course of the last few weeks that we are fighting the battle of Poland in Poland and in other countries. We are fighting in a sense definitely for their existence, but I think it is equally true to say that we are fighting in the last analysis for our own existence.....

Pandit Lakshmi Kanta Maitra : Your existence.

Sir H. P. Mody : Your existence, my existence and the existence of millions of people who are outside this House, and my friend may awake one of these days to a very lively realisation of that fact.

Sir, my Honourable friend, the Leader of the House, just said that, while the Bill was drastic enough, it was not intended that either the Central Government or the Provincial Governments should put into effective action any or all of the powers with which they are invested. I hope that in carrying out the many purposes of this Act, the various committees which have in the last few days been set up here and which are being set up in the Provinces, and the many officials who are being entrusted with the execution of these wide powers will try and secure co-operation rather than proceed by the method of compulsion. I am only suggesting that there will be a far easier and far readier response to the war needs of this country if all those whose co-operation is valuable are asked to contribute their brains, their energy and their experience to the common pool. This Bill, amongst other things, confers wide powers on the Central and Provincial Governments in relation to the

activities of industrial and commercial organisations. I hope that no measure of any importance will be undertaken with regard to the exploitation of the resources of this country in money and material without seeking the active co-operation of the interests primarily concerned. In this connection I cannot help thinking that if the Government of India had been more alive, if they had any vision, today this country would have been in a position to make a far greater contribution than it is likely to make of all those resources which go to the successful conduct of a war on a modern scale. But, Sir, no account was taken of the needs of this country as they would be during a period of stress and stringency, and private enterprise was left to do everything that was required to be done in the way of the development of those resources. I hope that this war, at any rate, will be a lesson to those in authority and that everything needful will be done in the way of equipping this country with at least those industrial and material resources which are necessary for the successful prosecution of a war. And a consideration that rises is that, while the Government of India and the Provincial Governments expect response from industrial, commercial and other interests and while I have no doubt, and I speak for the industrial and commercial community, that that response will be very readily forthcoming,—it is necessary that the Government of India and the other authorities concerned should see to it that the legitimate demands and requirements of industrial interests will also be met to the extent that it would make it easier for them to contribute their full quota towards the prosecution of this war. Given a proper spirit, this Bill, however drastic it may be, will create little difficulty in its working, because the whole country stands united today in condemning the ruthless aggression which has been responsible for the tragedies which are being enacted in Europe, and I am sure Government will duly appreciate the support which the representatives of the people have accorded in this House to a measure which in less abnormal circumstances the country and the House could never have accepted.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : I am glad that the labours of this House so far as the second reading of the Bill is concerned have come to a successful end. This sense of satisfaction which I venture to express really amounts to saying that we have finished a very difficult task. The circumstances which necessitated that difficult task are really most unwelcome. Nobody can afford to jubilate over the outbreak of war, a war of such a nature and with such potentialities which God forbid may develop into a world conflagration. The very nature of the grave and serious international situation demands that an emergency measure of the kind which we have had to deal with in this House should be undertaken and no one who is alive to a sense of his duties and responsibilities can seriously object to legislation of this kind being placed before the House. I have said that the circumstances which have necessitated this task are really unwelcome and it is for that reason that I do not adopt the usual way of offering congratulations to the Honourable the Leader of the House for successfully piloting this measure through this House. But, most certainly, he deserves the highest compliments for bringing to a successful termination the very arduous task which lay before him. He has shown great ability, sound statesmanship, and a very commendable spirit of

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accommodation, in discharging the very difficult duties with which he was charged in connection with this measure.

At this stage of the debate on this Bill one thing which I owe to myself and to my Party is to explain the attitude of my Party towards this Bill. This has become necessary on account of a curious charge brought against my Party by one of the Honourable Members speaking yesterday on the floor of this House who went to the length of saying that we had made some sort of pact or alliance with Government and were "sitting mum" as he put it and not interesting ourselves in the many amendments which had been put before the House by his Party and some other Honourable Members. What took place about this Bill so far as my Party was concerned was this. We found that a motion for the consideration of this Bill was coming on and we felt that the time at our disposal was very short. We convened, or rather improvised, a meeting of our Party by securing the attendance of such of the Honourable Members as could meet at an extremely short notice. We read the Bill through, scanned its provisions as best we could, formulated and tabled certain amendments including a motion for reference of the Bill to a Select Committee. When this motion for reference to a Select Committee actually came before this House, it appeared that it was being looked upon by Government as an ordinary dilatory motion, although it was really intended, paradoxical as it may sound, to be both a time gaining and a time saving device. We thought that if the consideration of the Bill started that very day we would be acting in undue haste, so, by somehow inducing the Government to accept the motion for reference to a Select Committee, we could gain some time. On the other hand, if the Select Committee duly considered the many amendments which had been tabled by our Party and other Honourable Members, that would save time, because, otherwise, the discussions on the floor of the House might become very tedious and not lead to quite as satisfactory results as might accrue if we considered all these things in a Select Committee—a few of us sitting together. Now, in order to induce the Government which at first was opposed to the motion for reference to the Select Committee to agree to the motion, I made a statement on behalf of my Party, undertaking to see that if a Select Committee in due course and properly considered our amendments and decided upon them, thereafter there would be no more amendments on behalf of our Party and even speeches will be few and brief. I gave that undertaking on the floor of the House and Government agreed to the reference to a Select Committee. The Select Committee met and all our amendments were duly considered there. Government having accepted the offer openly made on the floor of the House and having acted in the spirit in which we wanted the Government to act, it naturally followed that we also felt bound to carry out our engagement. The implication in calling this a pact or an alliance, although no adjective was used, certainly is that there was something sinister about it. I appeal to you, Sir, and to the House—if a thing is openly done on the floor of the House with all our cards laid on the table, is there anything objectionable or dishonourable about it?

An Honourable Member : Certainly not.

Syed Ghulam Bhik Nairang : We could not persuade ourselves to indulge in heroics and say things like this that although you may pass this Bill today, it should not actually come into force until war has actually broken out in India, that we should wait till the enemy invades India to put this Act into force. But we certainly took care to study the Bill as best we could within the short time at our disposal. We do not claim to possess a monopoly of legal wisdom. We do not pretend to hold a monopoly of patriotism, although we are second to none in patriotism, if you will pardon me for saying so. We give every credit for good faith to those Honourable Members who put forward any amendments or proposals on the floor of the House or advanced any arguments but we certainly expect that the same credit for the same amount of good faith and honesty shall be given to us.

After explaining the attitude and position of my Party towards this Bill, and after making my acknowledgments to the Honourable the Leader of the House for the spirit in which he has discharged the very onerous duties which lay on his shoulders, I wish to say one or two words on points which I am afraid are troubling the minds of some of our friends here. There were amendments for the deletion of clause 2, sub-clause (2) part (xxx) relating to meetings and assemblies and so on. In addition to motions for deletion, there were also certain amendments put forward. It was explained in the Select Committee by the Honourable the Leader of the House that this point would be made clear in the rules and, subsequently, the assurance given by the Leader of the House was actually carried into effect. The rules were properly framed and gazetted. We felt satisfied that the object which we had in view in moving for deletion or for addition of certain words had been achieved but I find that there are still lurking suspicions in the minds of some friends and I do not blame them at all for entertaining those suspicions. Their apprehension is that although at the present moment a certain rule has been framed and duly gazetted and the point appears for the moment to have been cleared yet the rule making power of the Government is not exhausted. Who knows tomorrow this rule may be changed. Another rule which may perhaps entail the consequences which we seek to avoid by the deletion of that part or by a suitable amendment of that part may follow and, therefore, it is not a satisfactory position that we have contented ourselves merely with these rules having been framed and gazetted. I mention this fact merely in order to emphasize what my friend, Mr. Sathar Sait, and I said, in our dissenting note appended to the Select Committee's report. There we said what I repeat now. "We urge that the greatest amount of care should be taken by the Central Government and the Provincial Governments in framing the rules and sanctioning action under the very wide powers given to them by the provisions of the Bill" in the matter of framing the rules and in the matter of conferring powers on any authority or person. We hope that nothing will be done to justify the suspicions which some people entertain today that the law will not be properly worked and that it is likely to lead to serious abuse in the hands of over-zealous or interested or misguided people. Given that care and circumspection on the part of the Central Government and the Provincial Governments, I do hope that this law will work satisfactorily and the end that we all have in view will be achieved. With these words, I support the motion.

Sardar Sant Singh : Sir, I am not in the happy position to offer my felicitations to the Honourable the Leader of the House. I am rather inclined to extend my sympathies to him for the awkward position in which he found himself in having to pilot this Bill. The Leader of the House does not seem to have been independent in either drafting this Bill or in properly carrying out his own wishes in the matter of the several provisions. I suspect that the hand of the Army authorities is visible in some of the provisions of this Bill and, therefore, if he abdicated that noble position of a jurist and an executive officer afterwards....

An Honourable Member from the Government Benches : Rubbish.

Sardar Sant Singh :who says "rubbish" ? He should know. I challenge him if he denies that the Army had nothing to do with the drafting of the Bill, I challenge him on the floor of this House if he denies that.....

The Honourable Sir Muhammad Zafrullah Khan : Sir, the character of this measure is such that every Department of the Government has had something to do with it.

Sardar Sant Singh : I am glad, then, that it is not rubbish as my friend says.

The Honourable Sir Muhammad Zafrullah Khan : Sir, by making that statement, I must not be deemed to accept Sardar Sant Singh's allegation that I have abdicated my own proper functions in dealing with this Bill ; that is what was described as "rubbish" by my friend, Mr. Mackeown.

Sardar Sant Singh : He might have acted purely as their mouth-piece, to use a mild language, but, for all I know, the successful prosecution of the war is primarily the subject of the Army Department. I can appreciate to some degree the hand of the Army Department in framing a Bill which is primarily intended or obviously intended for the successful prosecution of the war. He need not take any alarm at that. Therefore, when I say that, instead of offering congratulations to him, I can extend my sympathy to him, I should not be misunderstood for the use of that expression.

Sir, I moved on the first day of the opening of this Session an Adjournment Motion against the Government for not adopting the normal course of legislation by coming to the Legislature rather than to issue Ordinances. I was glad that in the course of a few days the Honourable the Leader of the House made a statement in which he said that the Government of India had decided to consult this Legislature in the matter of the Defence of India Bill. I understood then and I appreciated then the position of the Government of India that, after all, at this juncture and in this critical moment the Government of India had decided to show a change of heart which implied a trust in the judgment of the Legislature. The policy of trusting this Legislature in the most vital problems which the country is to face is always a wise one and I thought that this change of heart would lead them to a course of action which would create, which would cement the relationship between the Opposition and the executive Government of India. But soon we discovered that the

old habits of the executive had replaced the new idea. Soon we discovered that the Government of India sat tight upon the old traditions and would not profit by the emergency that was facing them. When our Party tabled a motion for reference of this Bill to a Select Committee, we decided to make that motion only if the Government agreed to that proposition, but, unfortunately, when on making an inquiry we found that the Government was opposed to it, we did not move the motion. It was happy that the European Group put their weight on the side of reference to a Select Committee and the Government modified their view and decided that the Bill should be referred to a Select Committee. In the Select Committee we showed all the sense of responsibility that the Opposition could show at a critical time. We cancelled all our engagements both private and public and agreed to consider the Bill in the Select Committee at very short notice. The next day the Select Committee met and, against probably the expectations of many, the Select Committee finished its labours in seven hours and the report of the Select Committee came in. But during the deliberations of the Select Committee we were soon disillusioned. There were occasions when the representatives of the Muslim League Party, the Congress Nationalist Party and Mr. Joshi....

Syed Ghulam Bhik Nairang : On a point of order, Sir, the Honourable Member has no business to refer to anything that happened in the Select Committee.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair does not think the Honourable Member should go into these things as to what happened in the Select Committee.

Sardar Sant Singh : I only wanted to say and I want to draw your attention to this fact that in my absence on the 15th, probably when the Select Committee report came under discussion in this House, a reference was made to my note of dissent in which I had said that some amendments were defeated by the casting vote of the Chairman and this statement of fact in my dissenting note was questioned by one Honourable Member. It is essential on my part that I should give a personal explanation on that point that my dissenting note with regard to the Select Committee was the correct one and I owe it to myself and to the House that I should make the position clear.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member has already made a casual reference to it. The Chair does not think he should go into these details.

Sir Muhammad Yamin Khan : Nobody has challenged that.

Sardar Sant Singh : If it is not challenged, then I will leave the position as it was. Now, in the Select Committee certain changes were made, certain concessions were given, and some rules were modified. The report came to this House and then again those points which the popular representatives are expected to urge for the protection of the life, liberty and property of those who have sent them to this House were not properly responded to. The result is that we are asked to submit to the majority which is sitting behind the Government Benches. The Honourable the Leader of the House in his speech today has taken credit that the Government have shown a spirit of accommodation towards the Opposition Members in making certain concessions in the

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matter of the right of appeal. These are concessions no doubt, but we, who have had long experience at the bar, we who have seen political cases being tried before the courts, we who had seen this Defence of India Act of 1915 in actual working before the Martial Law days—my Honourable friend, the Leader of the House, has referred to the Martial Law Tribunal; I am talking of those tribunals which were set up before the Martial Law in 1914 and 1915—we rightly feel that the vast, the drastic powers which are being given to certain individuals, however highly placed they may be, become very dangerous indeed in their operation. Our friends of the European Group, naturally brought up in the traditions of England's judiciary, naturally getting their inspiration from English courts of justice, do not realize what handicaps there are in Indian courts of law. Their sojourn in India probably has never given them an experience of Indian courts in general.

I will, in this connection, briefly refer to the case of one of our colleagues, Bhai Parma Nand. He was tried before the Martial Law was declared by a Tribunal set up purely under the Defence of India Act. What was the result? The result was that he was sentenced to death on evidence which, in the opinion of the then Government of India, was not sufficient to convict anybody. The members of the then Executive Council, Sir Sankaran Nair and Sir Ali Imam, put up a fight against injustice done to Bhai Parma Nand and they said that the case as it was tried then should be re-tried because the trial was illegal. Correspondence went on with Sir Michael O'Dwyer, who insisted that the death sentence should continue. Ultimately, a compromise was reached commuting the death sentence to transportation for life, and Bhai Parma Nand is here today with us. He was sent to the Andamans and underwent a lot of suffering there. And the Honourable Members of this House will be interested to know who tried Bhai Parma Nand. The Tribunal consisted of those persons who were qualified to be the High Court Judges and Sessions Judges. There was no District Magistrate or Additional District Magistrate in that tribunal. If under such circumstances miscarriage of justice took place in 1914 or 1915 under the old Defence of India Act, is it surprising that we should demand guarantees from the Honourable the Leader of the House and the Government of India that the provisions of the present Bill will not be misapplied and the powers will not be abused? This is what we want. If we wanted to oppose these drastic powers and if we wanted that they should not be given to the Government, we would not have consented to the supersession of ordinary civil courts of the land. We should have opposed the Bill root and branch, but we did not do it. We know the emergency; we feel the critical time. At the same time, we want that there should be no abuse of the power.

When the Bill was introduced originally, I read some assurances given by Churchill to the House of Commons. I felt then that the Government of India will extend similar assurances to us. I expected that the Government of India, in view of the past experience and the working of the Defence of India Act of 1915, will assure us that certain instructions will be issued to the officers appointed to carry out these drastic powers and to the Provincial Governments how to use the powers. I expected some such thing, but the Honourable the Leader of the House only re-read the passage which I had read and said: "Is it not enough?" And here we have some of

the friends of the Muslim League Party who say that this should be considered enough. I still am not of that opinion. I still want to know from the Leader of the House whether it is not a fact that during the days when this Bill has been under discussion in this House and when the shortcomings and the possible abuses of the powers granted under the Bill have been brought to its notice, the Defence of India Ordinance has actually been taking the toll of people's liberty in several provinces? There is no doubt about it. Every day the papers tell us that some action was taken here and some action was taken there. May I ask if the Government of India in their wisdom have taken any step by issuing any instructions to those who are responsible for the working of those Ordinances, so that it may be a sort of assurance to us that in future the working of this Act will not be abused? We want this assurance. My friend from the Punjab, Maulana Zafar Ali Khan, told me that the days of Dyers and O'Dwyers and Johnsons are gone for ever, never to return. I wish I could share his optimism in this matter. Human mind, when it is intoxicated with the use of drastic powers, does not easily return to normal course of conduct. Man, in this respect, is like a tiger which once having tasted the blood of man becomes a man-eater. Similarly, we found that after the termination of the last war, soldiers that had come back from the theatre of war had become blood-suckers of the Indian nation. We saw that in the predecessor of this House that Rowlatt Act was passed in the teeth of popular opposition which led to the trouble which the Honourable the Leader of the House still persists in calling rebellion in the Punjab. We do not want to tie his hands in the matter of taking action in this emergency, but we certainly want that we should have on the floor of the House a clear indication that the Government of India will take suitable steps to prevent the abuse of this power. We do not want anything else.

Sir Homi Mody in his eloquent speech told us that the war can successfully be fought with the co-operation of the people. I quite endorse that view. But the co-operation of the people can only be obtained by trusting the people and by placing confidence in the people's judgment not by uni-operation but by co-operation, which signifies mutual good-will and mutual confidence. Is the Government of India prepared today in this emergency and in this hour of trial to offer that co-operation to the people of India when the people of India want to offer that co-operation to them? Unless that trust and mutual confidence is accorded, I am afraid that the time will come and a stage will be reached in the course of this war, if it continues for a longer duration, when the Government of India will be compelled by the force of circumstances to come to the real leaders of the people for their help and guidance.

Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official): Who are the real leaders?

(Interruptions.)

Sardar Sant Singh: I am not ignorant of that fact and I know the resolution which the Working Committee of the Muslim League have passed, but I do not want to go into the details. They are matters of ordinary knowledge and can be read in the newspapers of the day. At the same time, I say, that if the real co-operation of the people is to be sought, India should be made to feel that it is a democratic country.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Has not the Sikh community generally declared that it is generally in favour of the British Government and in support of their policy in the war ?

Sardar Sant Singh : I am sorry I am not inclined to reply to the question put by my Honourable friend.

Captain Sardar Sir Sher Muhammad Khan : You cannot.

Sardar Sant Singh : I know well the value of those hysteric declarations made in the Punjab. You know nothing of the real Sikh opinion. You are carried away by the statements published in the Press. The real Sikh opinion will be published soon. I am not entering into controversy on that point at all.

The Honourable Sir Muhammad Zafrullah Khan : All the time you are doing so.

Sardar Sant Singh : At this stage I do not want to enter into any controversial topic at all because the subject under discussion is too serious to be trifled with. What I submit is this ; if the Government of India want the co-operation of the real leaders of public opinion in the country, they must ascertain it.

Mr. F. E. James (Madras : European) : Who are they ?

Sardar Sant Singh : That question coming from the Leader of the European Group and an esteemed friend, I must answer. I did not care for my Honourable friends, Captain Sher Muhammad Khan and Co. But here is a responsible gentleman who is esteemed by all of us. He wants to know the real leader of the Sikhs. The Akali party represents the real Sikh opinion and Master Tara Singh is our real Leader.

Captain Sardar Sir Sher Muhammad Khan : Question.

Sardar Sant Singh : You may question ever so much from that distance. I will show you who has got the confidence of the country.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member will proceed with his speech without minding these interruptions.

Sardar Sant Singh : I was saying, Sir, that the time will come, a stage will be reached when the Government will stand in need of co-operation of the people and that co-operation entirely depends upon the amount of confidence which the Government are able to infuse into the leaders of country. I, therefore, urge that the Government should utilise the time, should use their imagination and should not be carried away by simple slogans into the belief that without trust and mutual confidence of the men that matter that they can secure the co-operation of real India.

I am constrained to say that in the provisions of this Bill, admittedly most drastic powers have been entrusted to the Government, powers that extend to make laws, create new offences, powers that curtail the ordinary procedure of trial, superseding the ordinary courts of the land and even awarding summary punishments of very drastic nature. In such a case the responsibility of the executive government is greater in the matter of the

use of such powers. I wish, Sir, when the Honourable the Leader of the House gets up to give his reply that he would tell us the various steps which the Government of India propose to take in order to prevent the abuse of these powers. If those steps are effective, if in actual working we find that the present Defence of India Act has worked more satisfactorily than its predecessor, then none would be happier than myself. If the Government of India deserve any congratulation, that will be the time to offer the same. The time for offering congratulations to the Government will be the time when the Act ceases to operate and the experience of its working had been gained. At this stage it will be premature and unwise to say anything of the kind. At present we can only say to the Government, we have entrusted you with vast powers of sentencing people to death, to transportation for life, to various terms of imprisonment, power to enter other people's houses, to seize their property and to curtail their liberty and we await to see how you discharge this great trust. The time for right judgment will be at the end of the present emergency. We suspend our judgment of the Government till the time when the trust has been discharged. With these few observations I finish my speech.

Sir Muhammad Yamin Khan : Sir, I would not take up the attitude which my Honourable friend, Sardar Sant Singh, has taken in showing his sympathy to the Honourable the Law Member. I really congratulate the Honourable the Leader of the House wholeheartedly for the great sagacity which he has shown and the great spirit of accommodation which he has exhibited during the course of the discussion on this measure.

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

My Honourable friend accused the Government right and left but he has not observed one glaring defect that underlies his assertions. He said that whenever people are clothed with power, they get intoxicated and they misuse that power, and they do not show justice. May I remind him that the Government had the full power to defeat all our motions, and yet they agreed to send this Bill to the Select Committee. That motion could have easily been defeated by Government with their votes, if their heads were swollen with power. If only the Government had refused to agree to the Select Committee motion, the Bill would not be in the present shape. The Government accommodated us and they showed a ready instinct to co-operate with us and they showed their willingness and anxiety to get the Bill improved on the lines most beneficial for the real objects for which the Bill has been introduced. Not only this, the Honourable the Leader of the House has shown a great spirit of accommodation whenever amendments were moved or suggestions were made on the floor of the House for improving the Bill. That does not show that power is intoxicating their heads. If that spirit is there in Government circles I am sure the Leader of the House will issue proper instructions to the different Governments not to out-Herod Herod in the matter of doing justice. I do not like my friend fear that the times of the Punjab Martial Law and of Dyer and O'Dwyer will recur. But I want Government to issue instructions that whenever a public leader is to be arrested they should not send a dozen machine guns to surround his house.

An Honourable Member : A real leader or an ordinary leader ?

Sir Muhammad Yamin Khan : I am talking of a real leader. To arrest him it is not necessary to create a fuss with machine guns.

My Honourable friend, Sir Homi Mody, said, and I entirely agree with him that at this time we have to put our house in order and the rules should be used for the benefit of India and Indians and Government should see that these rules are not used by any people for their own benefit only. I know there will be hard times and prices will go up and a lot of profiteering will be done by people in the name of industry. This exploitation of the public should be stopped under these rules. Then also labour should not be exploited and if prices go up and labourers cannot live on their present wages and there is a genuine demand for increase, these rules should not be used to crush them. My Honourable friend, Sir Homi Mody, in spite of being interested in industry will admit that such a course may have reactions later on and may ruin the industries.

My Honourable friend, Sardar Sant Singh, referred to action being taken in some Provinces against particular individuals. But I think the action taken in these cases may have been fully justified. From the day the war started lots of people have been creating all kinds of mischief. Some are selling articles at fabulous prices, some have been stirring the people, some have started political agitation even to the extent of running down other parties. All kinds of exploitation of the public have been going on and the action taken against them have been fully justified in many cases. One pathetic report that came to me was of a poor man who wanted an injection for his child but could not get it as a sum of Rs. 40 was demanded for it whereas it used to sell formerly for one or two rupees, with the result that the child died. If this kind of thing prevails, it must be stopped and there will be no one to sympathise with such people or refuse to arm Government with powers to deal with such situations. Of course, in one or two cases the man may not have got justice but those individual cases cannot form the basis of ignoring the whole machinery which gives protection to the public from unscrupulous people.

Sir, a great deal of improvement has been made in the Bill in the Select Committee as well as in the House. Not only has the right of appeal been allowed in cases of sentences of transportation or death but even in cases of shorter sentences provided the man is guilty of an offence which is punishable with death, transportation for life or imprisonment. And we have secured that the evidence will be written in full in cases where an appeal lies to the High Court. That is a great improvement. And though our views could be flouted by Government as we were in a minority, they have accommodated us and reason has prevailed. Therefore, though all the amendments moved have not been carried some very necessary ones have been carried. Sir, I support the passing of the Bill and I hope the rules will be worked by Government officials in such a spirit as to gain the confidence of the public and not give any cause for discontent; and I hope the Judges who will administer the Act will take good care not to convict a man on flimsy evidence which may be rejected later on. Sir, I support the motion that the Bill be passed.

Mr. A. Aikman (Bengal : European) : Sir, in expressing my Group's support of the motion before the House I will be as brief as possible. I have no technical quarrel with this Bill as my Honourable friend, Sardar Sant Singh, seems

to have, and so I am able to congratulate the Honourable the Leader of the House on his labours in a whole-hearted manner. I am very glad that he agreed to accept the reference of the Bill to a Select Committee and I hope that that procedure has been justified in more ways than one. In spite of some very technical legal arguments which have been put forward by some of my Honourable friends in the Congress Nationalist Party, I do not think it can be said that the time that has been devoted to the consideration of this very important measure can be considered to be excessive. I do not propose to cover the ground that has already been covered by previous speakers, but I would like to support the plea made by my Honourable friend, Sir Homi Mody. Along with him, I trust that the powers which have been conferred on the Central Government and the Provincial Governments will be exercised by those officers who will have to administer the rules, with tact, with discretion and with common sense. Representing as we do on these Benches a considerable section of commercial and industrial interests, I would like to support his—Sir Homi Mody's—plea that when matters concerning industrial and commercial interests have to be considered, the commercial and industrial community will be consulted; and I can assure the Government on behalf of those interests which we represent that if they will do so they will get such close co-operation that any idea of compulsion will not need to be considered.

Mr. M. S. Aney : Sir, the motion before the House is certainly a formal one because all the clauses have been already considered in detail and it comes in as a consequence of the deliberations and decisions we have had for the last few days in the House. I am not, however, in a position to support the motion. That does not mean that I am slow in appreciating the spirit of accommodation and of reasonableness shown by the Honourable the Leader of the House in meeting us on some of the most vital points. If I am not in a position to support the motion, it does not mean that I have got anything to say against his attitude in the House. On the other hand, in spite of frequent passages at arms between him and some of my friends sitting behind me, who had to carry on the fight singlehanded on behalf of the people of India, I found on the whole a spirit of sportsmanship on his side, for which I have no hesitation to offer him my whole-hearted congratulations. A Bill like this is always difficult for any Member to pilot because it is not a Bill in which anything is to be offered to the people. It is a Bill intended to take away some of the precious rights from the people. That is always a difficult task, and, therefore, in doing that task considerable tact has to be shown, and I have no hesitation in saying that the Honourable the Leader of the House has given us an example which we cannot easily forget. But if in spite of that, I am opposing this motion it is for other reasons and not for any reason that has got anything to do with the Honourable the Leader of the House. There are matters of principle, and on principles I do not like to make any compromise. That is not in my nature. I am not one of those who do not realise the necessities of an emergent situation. I know emergent situations require emergent measures also,—measures which are of an abnormal nature. I perfectly realise that. But if I find and if I am convinced that any particular measure which is brought before the House as an emergent one is not merely intended to meet the requirements of that emergent situation but

[Mr. M. S. Aney.]

goes far beyond it, if I feel like that, I think I shall be shirking my duty in giving my consent to a measure of that kind. In this measure I very strongly feel like this. This is not the first occasion that we are faced with a situation like that. There has been a Defence of India Act in operation in India for some time when the great European War was being fought between 1914 and 1919. The experience of the working of the Defence of India Act was there. I thought that the Government of India of today would carefully take stock of all the experience they had of the working of that Act which was then in force, and come forward now with a measure which would, at least, be shorn of some of the outstanding defects of that Act. If it was the experience of the people of this country that that Act was harshly worked, it was the duty of the Government of India to have carefully examined all the provisions of that Act and seen which provisions were found to have been of unreasonable harshness and which were essentially necessary for the due discharge of their duties. I am afraid if we compare this measure—of course I concede that there have been some improvements made here on the floor of this House and in the Select Committee—and the Defence of India Act as it then existed, then we shall find that no thought is given and no application is made whatsoever to study the question from that point of view by the Government. On the other hand, the present Bill is an improved edition of that Act. In some respects it seeks to arm the executive officers with more drastic powers than the old Defence of India Act, as if the working of that Act was very satisfactory and had left no grievances whatever with the people of India. When a measure like this is introduced in its present form in this House, it means that the old experience was not at all availed of. On the other hand, it means that the Government felt that the working of the old Act against which there was so much complaint in this land had given no real ground whatsoever for complaint. Unless we put that interpretation, I cannot understand the Government of India introducing now a measure like this in this House. That is the first thing I want to say against this measure. It has got nothing to do with the attitude of the Honourable the Leader of the House at all.

It seems somebody else in the Government of India prepares the Bills: the thing is really made there and the responsibility lies upon the Government Member to pilot the Bill in the House. In the exercise of that responsibility he has tried to show as much accommodation as he possibly can, but the fact seems to be that there were some people who are perfectly callous to the feelings of the people when such repressive laws are in operation and who, therefore, refuse to take any note of previous experience and want again to claim and insist on having the same powers, which they, I venture to say, have grossly abused before.

Then, Sir, the second point which I wish to deal with and which, in my opinion, is in the nature of a principle, is this. This is a law which the Central Government is enacting here today. It will be admitted on all hands that this Act trenches upon a number of items which in ordinary times would have been within the exclusive jurisdiction of the Provincial Governments. The Central Government is today making certain provisions here which entrench upon subjects which are exclusively within the jurisdiction of the Provincial Governments. I know they

have now the legal right to do it; I don't deny it. But my point is this. If these measures are taken with a view to the successful prosecution of the war, then the point which the Government of India have to consider first is this. Before making any law which is likely to entrench upon the jurisdiction of Provincial Governments, they should have taken good care to consult the Provincial Governments themselves. There was nothing in law to prevent them from doing it. But they did not do it. They know that if this Act is to be put into operation, most of the provisions of this measure will have to be given effect to by the Provincial Governments. Their willing co-operation is essential; and when the Government of India knew that there were Provincial Governments and Provincial Ministries formed in this country on certain definite understanding with the Government of India, it was very necessary for the Central Government to see that those Provincial Ministries and Provincial Governments were first informally consulted and their opinions ascertained before introducing a measure of this character in this House. What is the position today? The position is this. A fact is accomplished here, and the Provincial Ministers have either to carry out the provisions of this measure or express their.....

The Honourable Sir Muhammad Zafrullah Khan: Why is the Honourable Member presuming that they were not consulted?

Mr. M. S. Aney: If they had been consulted, I shall be very glad to withdraw all my observations which I have made, but I want to know whether before introducing this measure, the Provincial Governments and the Ministries of the eleven Provinces were consulted and whether they gave their consent to all the provisions of this measure? I am ready to pause for a reply from the Honourable the Leader of the House. If the Honourable Member will give me a definite reply, then I am prepared to withdraw all the observations I have so far made on this subject.

The Honourable Sir Muhammad Zafrullah Khan: I said that the Honourable Member was not correct in assuming that the Provincial Governments had not been consulted.

Mr. M. S. Aney: Sir, I am unable to understand this rather enigmatical reply.....

The Honourable Sir Muhammad Zafrullah Khan: It is plain English.

Mr. M. S. Aney: Sir, as long as the Honourable Member is not giving me a categorical reply that the Provincial Ministers gave their assent to the measure before the House, I have every right to assume that the interpretation I am putting is the correct one, and I think I am justified in assuming it. However, that is another point.

But, Sir, we are enacting a law here because of the war emergency, and I may assure the Honourable Member,—I think I need not assure him because he knows it perfectly well, that wars are not fought merely by enacting a number of laws in this House. Wars are fought by the willing co-operation of the people for whom these laws are supposed to be made. Therefore, every attempt should have been made from the very beginning to enlist the co-operation of the people through their representatives in the autonomous governments of the provinces before introducing a measure of this character.

[Mr. M. S. Aney.]

Then, Sir, the third thing to which I take strong objection in this Bill is this. We are passing a measure here, and it will soon become a law. Whenever we make a law it is assumed that we have considered all the aspects of the measure, and placed a complete and self-sufficient law on the Statute-book. But what exactly is the nature of the law that we are now making? The law we are making here is this—we are asking somebody, we are delegating drastic powers to somebody, to make such rules as he likes to meet the requirements of any dangerous situation, should it arise. We have jotted down a number of points—I believe they come to about 35 or 36 points,—and we have legislated in such a manner that these rules are to be framed by somebody without prejudice to the rights of the Central Governments to make rules themselves. Who that somebody may be, we do not know; who that somebody will be, it is impossible for us to make out here. It is a delegation of power of a very considerable and indefinite nature. What rules they will make we do not know. We only indicate the points on which the rules are to be made. It is those rules which will be administered as laws. What kind of laws will be made under these rules, we do not know, and we must assume that somebody else will be a very wise man, with all the prudence, with all the statesmanship that are expected of him, to make a wise law. We have to assume all that before we can agree to a law of this nature. Sir, a delegation of this kind is a very dangerous thing. It practically amounts to an abdication of our right in favour of someone. It is the third objectionable thing which underlies this Bill to which I cannot subscribe. Sir, it really pains me to say something against a measure for which the Honourable the Leader of the House has taken so much trouble to pilot, but when I find that important principles are involved, when I find that very vital and fundamental principles of jurisprudence are being departed from, it becomes necessary for me to assert the view of the people and tell the House clearly that with all my heart to co-operate with my friend the Honourable the Leader of the House, I am unable to give my consent to a measure of this kind, because it involves principles of a very drastic and retrograde character. I shall not go into the details, because once I start doing it I am afraid I shall have to repeat some of the arguments already advanced on the floor of the House.

Then, Sir, the last point which I wish to make is this. An appeal has been made to the Honourable the Leader of the House from all sides of the House, and I do not propose to sit down without also making an appeal myself to him. No Honourable Member who has been enthusiastic in his support of this measure and also of the part which the Honourable the Leader of the House has played in piloting this measure has failed to strike one note at the end of his speech, and what was that note? He expected that, after all, this measure would be justly and fairly used and the powers given would not be abused. There was that nervousness and suspicion in the mind of every one of those who have accorded their support to this measure. After all that has been done by the Honourable Member in charge, he has not done enough to remove that suspicion from the mind of any of the Honourable Members in this House who have accorded their support to it. Why does that suspicion exist? Why does my friend, Sir Homi Mody, feel and say that com-

mercial interests should be properly looked after and the drastic powers should be justly used? Why is it necessary for my friend, Mr. Aikman, to also think and plead in a similar manner? Why is it necessary even for my friend, Sir Muhammad Yamin Khan and also for my friend, Syed Ghulam Bhik Nairang, to entertain certain fears and to make an earnest appeal like that to the Honourable Member in charge? Because we all know that it is not the Leader of the House, it is not the Honourable gentlemen sitting behind him, who will administer this law, but it will be somebody else who is not present in this House who will administer it, it will be somebody else who do not know and may not care to ascertain the spirit or the intensity of feeling of the public as regards this measure, it will be somebody else who will be carried away simply by what they regard as the exigencies of the war, who will have to administer it. If the administration of this law is going to be left to the hands of those persons, is it not natural that we should feel a good deal of apprehension in this matter? Therefore, Sir, now that my friend has succeeded in getting the support of this House, excluding the Members of the Congress Nationalist Party, to this measure, it imposes on him a greater responsibility, because it is to him that they are looking up for all the good that is to come out of it. In my opinion there will be little good emerging out of this measure, but there is the assurance of my Honourable friend and, therefore, a greater responsibility is thrown on him and on those who will be invested with the rule-making power under the Act. The rules will really complete and constitute the effective law which we are enacting now; and the framing of the rules will have to be left, therefore, to persons above suspicion. Persons whose patriotism and whose regard for the feelings and requirements of the people will be above reproach. He will have to make a good choice of those persons to whom the powers have to be delegated. It is a great responsibility and I do not know how far he will be able to get the co-operation of the other authorities in whose interests and at whose instance he is making the law today, at the time when he will have to make a choice of the persons for the purpose of exercising these powers. His difficulties are not over today. His difficulties will begin after this Act is passed and when the question of delegation of powers will have to be solved by him. Therein lies his difficulty, and then probably he will think that some of the observations that we have made here today had some foundation. I do not want to take more time of the House. I am really sorry that I am not in the happy position of supporting the third reading of the Bill, but at the same time I again repeat that I am not slow in appreciating the spirit of accommodation shown by the Leader of the House. With these remarks I oppose this motion on my behalf and that of the Party I have the privilege to lead.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : I believe that the vast powers that have been granted to the Executive under this Bill will not be abused by the Government, because I think that the Government are not a set of fools as Sardar Sant Singh and Mr. Aney seem to have thought.

Mr. M. S. Aney : I am glad for the conversion of my Honourable friend.

Maulana Zafar Ali Khan : I am not a prophet, but speaking on the floor of the House a few days back, I predicted that Russia might take

[Maulana Zafar Ali Khan.]

another somersault and join Germany and then war might come to our very doors when Simla might conceivably be bombed. Sardar Sant Singh, my dear old and Honourable friend, Sardar Sant Singh, is obsessed with a very desperate fear that perhaps the days of Johnsons and Dyers are not gone for ever. He seems to live constantly on a battlefield where "Dyer to the left of him, Dyer to the right of him, Dyer in front of him, volleyed and thundered". But I assure him again that the Dyers are gone, O'Dwyers and Johnsons have gone never to come back. Why does he then want an assurance from Sir Muhammad Zafrullah Khan? Sir Muhammad Zafrullah Khan, poor fellow, according to Sardar Sant Singh, has abdicated in favour of Mr. Ogilvie. According to him and according to Mr. Aney, this Defence of India Bill was drafted by Mr. Ogilvie and piloted by Sir Muhammad Zafrullah Khan. I do not believe that. Everybody knows that since 1914, up to the year 1939, much water has run below the bridges. India today is not the same India that it used to be. The India of the days when Sardar Sant Singh was pilloried, the India of the days when Sardar Sant Singh was dragged to the jail, the India of the days when he was given bread mixed with sand—all that has gone for ever. A great change has come over India.

An Honourable Member : What was your own experience?

Maulana Zafar Ali Khan : Of course, I suffered. But my bitter experience tells me that Government dare not repeat the same experience now. (Interruption.) A great change has come, and if you say that the Government have not taken the country into their confidence when drafting this Bill, I say that they did take the country into their confidence when they called upon you and upon the other Members of the House to attend and give them advice. Why are those Benches—(pointing to Congress Party Benches)—empty? I wish that our Congress friends had been here, so that they might have joined Mr. Aney in their protest against the evil of the measure which he so much denounces. They are not here, it is their fault, not the fault of the Government.

Mr. M. S. Aney : I have said nothing about them.

Maulana Zafar Ali Khan : And when I said that Government are not fools, I had reason for saying so. In the year 1914, when the Great War came, England had America on her side, had France on her side, had Italy on her side, had Japan on her side, and her position was very strong. But now England is in a very desperate fix. Till a few days ago when this Bill first came to this House, Germany alone was fighting England. Russia was an unknown quantity, Japan was an unknown quantity, Italy was an unknown quantity, and many others were unknown quantities. But what is the position now? The position is very different. England may not require our help just now, but in another three or four or six months a time will come when the mainstay of British defence shall be India and then we shall be required to give help with men and money. Do you think that Englishmen are such blithering idiots that they will alienate the sympathy of India, that they will cut the throat of those who feed them? I do not believe that. If you believe that, then, of course, you can believe whatever you like in respect of this Bill. It is open to you to assert that this Bill is introduced with the main object of throttling the people of India, that this Bill is going

to be passed with the main object of getting an opportunity of seizing anybody who commits the slightest offence and then hanging him or transporting him. I do not think the Government are such fools. I do not imitate the example of my Honourable friend, Sardar Sant Singh, in refusing some measure of congratulation to the Honourable the Law Member for the pains that he has taken in piloting this difficult Bill.

Sardar Sant Singh : I only suspend my judgment.

Maulana Zafar Ali Khan : He has shown a spirit of accommodation, a rare spirit of accommodation under such difficult circumstances. Therefore, I compliment him on it, and I think that a measure of such a character as this should be passed in the hope that it will not be abused. I believe that it will not be abused. I have reasons for that belief, but because Sardar Sant Singh would not believe, Mr. Aney would not believe, in order to reassure those two worthies, I think the Honourable the Leader of the House should tell them that it will not be abused. I lend my support to the Bill.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, this is a very drastic measure, it gives a blank cheque not only to the Government of India, but also to the Provincial Governments and officers under them. The way in which evidence shall be recorded and the composition of the special tribunals are not to our full satisfaction. We tried our level best to improve the Bill, but as we are here, we have found ourselves unable to carry what we wanted. However, Sir, my learned friend, Sardar Sant Singh, is afraid of one Provincial Government, but I am afraid of nine Provincial Governments. We know that the burnt child dreads the fire. The conditions which prevail in nine provinces are very miserable, and we have suffered much and we are very much terrified by this blank cheque given to those at whose hands we have suffered in our honour, property and life. I will only appeal to the Leader of the House to see that such wide powers given by the Government of India are not abused. There is every danger of their being misused and the apprehensions of my learned friends of the Nationalist Party are well founded. When the rules are made, I think almost all the rules should be made by the Government of India, and the rule-making power which has been given to the Provincial Governments should be curtailed as much as possible, so that the danger may be avoided. The measure contains a provision for the prohibition of meetings and processions, but a rule has been made that meetings and processions held for the removal or for the redress of communal grievances will be exempt, but I know that the rule has not got the same force as law. However, I hope that the rules will not be changed in quick succession and prove dangerous in the matter of restricting the activities of the Muslim League which is fighting to safeguard the interests of the Mussalmans of India. With these words, I resume my seat.

The Honourable Sir Muhammad Zafrullah Khan : Sir, in a way I am glad that the Honourable the Leader of the Nationalist Party exhibited so much anxiety on the score of consultation with Provincial Governments. He seemed to think that that would have provided a safeguard. If that is so, then there is a much bigger safeguard inherent in the provisions of this Bill. The administration of this Bill, after it has become law, will almost entirely be in the hands of Provincial Gov-

[Sir Muhammad Zafrullah Khan.]

ernments and, therefore, I hope that will be some consolation to Mr. Aney with regard to the anxieties to which he has given expression. I am aware that for some time during the debates on this Bill Mr. Aney has had to absent himself in connection with perhaps more important duties but I have no doubt that when he studies the provisions of this Bill at leisure, he will find that on the side of actual administration the Central Government will have very little to do. I can assure him that in any action that the Central Government may take under this Bill it will be guided by tact, discretion and circumspection. Those were I think the expressions used in admonishing the Central Government with regard to the exercise of their powers under this Bill. Sir, I was very sorry to notice that one Honourable Member made it his duty on every occasion in season and out of season to attack the honesty, the integrity and the intelligence of the judiciary of this country.

An Honourable Member : Not the entire judiciary.

The Honourable Sir Muhammad Zafrullah Khan : I did not notice any exceptions made in that respect, from third class magistrates up to High Court Judges, nobody was spared. Sir, I protest most emphatically against the aspersions cast by that Honourable Member on the judiciary. As he himself said, it is not enough that justice should be done ; it is also necessary that the public should have confidence in the judiciary. I agree with him entirely, but may I add that I can think of no worse method of destroying the confidence of the public in the administration of justice than the kind of wholesale and sweeping attack for which that Honourable Member has made himself responsible against members of the judiciary in this country.....

Sardar Sant Singh : Let us agree to differ on that point.

The Honourable Sir Muhammad Zafrullah Khan : and that kind of attack is the more to be regretted because advantage has been taken of the privileges of the Members of this House to launch that attack with impunity and in a manner which is calculated to give it the widest publicity. The judiciary of this country have to discharge heavy and responsible duties and on the whole they discharge them most creditably. I must also protest against the allegation made by the same Honourable Member who professed sympathy with my position *vis-a-vis* this Bill—that I was acting under the directions of somebody else in piloting this Bill through the House. May I assure him that as Member in charge of this Bill I have exercised my discretion wherever I have been convinced that the exercise of that discretion was called for.

Sir, it only remains for me to give expression to my deep sense of indebtedness to the House for the very valuable co-operation that it has given me in piloting this measure through the House within a space of time which proves that the House fully shared with me the responsibility in respect of this measure and the anxiety to save the time of the House as much as possible at a time when we are faced with the grave crisis of war. May I also express my gratitude to all Honourable Members who have spoken, including Sardar Sant Singh, on this motion for the manner in which they have been pleased to express their appreciation of my humble efforts to meet their views on certain aspects of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : The question is :
“ That the Bill, as amended, be passed.”

The motion was adopted.

THE INDIAN AIRCRAFT (AMENDMENT) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That the Bill further to amend the Indian Aircraft Act, 1934, for certain purposes, be taken into consideration.”

This is a Bill making amendments of a comparatively minor character in the Indian Aircraft Act and I have set out the reasons in some detail in the Statement of Objects and Reasons. The second and the last clauses enlarge somewhat the scope of the Act with a view to enabling us to fulfil certain international obligations. The third clause makes a very minor amendment in the provisions regarding exemptions. As the Act at present stands, exemptions are expected to be given both from the Act and from the rules by notification. Normally, it is more convenient to give exemptions from rules by a provision in the rules themselves and the reference here to the rules is unnecessary and a little embarrassing. Perhaps the clause of most immediate practical importance is clause 4, which is designed to increase the safety of aircraft by ensuring proper provision for lights in dangerous places. As the House will observe from the wording of the clause, we contemplate that, where private persons are put to financial loss as a result of this provision, they should receive compensation.

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

“ That the Bill further to amend the Indian Aircraft Act, 1934, for certain purposes, be taken into consideration.”

The motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Andrew Clow : Sir, I move :

“ That the Bill be passed.”

and I would thank the House for the unanimity they have displayed.

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

“ That the Bill be passed.”

The motion was adopted.

THE PANTH PIPLODA COURTS (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I beg to move :

“ That the Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose, be taken into consideration.”

[Mr. J. A. Thorne.]

Sir, I have been asked what, and where, is Panth Piploda. I have some sympathy with that ignorance, because I myself shared it until my departmental concern with this area required me to identify it on the map. I can, I think, satisfy the curiosity of the House in a few words. The Chief Commissioner's Province of Panth Piploda consists of ten villages, with an area of about 25 square miles and a population of about 4,500 people; and is an island, or more correctly an archipelago, of British India, interspersed between Indian States and, I believe, wholly surrounded by them, in Central India. It is, as I said, a Chief Commissioner's Province. It is one of the six Chief Commissioners' Provinces referred to in section 94 of the Government of India Act, 1935. The Chief Commissioner is the Resident of the Central Indian States; and the highest criminal court of the Province is composed of the Chief Commissioner and an Additional Judge, who is, I think normally a District and Sessions Judge of the Central Provinces and Berar.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : What is the revenue of this Province ?

The Honourable Mr. J. A. Thorne : I think I can answer even that question,—it is about half a lakh. Now, Sir, there is no machinery, we have discovered, for composing a difference of opinion, if it should occur, between the Chief Commissioner and his colleague when sitting together on this criminal court, which is the "High Court" for the Province; and the sole purpose of this Bill is to provide an arrangement by which, if that unfortunate contingency should arise, it can be resolved. The occasions on which it may arise are, first, that it is the duty of that court to confirm a death sentence passed by the Sessions Judge, secondly, that a case may go to it on appeal, and thirdly, that a case may be taken on revision; and the terms of this Bill cover all those contingencies. I owe the House, I feel, an apology for inflicting a measure of this kind on it. There is no practical necessity; I believe that in the last five years there has been only one murder case in this area, and on that occasion there was no difference of opinion among the judges who had to deal with it. But the constitution lacks any machinery by which a measure of this kind can be put through without its being brought before the Central Legislature. I think we shall find, with more experience, not only in respect of this Chief Commissioner's Province but in respect of some others, that that is a position with which we cannot easily be content; and the necessity may some day arise for power to be given by which the Governor General in Council may, by regulation or notification, perform quite necessary, but quite unimportant, functions, similar to that which this Bill is designed to perform. Sir, I move.

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

"That the Bill to amend the Panth Piploda Courts Regulation, 1931, for a certain purpose, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. J. A. Thorne : Sir, I can only echo the words to which Sir Andrew Clow has just given expression and thank the House for the singular unanimity with which this matter has been expedited. Sir, I move :

"That the Bill be passed."

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

"That the Bill be passed."

Mr. M. S. Aney (Berar : Non-Muhammadan) : May I say one word, Sir ? It is a very interesting motion which is now before the House, but my curiosity was aroused on two points. In the first place, why is it that since 1935 this little Panth Piploda has emerged into a separate province ? Before 1935 we did not hear of this place at all and we knew nothing about it. That is one point of information. The second point of information is that it has, after all, its jurisdiction over 25 square miles and there are two Judges already working as the High Court of that place. Where is the necessity to have a third Judge for which we are going to make a provision here by passing this Bill ? Is the judicial work of that court—I do not know whether that judicial court has got original power—so much that the need of a third Judge is felt very keenly ?

The Honourable Mr. J. A. Thorne : Sir, my Honourable friend is apparently under the impression that this area became a Chief Commissioner's Province for the first time under the Government of India Act, 1935. That is not correct. It was constituted as a Chief Commissioner's Province as long ago as 1928. But from that date until the 1st of April, 1937, it remained in a decent obscurity as being under the administration of the Political Department. It emerged into the full light of day in the guise of a Chief Commissioner's Province from the 1st April, 1937, when it came under the charge of the Home Department of the Government of India. My Honourable friend then said, if I understood him aright, what is the need for a third Judge for this very small area ? Well, Sir, my own feeling is that from the practical point of view there is, and is likely to be, no need for a third Judge. If there is any impression that an officer is hereby to be appointed to sit in this area, or anywhere near it, waiting patiently for cases to come to him and with no other duties, that impression is entirely incorrect. I am right in saying that even the Additional Judge, who is now the second member of this Tribunal, is not occupied for any great part of his time with the mere work of Panth Piploda; and certainly this third Judge, who, I may perhaps inform the House, will probably be the Judicial Commissioner who does now the work both of the Western India States and of Rajputana, will be appointed *ad hoc*, not as a continuous measure but when occasion arises through a difference of opinion through the two Judges of the Tribunal. He will in that case be appointed *ad hoc* to resolve that difference of opinion. I hope that I have met my Honourable friend's difficulties and that he will have no hesitation now in allowing this measure to pass.

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

"That the Bill be passed."

The motion was adopted.

RESOLUTION RE AMENDMENT OF THE RESOLUTION ON ROAD DEVELOPMENT.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

“ That this Assembly recommends to the Governor General in Council that the Resolution on road development adopted by the Legislative Assembly on the 10th February and by the Council of State on the 5th March, 1937, be amended as follows :

‘ That for the words ‘ for purposes of civil ’ in sub-paragraph (1) of paragraph 2, and for the words ‘ for the purposes of civil ’ where they occur in two places in sub-paragraph (1) of paragraph 3, the word ‘ in ’ be substituted in each place ’.”

Sir, the position, when the Road Resolution was passed, was that petrol used for purposes of military aviation was exempt from duty. It has since been subjected to the ordinary duty, and the percentage of that duty, which at present goes to the Road Fund, will consequently accrue in respect of such petrol to that Fund. But there is no provision in the Resolution for the expenditure of any money so accruing. The only object of these amendments is to provide for that omission. The intention is that the money should be used, whether it comes from civil or from military aviation, in the form of grants of aid in aid of civil aviation.

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

“ That this Assembly recommends to the Governor General in Council that the Resolution on road development adopted by the Legislative Assembly on the 10th February and by the Council of State on the 5th March, 1937, be amended as follows :

‘ That for the words ‘ for purposes of civil ’ in sub-paragraph (1) of paragraph 2, and for the words ‘ for the purposes of civil ’ where they occur in two places in sub-paragraph (1) of paragraph 3, the word ‘ in ’ be substituted in each place ’.”

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : May I ask the Honourable Member, what is the amount involved ?

The Honourable Sir Andrew Clow : I am afraid, Sir, in the present circumstances it is almost impossible for me to say what the amount will be. It is 2½ annas per gallon on the petrol used but with the developments with which we are now confronted, it would be very hazardous to make a prediction at all. I will, however, lay on the table of the House, at intervals, a statement showing exactly how this money spent in aid of aviation is expended so that the House will be able to see the amounts involved from time to time.

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

“ That this Assembly recommends to the Governor General in Council that the Resolution on road development adopted by the Legislative Assembly on the 10th February and by the Council of State on the 5th March, 1937, be amended as follows :

‘ That for the words ‘ for purposes of civil ’ in sub-paragraph (1) of paragraph 2, and for the words ‘ for the purposes of civil ’ where they occur in two places in sub-paragraph (1) of paragraph 3, the word ‘ in ’ be substituted in each place ’.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 21st September, 1939.

LEGISLATIVE ASSEMBLY.

Thursday, 21st September, 1939.

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

MEMBER SWORN.

Mr. Dharendra Nath Mitra, C.B.E., M.L.A. (Government of India : Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

CURTAILMENT IN THE DURATION OF THE STAY OF THE GOVERNMENT OF INDIA OFFICES IN SIMLA.

+260. *Mr. Suryya Kumar Som : Will the Honourable the Home Member please state :

(a) whether the duration of the stay of the Government of India Offices in Simla for the next season and thereafter has been curtailed due to the permanent location of the Secretariat at New Delhi from next October ; if so, for what period and whether there is no further possibility of curtailment ; and

(b) whether Government propose to bring up the camp offices only for four months at the most ; if not, why not ?

The Honourable Mr. J. A. Thorne : (a) and (b). I refer the Honourable Member to the Press communiqué, dated the 25th May, 1939 (copies of which are in the Library of the House) and to my reply to Mr. Lalchand Navalrai's starred question No. 54 of the 1st September, 1939.

DIVISION OF OFFICERS OF THE RAILWAY DEPARTMENT IN CERTAIN CATEGORIES.

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

(a) whether officers in the Railway Department are divided into two categories, viz., the Secretary of State's officers and the Governor General's officers ; if so, since when ;

(b) what is the distinction between, and educational qualifications of, these two categories of officers, and their respective functions ;

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

- (c) whether it is a fact that the Secretary of State's officers are ordinarily Europeans and the Governor General's officers are ordinarily Indians ;
- (d) whether it is a fact that the Secretary of State's officers ordinarily get overseas pay in addition to their pay proper and the Governor General's officers do not ordinarily get this overseas pay ;
- (e) what are the different scales of the rates of overseas pay allowed to respective officers of the Secretary of State's group ;
- (f) whether it is a fact that more than two years ago the Railway Board issued orders to the effect that the Calcutta and Bombay compensatory allowances should be withdrawn from all railway officers including the Secretary of State's officers and the Governor General's officers ;
- (g) whether it is a fact that after the lapse of more than two years the Railway Board have ordered that in the case of the Secretary of State's officers, the compensatory allowances should be paid to them again with effect from the date from which they were stopped ;
- (h) whether it is a fact that under these orders the Secretary of State's officers will receive arrears of compensatory allowances for more than two years ; if so, the total amount of such allowances ;
- (i) whether it is a fact that compensatory allowance is given to re-imburse an officer for expenditure incurred by him in the discharge of his official duties ;
- (j) whether it is a fact that there are orders to the effect that compensatory allowances should be so fixed as not to be a source of profit to those who received them ; if so, whether Government propose to lay a copy of the order on the table ;
- (k) the reason why the compensatory allowances have not been restored in the case of the Governor General's officers ; and
- (l) whether it is a fact that the Government of India decided to discontinue the compensatory allowances at Calcutta and Bombay because the cost of living had gone down ?

The Honourable Sir Jeremy Raisman : (a) Prior to the 1st of April, 1937, officers were appointed to the Railway Department both by the Secretary of State and by the Governor General ; the former are referred to as Secretary of State's officers and the latter as Governor General's officers. Since this date all appointments are made by the Governor General and the distinction, therefore, is disappearing.

(b) The conditions of service of officers who were appointed by the Secretary of State are, under the Government of India Act, 1935, to be prescribed by the Secretary of State and of officers appointed by the Governor General by the Governor General. There is no distinction in their respective functions ; nor was there, broadly speaking, any distinction between the educational qualifications required of the two classes of officers at the time of appointment.

(c) Yes ; but there are many Indian officers in the Services who were appointed by the Secretary of State.

(d) Yes ; but certain Indian officers who were appointed before a certain date also draw overseas pay.

(e) I would refer the Honourable Member to the Superior Civil Services Rules, a copy of which is available in the Library of the House.

(f) and (g). Yes.

(h) Arrears are to be paid from the date of stoppage, but the period will, in most cases, be considerably less than two years. The total amount of back allowance paid or payable to State Railway officers up to the 31st of July, 1939, as a result of restoration was Rs. 2,06,224-9-0.

(i) and (j). I would refer the Honourable Member to Rules 9 (5) and 44 of the Fundamental Rules, a copy of which is available in the Library of the House.

(k) The matter is under consideration.

(l) The allowances were discontinued because it was considered that the difference in cost of living at Bombay and Calcutta as compared with other stations in India did not warrant their continuance.

Mr. Lalchand Navalrai : With reference to part (j), may I know whether the allowances are so fixed as not be a source of profit to those that receive them ?

The Honourable Sir Jeremy Raisman : My reply was : I would refer to the Fundamental Rules under which compensatory and other allowances are not to be a source of profit.

Mr. Lalchand Navalrai : I want a definite reply from the Honourable Member whether it is actually in force or not ?

The Honourable Sir Jeremy Raisman : The question which the Honourable Member asks me is a question on which obviously two opinions are possible. It was on the view that the allowances were to some extent a source of profit that they were abolished and it was on a conflicting view that perhaps that has not been proved that they have been restored.

Maulvi Muhammad Abdul Ghani : What is the total number of the Secretary of State officers and the number of Indians therein ?

The Honourable Sir Jeremy Raisman : I require notice. I have not got the information with me.

Mr. Muhammad Nauman : May I ask why is it that it has disappeared ? What is the percentage of disappearance and from what date has the Honourable Member been able to calculate in giving his answer ?

The Honourable Sir Jeremy Raisman : The position is that no further recruitments are being made by the Secretary of State and that has been the practice for some time, and, in the course, I suppose, of twenty years or so all the Secretary of State's officers will have disappeared from this service.

Maulvi Muhammad Abdul Ghani : I find that mostly the Governor General's officers are Indian officers and the Secretary of State's officers are Europeans. Does it follow from this that because the Governor General is in India, he recruits Indian officers, and because the Secretary of State is in England, he recruits only Europeans ?

The Honourable Sir Jeremy Raisman : Obviously in practice the fact that the Secretary of State used to recruit in England meant that he recruits largely Europeans as well as a certain number of Indians. The recruitment in India was naturally and entirely Indian. But that is not the basis of the distinction. There is a legal distinction in that the officer recruited by the Secretary of State is subject to the rule-making powers of the Secretary of State, whereas officers recruited by the Governor General are completely under the rule-making control of the Governor General.

Maulvi Muhammad Abdul Ghani : Are not Indians entitled to be appointed in the group of Secretary of State's officers ?

The Honourable Sir Jeremy Raisman : As I pointed out, that method of recruitment has now been abandoned, and officers are now recruited entirely by the Governor General.

AMENDMENT IN THE DECLARATION *RE* REGISTRATION OF FOREIGNERS ACT.

The Honourable Mr. J. A. Thorne (Home Member) : I lay on the table a copy of the Home Department Notification, No. 21/68/39-I-Political (W), dated the 31st August, 1939.

No. 21/68/39-I-Political (W.).

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

Simla, the 31st August 1939.

NOTIFICATION.

In exercise of the powers conferred by section 6 of the Registration of Foreigners Act, 1939 (XVI of 1939), the Central Government is pleased to make the following amendment in the Declarations published with the notification of the Government of India in the Home Department, No. 21/32/39-Political, dated the 21st June, 1939, namely :

In the said Declarations :

1. In Declaration 4 for the words " or Portuguese India " the words " Portuguese India, the Straits Settlements or the Federated Malay States " shall be substituted ;
2. After Declaration 4 the following Declaration shall be inserted, namely,—
 " 4A. That the provisions of rules 4, 15 and 16 of the Rules shall not apply to, or in relation to, any British subject who enters, or departs from, British India on board any vessel travelling solely between a port in British India and a port in the Persian Gulf, Makkah, or Saudi Arabia."

H. J. FRAMPTON,

Deputy Secretary to the Government of India.

THE WORKMEN'S COMPENSATION (SECOND AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923, 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 Workmen's Compensation Act, 1923, for a certain purpose."

The motion was adopted.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I introduce the Bill.

THE INDIAN ARBITRATION BILL.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move that Mr. D. N. Mitra be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Sir George Spence, and Mr. A. Aikman, Khan Bahadur Nawab Siddique Ali Khan and Mr. Akhil Chandra Datta be added to that Committee.

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

" That Mr. D. N. Mitra be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Sir George Spence, and Mr. Aikman, Khan Bahadur Nawab Siddique Ali Khan and Mr. Akhil Chandra Datta be added to that Committee."

The motion was adopted.

CONSIDERATION OF THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume the discussion on the motion relating to the Report of the Public Accounts Committee for 1937-38.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Sir, before I make any observations on the report of the Public Accounts Committee, I should like to offer my own thanks and the thanks of the House to the Honourable the Finance Member for having accepted my suggestion of supplying us with copies of the evidence before we were asked to consider this report. We could not have compelled Government to postpone the motion but the accommodation shown is certainly very much appreciated. However, I do confess at the outset that in spite of the facilities given to us we were not able to study the various reports as much as we might have been expected to, as the House was busy with an important piece of legislation like the Defence Bill and we were keenly interested in the amendments moved to that Bill. However, we are in a position to say something and I should like to make my comments as briefly as possible and confine my observations to only one or two departments.

[Mr. Muhammad Nauman.]

I will first deal with the Railway Department which is called a national asset of 750 crores of the Government of India. I want to refer to the constitution of the Railway Accounts Department as referred to in Volume I, Part II, page 3, column 5. I fully endorse the views of the Auditor General and think that the General Managers have been given too wide an authority and power in dealing with the finances. Too much of whitewashing has been done on the acts of these General Managers and the Government of India officials in the Railway Board have shown a weakness by which hundreds of thousands of rupees, as is apparent from page 2 of the Audit Report, have been lost. The railways are claimed to be a commercial department of the Government of India and I hardly believe any businessman would have tolerated this state of affairs. Can Government specify any probable figure of the amounts which were lost by negligence and extravagance of these officials who had committed irregularities in their railways? Page 38 of Volume I of the report shows that the Railway Board could not effectively control the Agents and General Managers to whom they have delegated wide powers in the matter of accounts and who follow their own methods in dealing with the accounts as they like. If the Railway Board retained effective control and interfered in day to day works of the General Managers the powers so delegated to them would have little or no chance of being used in the manner in which they have been actually used. The House will perhaps remember that instances of irregularities were quoted during the Budget Session of 1938 and were also repeated during the Budget Session of 1939,—instances of irregularities and of abuse of powers, defiance of rules and cases of extreme favouritism and nepotism have been so numerous. I am not going to suggest that these General Managers have not given some sort of explanation to the Railway Board but from the explanations given by them which the Railway Board in their turn gave to us we have not been able to satisfy ourselves that those explanations were at all satisfactory. The Railway Board tries to shelve these officers of different administrations and instances have only convinced me and many people like me that the Agents and General Managers use their autonomous powers like kings who are beyond approach and beyond reproach in all matters. In spite of this they have the good luck to get the patronage of the Railway Board. I believe there is a good deal of anxiety on the part of the members for Railways and probably on other members of the Railway Board to see that General Managers do not do what they have been doing, but as yet things have not changed. Even in the matter of replies to questions the Honourable Member for Railways only reads out the replies which these General Managers send him.

The Honourable Sir Andrew Olow (Member for Railways and Communications) : Not at all.

Mr. Muhammad Nauman : I do not know whether he has ever taken upon himself responsibility to make confidential inquiries on these things. As public men and representatives of the people it is our duty to bring these matters to the notice of the Railway Board and of the Honourable Member. Stereotyped replies do not make things better or improve them. They only sometimes make things worse and make

people feel that things are not done in the way they should be done, and hence the whole purpose of putting questions is defeated.

As regards accounts, the most important factor is the question of method of giving contracts. In this matter power has been delegated even to Divisional Superintendents for smaller items—I do not wish to cite examples, but I assure the House that things are not being done as they should have been. I will give instances later with the help of such evidence as is embodied in the report of the Public Accounts Committee and not refer to those that I have got myself. In matters of contracts, the General Managers and their hirelings indulge in all sorts of things. This attitude of patronage of the Railway Board shields them and they feel encouraged. I would refer to paragraph 59 at page 28 of the Audit Report of 1939 where a figure of Rs. 5,177 is mentioned which is not explicit to me. May I have your permission, Sir, to get that book, I mean the reports?

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member finished? If not, he must get on with his observations.

Mr. Muhammad Nauman : The Book is not here and however I hope the Honourable Member will explain the figure I have mentioned. It is unrealised rent from certain staff. The Railway administrations have been collecting rents and why it was not done in those few cases is surprising to me and requires an explanation.

I now want to refer to the findings as embodied in the Railway Audit Report, 1939, under the head "Financial Irregularities", Chapter II, page 20. We find that in spite of the fact that the lowest tender was not accepted in order to avoid experiment, a comparatively expensive offer was accepted by East Indian Railway for purchase of Rail anchors which had probably the support of experience; but the result was absolutely the contrary. The total purchase was valued at 1,45,000 rupees and the total amount of loss was about 70,000 rupees or just half. I would refer the House again to paragraph 47 at page 20 of the said report, which Honourable Members must have read and I do not want to waste time in reading same again. What conclusion can it lead to except that the measurer so appointed on the Great Indian Peninsula Railway was in conspiracy with contractors or something like that? These sleepers were being supplied to the Great Indian Peninsula Railway and the measurement was being wrongly given. Timber is not a commodity which shrinks or expands in transit. I do not know whether the Railway Board have made inquiries into these matters. The different railways are full of such stories and the same sort of people always make some understanding with the Railway officials. These are rather strong statements to make but there are already same suggestions in the reports that have been made available to us. Later on I will prove that the way these contracts are handled is most unsatisfactory....

The Honourable Sir Jeremy Raisman (Finance Member) : As the Honourable Member is making some very serious charges in connection with this point, would he very kindly explain exactly how in the circumstances given there is any scope for dishonesty?

Mr. Muhammad Nauman : I ask why was it not possible to have the measurements checked on that railway, unless the authorities were in collusion with the contractors ?

The Honourable Sir Jeremy Raisman : Does the Honourable Member realise that the point here was that the actual measurements of timber were found to be larger than the invoiced amounts ? The actual measured amounts were larger and payment was made on the basis of the actual amounts discovered by measurement.

Mr. Muhammad Nauman : Am I to understand that payment was being made for the actual measurement received which was in excess of the contracted figure ? I would now refer to paragraph 48 on page 20, regarding affairs on the Eastern Bengal Railway which has been a State Railway from the very beginning and which, in my opinion, requires very close attention from the Honourable Member in charge of Railways. That administration has been criticised from different angles and different points of a view for over two years and I do not want to repeat them now, but I hope the Honourable Member in charge for Railways does realise what complaints we have been showering on that particular administration and why.

The Honourable Sir Andrew Clow : I have not heard any relating to the accounts from the Honourable Member.

Mr. Muhammad Nauman : I am coming to the accounts now. The issue is as referred to on page 21, paragraph 48 of the said report. After only six years' use, sleepers purchased by the Eastern Bengal Railway have been found to be unfit and this resulted in a loss of six lakhs of rupees. Sleepers whose normal life is forty years have had to be rejected after only six years of service. The North Western Railway and the East Indian Railway have had previous experience in this matter as is stated on the same page of this Report, and still the Eastern Bengal Railway authorities did not care to take advantage of the experience of the North Western Railway and the East Indian Railway. I think if the Railway Board had more effective control, they would have interfered in the matter and asked the Eastern Bengal Railway to take advantage of the experience which the other Railways had acquired in this matter. I do not want to suggest any particular model in buying those sleepers, but I would like to hear from the Honourable Member in reply whether sanction was ever taken from the Railway Board at all for this purpose or everything was done behind the back of the Railway Board.

Now, Sir, I should like to come to the old story of the Hardinge Bridge on the Eastern Bengal Railway. I would not like to read the history which is given in this "Report of the Government". I hope Honourable Members are in possession of that Report, and so I do not propose to take up the time of the House in reading same again. I would, however, refer Honourable Members to the Report of the Public Account Committee, Volume I, Part II, where the brief history appears at page 56 of Appendix 50. Members will see the suggestion from the kind of remarks which have been made on this. No tenders were called for in the first instance, nor any advertisements were given. The officers of the Eastern Bengal Railway administration entered into a contract for supply of stones with unfair motives, and the terms of

the contracts were not so much to the interest of the administration as it was made to the interest of the contractors as the Report I have referred itself suggests at a later stage. Honourable Members will observe that even the terms of contract were altered without reference to the Railway Board....

The Honourable Sir Jeremy Raisman : What is the actual reference please ? Which case is the Honourable Member referring to ?

Mr. Muhammad Nauman : I am referring to the case which was referred to arbitration and in which a sum of Rs. 54,000 was paid for merely removing the debris of small stones which found no place in the original contract. As I was saying, Sir, even the terms of contract were altered without the sanction of the Railway Board. Then, as stated in column 6, of the same report, Appendix 50, page 57, trouble arose when the Engineer reported that the contractor had not fulfilled his obligations. The matter was referred to an arbitrator, and in the words of the Government report itself "the choice of the arbitrator was unfortunate". A payment of Rs. 54,000 was made for removing the debris, although there was no mention of it in the original contract. When the contractors supplied big stones, it should have been pointed out to them that small stones which were either supplied or resulted in breakage would be of no use, and those stones should have been removed by the contractors at their cost entirely.

Then, Sir, in paragraph 8 it is stated in the said Report, page 58, that "in regard to the framing and handling of the contract itself, the circumstances disclosed, generally speaking, an attitude of undue laxity and possibly lack of strict business acumen on the part of some officers", but no mention is made as to who the officers were in charge who entered into that contract, and the beautiful parliamentary language has been used by saying "an attitude of undue laxity and possibly lack of strict business acumen on the part of some officers" mainly to shield the General Manager of the Eastern Bengal Railway. The Railway Board are satisfied that the contract was not entered into with fair motives, and still they want to give the officers concerned the benefit of doubt. I would like to ask Honourable Members of this House who understand business methods, especially my European friends, whether they would allow any manager in their own concerns to go scot free under such circumstances ? Certainly they would have dealt with the man concerned severely for entering into such a fraudulent contract. We have no idea what action the Railway Board proposes to take against the officer or officers concerned. Are they going to punish the officers concerned in this matter for putting the Railway Administration in such a big financial loss ?

The Honourable Sir Andrew Clow : The Honourable Member will find the conclusions of the Railway Board in paragraph 10.

Mr. Muhammad Nauman : There is nothing stated as to what action is proposed to be taken. I am very glad that the Honourable Member proposes to take severe action, and if an assurance to that effect is given to us, we will be happy.

The Honourable Sir Andrew Clow : Read the paragraph.

Mr. Muhammad Nauman : Which paragraph ?

The Honourable Sir Andrew Clow : Paragraph 10, page 59.

Mr. Muhammad Nauman : I have read that. Sir, it is very necessary not only in the interest of this particular contract, but in the interest of all contracts which will have to be entered in regard to other Railways that strict measures were adopted.

Another fact has been brought to my notice, though it is not quite relevant to the accounts we are discussing here, but I want to point out that among the contractors in the approved list of Railways the Muslims do not appear. It is an unfortunate fact that due facilities are not offered to Muslim contractors for tender, and this is a matter which the Railway Board should consider seriously. I do not want to lay much stress on this point, but I would like to read a copy of a telegram which was sent to the Railway Board....

Mr. President (The Honourable Sir Abdur Rahim) : Which portion of the Report is the Honourable Member referring to ?

Mr. Muhammad Nauman : I am referring to Railway Audit Report for 1937-38. The telegram sent to the Railway Board reads 'Solicit direct inquiries by the Railway Board against injustice to qualified Muslims' and refusal of facilities to Muslim merchants.

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

Mr. Muhammad Nauman : I now only want to take up the question of ticketless passengers which finds a place in the evidence Report and on which I find that Sir Guthrie Russell stated that unless legislation is brought in there is no prospect of meeting the situation. I think that legislation cannot be thought of in this connection. It is the duty of the railway to improve the morals of its own people. I can tell you from my own experience that your own guards compel honest passengers some times to travel without tickets. When passengers come and report that for some reason or other they were not in a position to buy a ticket, the guards will not take any notice of them. I do realise that the situation is serious, but you cannot get over the fact that a certain number of people will remain ticketless in spite of any legislation which might be made. What I would suggest is that proper precautions, if taken, would be very good and with regard to that I want to give concrete suggestions, such as surprise visits, appointments of Railway honorary magistrates to look after your cases and go about in their own areas in due discharge of their duties to stations for surprise visits. It would not cost you very much as if you give "free passes" you will get quite a number and at the same time that would relieve the position to a very great extent in the matter of congestion in compartments. (Interruption.) I was given to understand that the D. S. of Howrah, Mr. N. C. Ghosh, had lately started surprise visits and it has improved the situation at Howrah. I suggest that such instructions should be given to every D. S. and if they do in their turn start surprise visits by themselves or by certain members of the railway staff I think the situation will improve. These are the different methods which should be adopted by the Railway Board. It is no use merely saying that nothing can be done because there is no legislation. I do not know whether there is any legislation in that respect in England or in any other part of the world. If there is, the Honourable Member will enlighten me on the subject whether it is a cognisable offence in England

if a man is found without a ticket. I have given my concrete suggestions so far as this is concerned. I now leave the railways, and make one or two observations on other items.

Mr. President (The Honourable Sir Abdur Rahim) : The time is limited, and there are other Honourable Members who desire to speak. The Chair hopes the Honourable Member will remember that.

Mr. Muhammad Nauman : I do not want to take much of the time of the House but I would only refer to a few items which are not very explicit to me, and I would request the Honourable the Finance Member when he gets up for a reply to try and convince the House as to what they are. One is about Rs. 10 lakhs given annually to the Nepal Government as a *bukshish* or some thing like that. Why is that ? I would like to hear from the Honourable Member what is the position of this donation or contribution made by the Government of India to Nepal Government. Is it under any contract or is it by way of a convention, we would like to know. I have no time to discuss the other parts of the subject, and I would leave them to other Honourable Members. With these observations I take my seat.

Dr. R. D. Dalal (Nominated Non-Official) : Mr. President, I will not detain the House for more than two minutes. Since 1931 I have been a Member of the Public Accounts Committee, and I may inform this Honourable House that it is the Auditor General who in the main guides the affairs of the Public Accounts Committee. As the House is aware, Sir Ernest Burdon has been the Auditor General for the last ten years, and after completing a full term of service in India Sir Ernest Burdon is about to retire. So, I hope the House will not forfeit this opportunity of placing on record its appreciation of the valuable services Sir Ernest Burdon rendered to the Public Accounts Committee during the last ten years and of his lucid comments on the various appropriation accounts which greatly facilitated the work of the Public Accounts Committee. Sir Ernest Burdon is no doubt possessed of more than the average industry, and in 1934 with an originality that does him much credit Sir Ernest Burdon invented the remarkable "Key" Statement—the statement that has proved so useful to the Public Accounts Committee and to the various departments of Government. Sir Ernest Burdon has given the Public Accounts Committee the benefit of his wide knowledge and experience. We deeply regret his impending departure from India, and we shall miss him very much indeed. Sir, the Auditor General in India who merely devotes himself to figures and to book-keeping will never leave his mark upon the history of this country, and it is because Sir Ernest Burdon has not looked at his work.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must remember that we are discussing the Report of the Public Accounts Committee and not any particular official.

Dr. R. D. Dalal : I will finish, Sir. And it is because Sir Ernest Burdon has not looked at his work through the narrow spectacles of the accountant but from the wider standpoint of the man of affairs that he has attained the success which he has achieved. We sincerely wish Sir Ernest Burdon every happiness and prosperity ; above all, good health and long life, and we earnestly pray that it may be given to him to enjoy his well-earned repose for at least as many years as he has served Government.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I have no contracts to sing about or curse them, I have no opinion about honorary magistrates, to ask that ticketless travellers should be tried by honorary magistrates. In my opinion, woe be to those honorary magistrates. I have seen and got enough of experience and it is to the credit of the Government, especially the Provincial Governments, that these honorary magistrates have been done away with. I have also to make no praise for anybody, but I want to make observations on the report itself.

An Honourable Member : What about Dr. Dalal ?

Mr. Lalchand Navalrai : He may have an object which I have not. The Honourable Member may be trying for something which he should get for having remained long there.

Dr. R. D. Dalal : The Honourable Member must withdraw those remarks. I object to them.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw his remarks.

Mr. Lalchand Navalrai : He is my friend. I can speak to him privately.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw his remarks.

Mr. Lalchand Navalrai : If Dr. Dalal wants me to withdraw them, I will do it.

Dr. R. D. Dalal : He has not withdrawn his remarks, Sir.

Mr. Lalchand Navalrai : We will talk in the lobby about it.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member withdraw the remarks he has made ?

Mr. Lalchand Navalrai : I have withdrawn, and I do withdraw them. What more is needed.

I shall now restrict myself to the report itself. The point to which I will make a reference is the report on the Railways and then I will come back to the Civil side and I won't take much time. The first point that I raise is with regard to the powers of the Managers and in particular the transfer of the accounts staff to the General Managers. We have in this House often complained and not without reason that the General Managers on the railways are all in all, that they are the lords of all that they survey and the powers have been so much decentralised to them that even the Railway Board finds it difficult to get information as to what they are doing or not doing. When we put questions in this House, the general reply comes that they are being sent to the General Managers for information and so on. Now my point is as to the transfer of the accounts staff. The history of this question is on pages 35 to 37 of the Public Accounts Committee report. This staff was independent of the General Managers, so that they could scrutinise and criticise the accounts independently. This is the principle on which this department was kept separate but then, some time ago, the proposal was made that this department as a whole should be transferred to the General Managers. In the beginning the Government was against it. They did recognise that the accounts staff should work

independently, if they are to do their work efficiently. Later on, a Railway Committee was appointed and they suggested that it should be under the General Managers. Government seemed inclined to follow the Railway Committee but the Auditor General was against it and he put up a strong note, *vide* the report of the Public Accounts Committee for the year 1936-37 to this effect. He said that the arrangement should be left as it was but, finally, the Auditor General gave in on this condition that the new system was to be experimental. The Railway Board took up two railways, the Great Indian Peninsula and the North Western Railways, for this experiment. Now, Sir, my information is that there is no love lost between the accounts staff, the accountants particularly and the General Managers. These accountants have many times found out flaws and irregularities but they have been put under foot by the General Managers and their staff. These men are expected to criticise the work done in the office of the General Managers and if they are made subordinate to them, one can understand the situation that will arise. How can you expect these men to work fearlessly and independently ? Incidents have happened to that effect and I hope the Honourable the Finance Member will inquire into it. I know that the Chief Accounts Officer is not wholly dependent upon the General Manager but one can understand the position if he has got to take orders from him. Disagreements may arise and every time matters may come before the Financial Commissioner. Therefore, I would ask the Honourable the Finance Member that if this is a trial and an experiment, it should come to an end now. It has been in force for about eight months and they want to wait for another five or six months. I say 'No'. Considering the portion of the report which I shall read out, I say that this system in the North Western Railway should come to an end at once. On page 37, this is what they say about the North Western Railway :

"The organisation on the North Western Railway however is peculiar in that the control of all staff is exercised by the General Manager through a Personnel Branch represented by a Deputy General Manager Personnel at Headquarters and by the Divisional Superintendents through Personnel Officers in all the Divisional offices. The General Manager of the North Western Railway has insisted that the arrangements for controlling the accounts staff should conform to the arrangements applying to the rest of the railway staff, and that, while control and disciplinary action in specifically technical matters may be exercised by accounts officers, general control which would include powers of promotion" (*this is important*), "major punishments for offences of a general character, should be exercised by the heads of departments to whom the accounts staff is attached, working through the Personnel Branch of the railway administration up to the General Manager in the last resort. This involves a considerable change in the authority of the Financial Adviser and Chief Accounts Officer *vis-a-vis* members of the accounts staff."

The General Manager wants more, and he wants to secure those powers to himself so that as regards his own bills and his own accounts they should not be independently scrutinised.

The next point that I want to raise is with regard to saloons. I would refer to page 29 of the report. Sir, it has been often

12 NOON. urged in this House that these saloons should not be so many, that the officers who have got saloons now do not all need them, and that it is necessary to economise and to reduce the number. I am glad to see that they have said in this report at page 29 that "no demand for saloons in 1938-39, 1939-40 and 1940-41 has been sanctioned, and no requests for new saloons and reserved carriages will be considered in future until the Board are convinced that the number in use has been

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reduced to the absolute minimum required for systematic and frequent inspections to ensure safety and the efficient conduct of railway work ”.

I am glad that the matter has, after all, after so many years now been seriously taken up, as this report says. I would suggest that it seems to me that the four-wheeler saloons are of no use at all. Officers who have got four-wheelers are complaining. I would submit that those officers should be provided with the better saloons of other officers who are not inspecting officers and that these four wheeler saloons should be scrapped; they are absolutely useless. The inspectors have got them.

Mr. M. S. Aney (Berar : Non-Muhammadan) : How many of them are there ?

Mr. Lalchand Navalrai : I do not know how many there are. I submit they are surely very inconvenient. Almost all the officers have complained.

An Honourable Member : Have you yourself travelled in them ?

Mr. Lalchand Navalrai : Yes, I have, for the purpose of having this experience. There is so much of jolting and shaking the whole time and you cannot work in them. The point is that you cannot do the very work for which they have been given to those inspecting officers.

I will now pass on to another subject, which is with regard to the passes. Now, I would request the Honourable Member for Railways to kindly consider one question that I am now raising; that has been raised on the floor of the House several times and I do not think the Honourable Member for Railways would be very hard—I won't say hard-hearted, I know he is not hard-hearted—but I say I hope he would not be so hard as to shelve this question. I would make a small suggestion which should be considered. The point is that railway servants who used to get, before their scale of pay was changed, more than Rs. 60 were travelling by intermediate class. Now, a rule has been made that all those persons and those now appointed after the introduction of the new scale should travel by third class. Well, this is an injustice to those men that were already travelling by intermediate that they should travel third class. I say do not do any harm to those people, as it would be rather a degradation for them.

An Honourable Member : Does not Mahatma Gandhi travel third class ?

Mr. Lalchand Navalrai : All are not Mahatma Gandhis. The point is that the question of first class passes should again be considered and they should be reduced, and intermediate class passes should be given to those only that were actually having them before the new scale came into force. Now, I find there are 3,558 first class passes being given to officers, I think that is a large number and I think that economy can be made there and these passes can be reduced and those with regard to the intermediate class should be raised.

I now come to the third point and the last point, with regard to the development of industries. I would refer to page 42. Now, Sir, with a view to the development of these industries, there is an office

which is called the Central Standards Office. Now, that office, they say, is working well and it is looking after this development of industries. Now, it is quite plain that the Pacific Locomotive Committee's Report that was presented to the House the other day made, if not recommendation, as this word was objected to on that day in connection with that report, at any rate a suggestion that there ought to be an industry for making locomotives in India. I find nothing from this report whether anything is being done with regard to that, and whether any initiation has been made. If it is the serious intention of the Government that we should make our own locomotives, I think it is not too early but even too late, but a beginning should be made, and with regard to that—(I have not got the report of 1936-37, with me—but the Honourable Member must be knowing it). I have read in that report that the Public Accounts Committee had stated that in certain factories—I think about two factories—in India this work of making locomotives could be started. Now, I am, therefore, submitting that in connection with that there ought to have been some information given to us now in this report which is under consideration.

Sir, I have done with regard to the railway report and I won't take a long time over the civil side of the Public Accounts Committee's Report. I have only one point to draw attention to. I have gone through it and my attention has been drawn to page 30 with regard to Baluchistan. The other day my Honourable friend, the Leader of our Party, made a reference to me having pointed out something that is required in building Quetta. While giving further information with regard to the re-construction of Quetta, the report says :

“ It was noticed that the progress of the Quetta re-construction was slower than was originally expected. This, however, was not to be deplored as the greater consideration given to the type of the structure to be erected in Quetta had yielded valuable economies. The Committee were gratified to find that considerable impetus had been given to the development of forests in Baluchistan.”

As the House is aware, there was opposition by some of the Members in this House that the re-construction of Quetta should not be on the same spot. After the earthquake what we find is that thousands of people got buried under the debris. Although some of the debris has been removed, it cannot possibly be said that the whole of the rubbish and the corpses inside have been removed. Now, Quetta has been built on the same spot. There is at least one thing which we expected from the Government, namely, to select a site which will be free from disease and other maladies. Sir, I belong to Sind and I must bring to the notice of the House that in Quetta sanitation has not been taken care of.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot discuss all that.

Mr. Lalchand Navalrai : I am mentioning all these things because the question of the re-construction of Quetta is there.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot discuss the general policy.

Mr. Lalchand Navalrai : I would only like to point out, Sir, that in the re-construction old bricks, which must have become infected, are being used in drains for carrying water with the result that we have

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there mosquitoes which are not even of an ordinary kind. They cause eruptions and boils and malaria prevails there. I am not inclined to take up the time of the House unnecessarily but this is an important matter to be careful about.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot go into all these questions about the re-construction of Quetta, because it is not relevant to the motion before the House.

Mr. Lalchand Navalrai : If the Chair is of that opinion, I will not refer to it any more. The matter has been sufficiently ventilated in this House by this time and I do not think the Government is so callous as not to investigate into the matter of sanitation of Quetta.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : Sir, I had no intention of taking part in this debate but for the fact that I received a cover from the Assistant Income-tax Officer from the district of Saran. The Public Accounts Committee decided that the amount should be written off in connection with the Revenue Department, more particularly about the income-tax assessment. Wrong assessments are sometimes made and the Government then have to come for writing off the amount.....

The Honourable Sir Jeremy Raisman : Will the Honourable Member please indicate what page of the report he is referring to ?

Maulvi Muhammad Abdul Ghani : If the Honourable Member will refer to the expenditure of the Crown Representative, he will find there.....

Mr. President (The Honourable Sir Abdur Rahim) : Will the Honourable Member refer to the page of the report ?

Maulvi Muhammad Abdul Ghani : It has been discussed that when some pauper persons file applications through the court, they get a decree and sometimes that decree is not realised and yet the Income-tax Department make assessment thereon. The Public Accounts Committee dealt with a similar instance. I would, therefore, like to bring to the notice of the Finance Department that such a repetition should not be made. A few days ago I received a registered cover from the Income-tax Department, Chupra, as if I was going to be assessed. When I opened that cover I found that a lady relation of mine was asked to submit certain statements. Now, the facts of the case are that this lady filed a pauper suit as far back as 1929, and got a decree in 1930. The decree has been barred but the Government has been benefited already by selling the property.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is referring to some grievance which has nothing to do with the report.

Maulvi Muhammad Abdul Ghani : In this way they make wrong assessments and I want to draw the attention of the Finance Department to it, to issue instructions to be more careful in future.

Mr. President (The Honourable Sir Abdur Rahim) : Will the Honourable Member refer to the page of the report ?

Maulvi Muhammad Abdul Ghani : I am not in a position to refer to the page of the report.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member must not refer to that case again.

Maulvi Muhammad Abdul Ghani : Very well, Sir.

Now, Sir, the Public Accounts Committee called for a report last year regarding amenities and safety of passengers. The statement submitted by the Railway Board does not appear to be satisfactory. If we compare the state of things that existed in 1933-34, with that of 1937-38, the condition is not only the same but rather worse. If we compare the figures of the total number of persons killed, we find that the number of persons killed in 1933-34 was 2,826 as compared to 3,370 in 1937-38. The total number of persons injured in 1933-34 was 10,982 as compared to 14,111 in 1937-38.

As regards collisions to passenger and other trains, in 1933-34, there were 256 and in 1937-38, there were 263. So the position instead of improving is getting worse day by day.

The next point is about the passes. I find that in 1937-38, the State Railways issued 7,08,886 passes to their employees. After all there are other departments and people are serving there. What is the reason for the issue of free passes only to those serving in the Railway Department ? Not only are passes issued to the railway employees but also for their families and children and relatives. It will be observed that the number of passes is nearly double the number of persons employed in the railways. The number of employees is about 3,31,837. I urge upon the Government that if they consider it desirable to issue passes to railway servants to go from their headquarters to bring their families, this privilege ought to be extended to other Government servants in other departments. What is the reason for showing this undue favour to railway employees ?

The Honourable Sir Andrew Clow : The Honourable Member will address his question to Mr. Lalchand Navalrai.

Maulvi Muhammad Abdul Ghani : I now come to the Printing and Stationery Department. I feel that this department is publishing books unnecessarily. Year after year we get a list of publications which are going to be burnt or destroyed and asking the Members of the Assembly if they would like to have copies of any of those publications.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member will give reference to the page of the report of the Public Accounts Committee, then the House will follow the Honourable Member's point better.

Maulvi Muhammad Abdul Ghani : Last year it was pointed out....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member will please refer to the page of the report.

Maulvi Muhammad Abdul Ghani : We received letters from the Printing Department about the publications in 1937-38.....

Mr. President (The Honourable Sir Abdur Rahim) : But the Chair wants to know where is it in the report. If the report does not deal with it, the Honourable Member cannot discuss it. This is not a budget speech.

Maulvi Muhammad Abdul Ghani : I am not making a budget speech.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must give the House reference to the page of the report.

Maulvi Muhammad Abdul Ghani : I want to bring to the notice of the Government that this House appointed the Public Accounts Committee to deal with accounts matters and I, as a member of that Committee, have certain grievances to bring to the notice of the House.....

Mr. President (The Honourable Sir Abdur Rahim) : This is not the time for ventilating any grievances.

Maulvi Muhammad Abdul Ghani : All right, Sir, I resume my seat.

The Honourable Sir Jeremy Raisman : Sir, the discussion has ranged mostly over the field of railways and to a large extent on matters which are purely administrative and I do not feel that this is the occasion, nor am I the competent person to go into details of the administrative efficiency of various aspects of the Railway Board's activities. I can only take up one or two points which seem to me to be more directly relevant to the consideration of the Public Accounts Committee Report. I would, however, like to say that I deprecate the wild and sweeping way in which Mr. Nauman made charges without any very precise justification. I should have thought that since he was the author of the motion that the debate be adjourned until the evidence volume has been placed in the hands of Members, he would at least have taken the trouble to read the evidence. But I conclude that he has not done so with any particular care from the fact that on one point on which he made very sweeping and serious charges, he has obviously not read the few lines in which this was explained by the Chief Commissioner in the course of the proceedings. I am referring to the point of the method of payment for timber which occurs in Chapter II of the Audit Report on Railways which is dealt with on page 46 of the Evidence Volume II, Part II, Railways, where Sir Guthrie Russell pointed out that "with all respect to the Audit Officer, the Railway Board do not admit that there was any loss because they got what they paid for". The position was not that the invoices for this timber were for a larger amount than the amount delivered to the railway authorities but that on the contrary for some reason not very satisfactorily explained the amounts of timber delivered were larger than the amounts invoiced and the sums paid by the railways were based on the actual measurement of timber delivered to them and he further pointed out that there can be no possible question of any malpractices or payment being made for more than they received. I interrupted the Honourable Member in order to find out whether he had any definite idea of how there can be scope for malpractices in this matter and I understood him to withdraw his charge. But I must say that I deprecate the somewhat sweeping way in which he referred to this point which the Committee actually, although there are only three or four lines of it in this printed evidence, went into with some care and they saw no reason whatever to suppose that there was any malpractice much less dishonesty. And that is why no allusion is made to the subject in the main report. I only take this as an example of how the Honourable Member, having asked for the evidence to be placed in his hands, has not used it and has attacked the railway administration in what I consider to be an entirely unwarrantable manner.

Now, two Honourable Members dealt with the question of the experimental transfer of accounts establishments to the control of the General Managers of Railways, an experiment which is being tried on two railway administrations. I think, Sir, that it is fair to point to the Committee's own report on the matter. They have by no means a closed mind on this matter. It is still in an experimental stage and they themselves have taken full cognisance of the possible danger which might arise from the interference or undue influence on the independence of the accounts staff. They particularly dealt with the North Western Railway and they say :

"We recommend that any arrangements which operate against the conditions suggested by the Auditor General or which are not in accordance with the safeguards referred to above should be immediately removed."

That condition was that the arrangements must be such that the accounts staff should feel free to maintain a critical, though of course impartial, attitude both in financial cases and in the exercise of internal accounts check. The Committee continue :

"We also desire that a final report by the Auditor General should be submitted next year together with the conclusions of Government thereon and that the report should specify how far our recommendation in respect of the conditions of service of the accounts staff is being implemented in actual practice."

It is clear, therefore, that not only is this an entirely experimental matter but that the Committee is fully aware of possible dangers and that they are continuing to give their close attention and to call for further reports both on the general working of the experiment and on particular aspects of it. In those circumstances, Sir, I do not think that it is necessary for me to deal in detail with the apprehensions expressed by the Honourable Members.

I should like to take this opportunity of associating myself with the expression of appreciation of Sir Ernest Burdon's services which fell from Dr. Dalal. It does, I suggest, arise out of this report because this is the last.....

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member is referring to the ruling of the Chair, what the Chair ruled was that Sir Ernest Burdon was not under discussion. Of course, any reference to his services was a different matter. But Dr. Dalal was discussing Sir Ernest Burdon all the time and not dealing with the report at all.

The Honourable Sir Jeremy Raisman : Thank you, Sir. I merely wish to take this occasion of repeating what has been actually mentioned in the Committee's report and that is their appreciation of the extremely valuable services rendered by Sir Ernest Burdon for a number of years. And as this is likely to be the last occasion on which the present Auditor General would have been associated with these proceedings it was I think entirely suitable that the Committee should have expressed themselves on the subject.

I was asked a direct question on one point relating to the civil accounts by Mr. Nauman and that was with regard to the annual payment of ten lakhs which is made to the Nepal Government. That payment, as was explained to the Committee in the course of the proceedings, is a payment more or less in the nature of a treaty payment. It has

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been made ever since the last treaty with Nepal was made and the basis of it is recognition of the services rendered in the last war by Nepal by the provision of troops for the defence of India.

Sir, I cannot find that there were any other points raised of sufficient general interest to warrant my taking up the time of the House by a detailed reply to them. This is hardly an occasion on which particular cases should be gone into. I would, however, like to draw the attention of the House, particularly as so many Members have criticised the financial administration of the railways, to the broad conclusion reached by the Auditor on the accounts of 1937-38 and which is also mentioned in the evidence :

"Considering the volume of transactions on railways, the financial administration may be regarded as generally satisfactory from the auditor's point of view."

The Auditor General endorsed that general opinion and the attention of the Committee was drawn to it. I think it is only fair that when particular cases have been selected and brought to the notice of the House, the House should be aware that the general conclusion reached by the audit authorities was definitely favourable to the financial administration of the railways. Sir, there is no other point on which I need detain the House.

DEMAND FOR EXCESS GRANT.

AJMER-MERWARA.

Mr. President (The Honourable Sir Abdur Rahim) : The other day, the following motion was moved :

"That an excess grant of Rs. 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually in excess of the voted grant in the year 1936-37, in respect of 'Ajmer-Merwara'."

The question is :

"That an excess grant of Rs. 27 be voted by the Assembly to regularise the expenditure chargeable to revenue actually in excess of the voted grant in the year 1936-37, in respect of 'Ajmer-Merwara'."

The motion was adopted.

THE INDIAN OATHS (AMENDMENT) BILL.

The Honourable Mr. J. A. Thorne (Home Member) : Sir, I move :

"That the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose, as reported by the Select Committee, be taken into consideration."

I will briefly remind the House of the history and object of this measure. It was introduced in March, 1937, and circulated by Resolution of this House, and referred to a Select Committee in February, 1938, and the House has now before it the report of the Select Committee. As regards the object of the measure, the legal position at present is that a young child can give evidence as a witness on two conditions. First

condition is that the child makes an oath or affirmation. That is a rigid requirement laid down by sections 5 and 6 of the Indian Oaths Act, and there is no exemption from that requirement for any class of witness or for a child in particular. The second requirement is stated in section 118 of the Indian Evidence Act. I will read the relevant part of that section :

"All persons shall be competent to testify, unless the Court considers, that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years....."

Now, it is clear that a case may arise where a child is perfectly competent to testify, in the sense that the child understands the questions put to him and is capable of giving rational answers to those questions, but at the same time is not really competent to form any idea of the obligation imposed by an oath or affirmation. That gap has been filled in the English law by section 38 of the Children and Young Persons Act of 1933, and the measure before the House is designed to fulfil the same purpose ; broadly speaking, as that provision of the English law. The Select Committee has made only one change in the Bill as introduced and that will, I think, be generally recognised as an improvement. It requires that a child shall understand the duty of speaking the truth. Sir, I move.

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

"That the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose, as reported by the Select Committee, be taken into consideration."

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I was a member of the Select Committee on this Bill. This is a purely legal question and for the benefit of those who are not lawyers I appended a note to the Select Committee Report which must have been read by Honourable Members. I was handicapped on account of the fact that excepting myself and the Honourable Mr. Miller of the European Group there was no other elected Member present on the Select Committee—but I do not, however, complain of it because the Home Member and the Leader of the House accepted one of my suggestions, though my other suggestions were not such as should be disregarded. The Bill has two objects : one, that the evidence of a child of tender years, that is, under 12 years of age, should be admissible as evidence without oath or affirmation ; and the second, that if such a child were to speak a falsehood then he can also be punished. My first objection is this : a child who is not above seven years should not have his evidence admitted at all. Section 82 of the Indian Penal Code provides that nothing is an offence which is done by a child under seven years of age. Section 83 says that nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. Therefore, it is plain that a child under seven years is exempted and no responsibility of any kind has been fixed upon him by the law. That is quite wise. But what is now attempted by me is to make the law consistent with that principle. It may be asked : if he commits an offence and is exempted, why should not he give evidence ? The principle is in the two sections I have read, that a child under seven years should be presumed to have no faculty of understanding : and even with regard to a child between seven and twelve, the magistrate has to find out before he examines him or gives him oath or affirmation, that he under-

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stands the nature of the questions put to him and is intelligent enough : otherwise the magistrate will not take his evidence. If that principle is conceded, then this amendment of mine should be accepted that you may give the oath or affirmation to a child under 12 years of age but not examine at all one under seven years of age. My Honourable friend has framed this Bill, as he said, on the basis of the English law. I will explain what the English law on this point is, and I shall read out only the relevant portion where it is said :

“ Under the law of England a child under 7 years of age cannot be said to be guilty of a criminal offence.....”

Even if the boy is of a mischievous mind, the presumption is that he is only a boy and his evidence is not enough to establish the offence. Then, it is further said that for *ex presumptive* that is by presumption, he has no discretion or sufficient understanding, and that presumption cannot be rebutted and in consequence of this rule it has been held illegal to arrest a child under seven years of age for stealing and so forth. Now, my submission is that when the principle underlying a child's evidence is such as I have indicated to the House, I trust the House will agree that the amendment which I have moved should be accepted and the law should be modified accordingly. I will give the House an instance of the danger.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can deal with that question later in connection with his other amendments.

Mr. Lalchand Navalrai : Sir, I will only say a few words now unless the Chair wants me to defer my remarks.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can go on with his speech.

Mr. Lalchand Navalrai : Very well, I shall put my whole case on all the amendments so that they may be understood properly. Sir, there is a section in the Indian Evidence Act, section 134, which says : “ No number of witnesses are necessary for any matter being decided ”, in other words, no number of witnesses are necessary for convicting a man. If the Magistrate believes it, he can send a man to the gallows on a child's evidence. Instances have happened, and we have seen that Magistrates have convicted people of murder without corroboration of the child's evidence. There is, therefore, that danger to which we should not be a party and we should make the law so as to suit the present times. I am giving here an instance which happened in my practice,—the Judge heard evidence of a child and said that the evidence is such that it cannot be believed. Then when the second witness came up, the counsel began to cross examine him to remove the evidence of corroboration. The Judge did not like it and then turned round and said : “ I am going to believe the child only and convict the man ”, and the man was actually convicted. Therefore, I submit that the evidence of a child who is under seven years should not be admissible, and no question of taking oath or affirmation should arise in the case of a child under seven years of age. Then about the evidence of a child under 12 years of age, if it is going to be taken without affirmation or oath, some safeguards should be imposed, and one of those safe-

guards have been accepted by the Select Committee. That was that the Court should be of opinion that the child under 12 years of age understands the duty of speaking the truth. That is a very salutary provision, but my submission is that a further provision should also be made to the effect that the Magistrate is of opinion that a child under 12 years of age does understand and has been made to understand the points at issue. That is, according to section 118 of the Evidence Act, a witness must be competent to understand and to give rational answers.

Now, Sir in this matter it is not that I am alone who holds this view. I would draw the attention of Honourable Members to page 4-D. of the *Precis of Opinions* wherein they will find support to the view I hold. It is said there that the evidence of a child of tender years shall be deemed to be a deposition if in the opinion of the court he is possessed of sufficient intelligence and understanding. I need not refer to other opinions.

Then, Sir, I would refer to the last paragraph of the Bill which says that this will not affect the obligation of the witness to state the truth ; that is to say, if it is found out by the Magistrate that the child has spoken an untruth, the Magistrate can punish the witness under the Indian Penal Code under sections 193, 194, 195 and so forth and impose a very heavy punishment too. Again, when you leave it to the court to decide that a child under 12 years understands the consequences and gives rational replies, it might form a wrong opinion, and if you give him no oath or affirmation, do not charge him afterwards with having given false evidence, because in the case of a grown up person there is a certainty that he has understood the oath and the consequences of speaking lies whereas it is not so in the case of the children and, therefore, that provision should be eliminated. On this I will only read some portion from the opinions. I will read from page 1 of the *Precis*, where it is said :

“ The District and Sessions Judge, Ajmer-Merwara, suggests that more safeguards should be adopted so as to exempt boys below 12 years from liability for perjury ”.

There are several other opinions on pages 2, 3 and 4. So, this is also a point for the House to consider. Again, the child whether under twelve or above seven or below seven, he should be warned by the magistrate that he has to speak the truth, because he gives him no oath or affirmation, and the magistrate must make a note of it. Some magistrates actually put questions to the child to find out whether he is able to understand and give rational answers, but I say he should be warned so that an impression may be created in his mind that even though he is a child and is not given any oath or affirmation, yet he has to take great care when he gives evidence and to speak the truth. On this point also there are several opinions in support in the *Precis*, particularly at pages 1 and 4.

My last point is that a child's evidence alone should not be sufficient for a conviction or for deciding upon any important question. So, an addition should be made in the shape of a proviso to the effect that the evidence of a child under 12 years of age, when taken without affirmation or oath, will not be sufficient for the matter that is going to be decided, unless it is corroborated in material particulars. That is the principle enunciated in the Indian Evidence Act with regard to certain other kind of evidence which is tainted, and therefore it is specifically provided in the

[Mr. Lalchand Navalrai.]

Act, in section 114, that such evidence will not be accepted without corroboration. So far as a child's evidence is concerned, I do not find in the Evidence Act a direct provision to the effect that a child's evidence without corroboration will be accepted and on his evidence alone a man can be convicted or a point of a crucial nature decided on his evidence alone. On this point Honourable Members will find at page 3 of the opinions that corroboration must be provided for. What I submit then is when you are making a law, make it complete. One word with regard to this matter. What will it be if a child of 6½ years of age comes before the court, and why should his evidence be not admissible? I would say the same principle. Even a child of 6½ years—we have doubt about his understanding, and on presumption, there should be no question of the child being 6½ years or five years or so, because the presumption if you once accept it, and it is also a presumption of English Law and should be the law here also—on that presumption, whether he is a child of 6½ years makes no matter because you are providing a safeguard and in that safeguard, if you even go and give the benefit to that subject you have to do it and therefore do not risk even in the case of 6½ years child, his evidence should not be accepted. Supposing the child is one of four or five years and comes before the court and the court comes to the opinion, to say yes, he understands it, I can take his evidence and act on it—that is the danger there. Therefore, the law should be laid down that if it is a child even above the age of seven, there should be these safeguards, but so far as a child below seven years is concerned, I think his evidence should not be accepted at all.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : This amendment of the Indian Oaths Act, 1873, appears to be a very dangerous amendment. In my opinion, so far as I have read sections 136 and 118 of the Evidence Act, it appears to me that there is absolutely no necessity for amending the Indian Oaths Act.

Section 118 says :

“ All persons should be competent to testify unless the Court considers that they are prevented from understanding the questions put to them or from giving rational answers to those questions, by tender years, and so on.”

The question turns entirely on the competency to testify. This has been interpreted by different courts in different ways. Some courts have held that competency to testify is a matter which is a condition precedent to the administration to him of an oath or an affirmation. You will find from the Evidence Act that the most competent person to judge this point is the judge himself or the magistrate who is presiding. The object of the amendment sought to be made is that no child under 12 will be required to take the oath but at the same time his evidence will be admissible. The amendment says that the witness understands the duty of speaking the truth and in the next line it is stated that he does not understand the nature of an oath or affirmation. This seems to me to be a contradiction. How is it that the child understands one thing and does not understand the other thing. From childhood, children are taught in every family, I suppose, that speaking of the truth is the cardinal principle of life. At the same time administration of oath or affirmation

is not very palatable. This is the first lesson that children get from their mothers. They are asked to speak the truth and not to swear or take oath unnecessarily. You say in one breath that the child understands the duty of speaking the truth and in the next breath you say that he does not understand the significance of oath or affirmation. This is a thing which I cannot understand. To me, it seems a contradiction. These two sentences coming one after the other seem to me absolute contradiction, in legal phraseology. I said that this was a very dangerous amendment. Now, courts are allowed by law to recognise the evidence of approvers. If a child is asked to make a statement, the police will make use of the statement of the child in the same way that they make use of the statement of an approver. It is very easy for the police officer or any one conducting the case to give two lozenges or chocolates to the child and ask him to make a statement. Therefore, I submit that this is a dangerous amendment to give the child the right of making a statement in court and at the same time not make him liable for any lie or untruth that he may be taught by the police.

The Honourable Mr. J. A. Thorne : That is not the effect of the Bill.

Mr. Muhammad Azhar Ali : The last words of this amendment have got that effect : “ but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth ”.

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.

Mr. Muhammad Azhar Ali : Sir, I was saying that it would be a handle in the hands of the police or even of one party to put up a small boy and who may be mulcted in some sort of trouble afterwards. It is risky, Sir, the fact is that with regard to children no exact or precise age is mentioned so far in any of the laws in India.

An Honourable Member : Question.

Mr. Muhammad Azhar Ali : I know the Honourable the Home Member said that in England they have enacted like that ; but I do not really see the necessity of any such enactment so far as India is concerned,—because section 118 of the Evidence Act is quite capable and enough to allow the judge to form his own opinion and discretion when a child is produced. Sir, there is nothing like that in any legislative enactment, so far, by which children are absolutely excluded from giving evidence on the presumption that they have not got sufficient understanding, nor any precise remedy is laid down respecting the degree of intelligence and knowledge which will render a child a competent witness. Now all depends on the reason which the judge gives or the discretion of the judge. If a child possesses sufficient understanding, the judges even now under section 118 will admit their evidence. I really do not see, as I said, the necessity of enacting this ambiguous amendment. I take a concrete case. If a child is produced

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in any court, does this amendment mean that the moment the child is produced the judge or the magistrate will explain to him his duty of speaking the truth, or is it meant that the child, after his examination will be judged by the judge or magistrate whether he is speaking the truth or not speaking the truth and make a note. So this "duty of speaking the truth" is rather ambiguous to me.

Mr. Lalchand Navalrai : They have given us a horse ; why do you look it in the mouth ?

Mr. Muhammad Azhar Ali : You don't understand. Children do not understand the "duty of speaking the truth" ; so I say even adults and old people very often do not understand what is their duty and what are their rights. It may be said that where an educated man can or cannot understand his duty and his right still a child under twelve years of age is expected, by this amendment, to know the "duty of speaking the truth". I say my objection is to the words "duty of speaking the truth". Sir, by allowing to produce children to give evidence in court, my only submission is that it will be a very dangerous and risky practice. So far, whenever children were produced, it was for the judge to decide whether they really understood the evidence which they were giving in the court, but now, by this amendment advantage will be taken. I do not see the reason why it has been brought before this House, except that some such amendment has been made in England about this duty of a child giving evidence, otherwise, I see no reason ; so, unless I am convinced that section 118 of the Evidence Act and section 136 of the Evidence Act are not sufficient for the judge to ascertain whether the evidence is admissible or not admissible, Sir, on these grounds I think that this amendment is not necessary.

The Honourable Mr. J. A. Thorne : Sir, the points raised by my Honourable friend, Mr. Lalchand Navalrai, will all arise at a later stage when his amendments come before the House, and I prefer to hold my fire until those amendments come within range. As regards my Honourable friend, Mr. Azhar Ali, the first point he set out to make was that if a child does not understand the nature of an oath or affirmation, then that child should be considered incompetent to testify. Well, that is my friend's opinion, and he is entitled to his opinion ; but all I have to say to the House is that that opinion is not the opinion of the great majority of authorities who have expressed their views on this measure. Then he went on to describe this as a "very dangerous" Bill. I can understand people regarding it as a Bill of very little importance or even as an unnecessary Bill, but I do think that it shows a very unsteady state of nerves to describe it as a dangerous Bill ; and in fact it was quite clear that my Honourable friend's system had received a shock,—because he interpreted a part of the Bill in exactly the reverse sense from its obvious interpretation. I listened carefully, and the ground he gave for regarding it as a dangerous Bill is that it removes the penalty for perjury on the part of children. Well, Sir, that is precisely what the Bill does not do. The concluding words of clause 2 are that this shall not affect the obligation of the witness to state the truth. Therefore, I must regard all his remarks, which were based on this misinterpretation of the Bill, as entirely beside the point.

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

"That the Bill further to amend the Indian Oaths Act, 1873, for a certain purpose, as reported by the Select Committee, 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. Lalchand Navalrai : Sir, I move :

"That in clause 2 of the Bill, in the proposed proviso, after the word 'age', occurring in the second line, the words 'and above seven years' be inserted."

Sir, I made my points very clear when I spoke at the stage of consideration. I would have liked that the replies to all these points had been given by the Honourable the Home Member in order to give me an opportunity to understand generally what his objections were, so that, when presenting these amendments, I would have been in a position to say something on his objections. He has left me under that disadvantage. I submit, however, that so far as this amendment is concerned, I have made it plain that a child who is under seven years of age should not be considered to be a person whose evidence should be accepted based on the presumption to which I have referred. I have shown clearly by giving instances that the evidence of a child under seven years of age will be accepted under a doubt and the results of that doubt have been that people have been actually punished on the evidence of a child under seven years of age. I will also submit that the evidence of a child under seven years of age is such that none will be certain that the evidence that he has given is true. Besides, if the court considers that the evidence given by the child under seven years of age is false, he may be prosecuted for perjury.

There is one thing which I would like to say about my amendment. One of my friends has told me that the amendment, as it is worded, is not happy. But I have made it clear to the House what my object is and the aims and objects of the Bill are also very clear. The object of the Bill is that a child under 12 years of age should not be given any oath or affirmation and he should be examined without oath or affirmation. The doubt that seems to have been created by the frame of my amendment—with which I do not agree—is that a child under 12 years of age will not be given any oath or affirmation but a child under seven years of age will be given an oath or affirmation. To have such an interpretation of my amendment is, to put it mildly, wrong, because it is mere commonsense that when no oath is given to a child under twelve years of age how can it be given to a child under seven years of age. If the wording of the amendment is, to put it mildly, wrong, because it is mere common sense of Government. The point that I aim at is whether the Government is prepared to accept my amendment in the sense that the evidence of a child under seven years of age will not be admissible and no oath or affirmation will be given to him. Sir, I do not think I need take any more time of the House on these amendments and I also said this in my speech on the general consideration of the motion. Sir, I move.

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

"That in clause 2 of the Bill, in the proposed proviso, after the word 'ago', occurring in the second line, the words 'and above seven years' be inserted."

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : Sir, I will content myself with saying a very few words indeed on this amendment of my Honourable friend. The net effect of the amendment, if carried, would be this that if a child over seven years of age and under 12 years of age appeared before the court as a witness, it would not be necessary for the court to administer an oath to the child. But after explaining to the child his duty as a witness, it would be open to the presiding Judge to record the evidence of the child without giving him an oath. But if the witness before the court happened to be a child just below seven years of age, it would be the duty of the Judge under this amendment, if carried, to administer the oath.

Mr. Lalchand Navalrai : Do you accept the principle underlying the amendment ?

Sir Syed Raza Ali : There is no question of any principle whatsoever. You are providing here for certain emergencies by a specific, clear, definite and unambiguous word. The question of principle does not arise when applying the provisions of an Act. If I understood my Honourable and Learned friend correctly, what he means is this that it would be the duty of the court, if the amendment is carried, to administer oath to a child who is under 12 years and over seven years of age. Because oath is dispensed with in the case of a child whose age is above seven, therefore, by implication, my Honourable friend thinks it will also be done away with in the case of a child whose age is below seven. He may be right so far as the principles are concerned, but let me repeat in this Chamber that the statutory law is not always concerned with principles but with the application of principles as embodied in Statutes. That is the real difference between the Statutory Law and Common Law. I will read the first two lines of the proviso as it will stand after this amendment :

"Provided that where the witness is a child under twelve years of age and above seven years, it will not be necessary to administer an oath to him."

Honourable Members can decide for themselves what the meaning of that is. It means that if the child is under seven years, an oath must be administered to such a child. If on no other ground, at least on the ground of a serious defect in drafting, I must oppose this amendment.

The Honourable Mr. J. A. Thorne : Sir, I was proposing to deal first with the effect of Mr. Navalrai's amendment and then with his intention, the intention and effect being absolutely different. But my friend, Sir Syed Raza Ali, has saved me the trouble of dealing with the effect of it—which is, to put it bluntly, to make the clause nonsense. However, the intention is, as I understood my Honourable friend, to shut out altogether from a court the evidence of a boy of seven years or under.

Mr. Lalchand Navalrai : That is correct.

The Honourable Mr. J. A. Thorne : That my Honourable friend acknowledges to be his intention. If that is his intention, then I am quite sure it is not the intention of this House or of the great majority of people who have been consulted about this Bill. If one wanted an illustration of the effect which such a provision would have, one has only to turn to the case which gave rise to this measure. That case was one of an unnatural offence on a boy of 6½ years old. Without the evidence of that boy, it is pretty clear to me that the offence could not have been proved. If the evidence of a boy of that age in such a case is to be shut out, what hope is there of punishing a revolting offence of that kind? Mixed up with that intention of my Honourable friend, there appears to be another : that a child of seven or under should be protected from prosecution for perjury. Well, if that is his object, it is entirely unnecessary to provide for it in this Bill because section 82 of the Indian Penal Code is an absolute bar against the prosecution of any child under seven years of age. Sir, I must oppose this amendment both because as it stands it makes nonsense of the Bill and because behind it is an intention which cannot be accepted.

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

"That in clause 2 of the Bill, in the proposed proviso, after the word 'age', occurring in the second line, the words 'and above seven years' be inserted."

The motion was negatived.

Mr. Lalchand Navalrai : Sir, I beg to move :

"That in clause 2 of the Bill, in the proposed proviso, after the word 'truth', occurring in the fourth line, the words 'and gives rational answers to the questions put to him' be inserted."

Sir, it is clear from the Bill as it has emerged from the Select Committee that a change has been made in the proviso which puts the duty on the court to be of the opinion that in giving the oath or affirmation, the child understands the duty of speaking the truth. Now, Sir, that has been much commented upon by my Honourable friend, Mr. Muhammad Azhar Ali. But it is very necessary that the court should understand and should be of the opinion that the child has understood the duty of speaking the truth. Anyway this is a great safeguard. What I am at present asking by this amendment is to add the words also that it would be incumbent upon the court to satisfy itself that the child understands and is able to give rational answers. It might be said that the Evidence Act has a provision in section 118 for this purpose. I am conscious of this. This Bill is enacted now after that Evidence Act and I, therefore, want that this provision should be put in here also. If such a proviso is not reproduced here, the court might think that it is only sufficient if it finds that the child is able to speak the truth. Then he might think that he is absolved from the duty laid on him under section 118 of the Evidence Act because this is a subsequent Act. Doubts may arise from that point of view and, therefore, my amendment should be accepted to clear all doubts.

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

"That in clause 2 of the Bill, in the proposed proviso, after the word 'truth', occurring in the fourth line, the words 'and gives rational answers to the questions put to him' be inserted."

The Honourable Mr. J. A. Thorne : Sir, I understand my Honourable friend, Mr. Lalchand Navalrai, to say that this provision is superfluous, nevertheless, it should be put in the Bill. My case is that it is superfluous and, therefore, should not be put in the Bill. It is admitted that this very provision appears as a general requirement in section 118 of the Indian Evidence Act. Under that section no one is competent to testify, whether a child or not, unless he is capable of giving rational answers to questions put to him. Therefore, as my Honourable friend has recognised, it is quite unnecessary to put it in again. At any rate it would be superfluous if included in the Bill, and I cannot believe that any reasonable person can harbour the doubts which he imagines might arise. Sir, I oppose.

Mr. Lalchand Navalrai : Sir, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. Lalchand Navalrai : Sir, I beg to move :

“ That in clause 2 of the Bill, in the proposed proviso, the words ‘ nor affect the obligation of the witness to state the truth ’ be omitted.”

Sir, it has also been made clear by the Honourable Member in charge of the Bill that a child under seven years of age will not be punishable. But my point is a little more than that. I want that a child even under the age of 12 years when his evidence is being taken should be given the same concession and should not be prosecuted. If the court considers that the evidence of a child under 12 years can be taken for the purpose of evidence in a particular case and if the court comes to the conclusion that the boy's evidence can be accepted to a certain extent, but that the boy is not giving the whole truth, or is not giving evidence in the manner in which the court likes him to give evidence, then the court should not impose any penalty upon the child. The child is of tender age and there may be doubts about the evidence of the child or there may be difference of opinion when the evidence goes before another Judge and in such cases the child should not be liable to punishment. Sir, I move.

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

“ That in clause 2 of the Bill, in the proposed proviso, the words ‘ nor affect the obligation of the witness to state the truth ’ be omitted.”

Sir Syed Raza Ali : Sir I wonder whether my Honourable and learned friend realises the effect of the amendment, if carried. The amendment deals with persons whose age may be somewhere in the neighbourhood of 12 years. Now, in very many cases a person of 12 years is not always a child in India. I know a boy who matriculated at 12 a couple of years ago, and it is such persons whom my Honourable friend, if I understood him properly, wants to escape scot-free if he comes to court and tells any number of lies. If he chooses to tell lies he must take the consequences, if detected. This amendment if carried would only encourage falsehood and lies being uttered in court. As my Honourable friend himself realises, in the case of a child below seven years of age different considerations arise but I do

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not understand why my friend wants to give this licence to persons of the age of something like 12 to tell any number of lies that he or she may choose to tell in court.

Mr. Lalchand Navalrai : What about children of eight or nine ?

Sir Syed Raza Ali : To show how weak my Honourable friend's point is I insist on taking the case of a person whose age is in the neighbourhood of 12 years. Sir, in certain parts of our country girls of the age of 12 almost reach womanhood and boys also attain maturity of understanding to some extent. I really do not see what good purpose this amendment would serve except to make it easier for persons of that age to tell lies in court.

The Honourable Mr. J. A. Thorne : Sir, once again I must make a distinction between the intention and the effect of the amendment. The intention is to exempt from prosecutions for perjury every child under 12. It is now admitted, I am glad to hear, that a child under seven is absolutely exempted by section 82 of the Indian Penal Code. So, we are concerned only with children between the ages of seven and twelve. My friend thinks he can attain his object, which is to exempt those children also absolutely from prosecution, by deleting those words. He is quite wrong. Even if these words were deleted section 14 of the Indian Oaths Act would remain in force and that says :

“ Every person giving evidence on any subject shall be bound to state the truth on such subject.”

So, even if you wipe out these words in this Bill that obligation to state the truth will remain even on a child between the ages of seven and 12 years, and he will be subject to the penalties of law if he does not speak the truth. What those penalties are my friend knows very well ; but I doubt whether in his plea that a total exemption should be given he has taken into account the language of section 83 of the Indian Penal Code :

“ Nothing is an offence which is done by a child above seven years of age and under twelve who has not attained sufficient maturity of understanding to judge of the nature and the consequences of his conduct on that occasion.”

So a child between seven and 12 cannot be convicted unless he is fully able to judge of the nature and consequences of giving false evidence. Sir, I oppose the amendment.

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

“ That in clause 2 of the Bill, in the proposed proviso, the words ‘ nor affect the obligation of the witness to state the truth ’ be omitted.”

The motion was negatived.

Mr. Lalchand Navalrai : Sir, I move :

“ That in clause 2 of the Bill, at the end of the proposed proviso, the following be added :

‘ after he has been warned of the possible consequences of not speaking the truth and a note in writing made thereof ’.”

This is more or less consequential on the amendment made in the Select Committee. I only want a safeguard in the sense that after all he is a child and the magistrate should explain to this child witness his duty of speaking the truth and inform him of the consequences

{Mr. Lalchand Navalrai.]

of not doing so. There can be no objection to this amendment and if the magistrate does not warn him or make a note but forthwith takes his evidence, there is a likelihood of his not being able to find out if the witness has got the understanding to give rational answers. On this point of giving warning I find there are several opinions. On page 4 I find this :

"The Honourable Judges of the Chief Court of Oudh while agreeing with the proposed Bill consider that it should be the duty of the examining authority to impress on the child the necessity of telling the truth and to make a note of the mental condition of the child and the manner in which the necessity of speaking the truth was brought home to him."

So I have got the opinion of the Chief Commissioner on my side. On page 4 the Deputy Commissioner also gives his opinion as follows :

"and the presiding Judge or Magistrate shall explain to such witness the meaning of truth if it should appear necessary to do so."

These are precautions that even judges are agreed upon ; and I have found in practice that if this is not done injustice is likely to result. The Honourable Justice Vivian Bose of the Nagpur High Court also agrees with the underlying principle of the amendment and he considers that a child should be warned of the possible consequences of not speaking the truth. I do not think I need any more weighty opinion to support my amendment. If it is not accepted by Government, it only means that there is a desire on their part to have the Bill as they presented it, which I submit is not a correct attitude, especially in view of the present thinness of the House.

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

"That in clause 2 of the Bill, at the end of the proposed proviso, the following be added :

'after he has been warned of the possible consequences of not speaking the truth and a note in writing made thereof '."

The Honourable Mr. J. A. Thorne : Sir, I think the last remark of my Honourable friend was an ungenerous one. An amendment suggested by him was accepted in the Select Committee and it is quite clear to my mind that that amendment sufficiently covers what he is now anxious to put into the Bill. That amendment which is now in the Bill requires a court to satisfy itself that the child understands the duty of speaking the truth. I do consider it rather superfluous then to set out to instruct the magistrate or judge how he should go about the task of satisfying himself that the child understands the duty of speaking the truth. It is really quite superfluous to require him by statute to warn the child of the possible consequences of not speaking the truth and to write a note to that effect. It is treating the magistrate or judge rather as if he were himself a child under twelve.

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

"That in clause 2 of the Bill, at the end of the proposed proviso, the following be added :

'after he has been warned of the possible consequences of not speaking the truth and a note in writing made thereof '."

The motion was negatived.

Mr. Lalchand Navalrai : Sir, I move :

"That in clause 2 of the Bill, after the proposed proviso, the following further proviso be added :

'Provided further that the evidence of such a child will not be acted upon unless it is corroborated in material particulars '."

My amendments have been objected to as being superfluous. My point is that for want of this superfluity, judges and magistrates may be misled. I may say that my purpose has to some extent been served by the speeches of the Honourable the Home Member and I hope that magistrates and courts will see why my amendments have not been accepted and will read the explanations of the Home Member. I say that if there is any possible room for misunderstanding in the minds of judges, that should be cleared. I am superfluous because I happen to move these amendments ; but if it is said that my amendments are superfluous, I would only say that judges and magistrates have given similar opinions..

An Honourable Member : They are also superfluous !

Mr. Lalchand Navalrai : Very good. Then everybody is superfluous ! I hope a similar explanation will be given by the Home Member on this amendment as on other amendments. I want that the evidence of a child should not be accepted unless it is corroborated.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member appears to have dwelt on that point already.

Mr. Lalchand Navalrai : I am asking the Honourable the Home Member if there is any statutory provision in the Evidence Act to show that a child's evidence without corroboration cannot be accepted. No doubt some courts do not convict unless and until there is strong evidence in material particulars to corroborate the child's evidence, but there is no statutory provision—you are leaving it to magistrates to follow their own inclinations. I want that it should be made clear and this amendment seeks to do it.

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

"That in clause 2 of the Bill, after the proposed proviso, the following further proviso be added :

'Provided further that the evidence of such a child will not be acted upon unless it is corroborated in material particulars '."

Sir Syed Raza Ali : Sir, the amendment provides, as Honourable Members can see for themselves, a clear rule of evidence. We are here today dealing with the Indian Oaths Act. Certainly this is not the place for an amendment of this character being incorporated in the present Bill. I do not mean to concede that my Honourable and learned friend is right when he seeks to put a child witness on the same footing as an accomplice. Legal Members of this House know that the rule of law which is incorporated in this proposed amendment is a rule that is generally applied to the evidence of an accomplice, namely, that an accomplice is generally unworthy of credit and his evidence is not to be accepted unless it is corroborated in material particulars by independent evidence. I entirely fail to see why a poor child's evidence, who, for all we know, may be speaking nothing but the truth, should be treated like that.

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Mr. Lalchand Navalrai : Which is that section of the Evidence Act which says that corroboration is needed for a child?

Sir Syed Raza Ali : I am very thankful to my friend for asking that question. Fortunately, there is no such provision in any section of the Indian Evidence Act for the simple reason that there should be no such silly provision. There is no reason why a child's evidence should not be accepted. Why should not a child be treated on the same footing as a grown up honest witness?

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : He is probably more honest.

Sir Syed Raza Ali : Quite so. In criminal cases I have had experience of child witnesses;—but I can't say the same of civil cases. During the course of my practice I have known several children appearing in criminal cases, and the general impression,—I cannot recall all the facts,—left on my mind is that they are as good, as honest and as trustworthy witnesses as grownup people. Rather they are more honest and trustworthy witnesses than those whom one generally meets in courts of law. There is really no point in this amendment. In fact, the world of child witnesses will be up in arms against my friend, because there is no reason why a child's evidence should be treated with suspicion. Sir, I oppose the amendment.

The Honourable Mr. J. A. Thorne : Sir, my learned and indefatigable friend this time wrongly anticipated the objection I should take to his amendment. I do not regard it as a superfluous or trivial amendment. On the other hand, I regard it as one which might have very grave consequences indeed if it were carried into law. It is an amendment which, I believe I am right in saying, would import into Indian Law a principle which does not exist as a legal requirement in any context whatever at present. My friend quoted section 114 of the Indian Evidence Act.....

Mr. Lalchand Navalrai : Not I.

The Honourable Mr. J. A. Thorne : Then I withdraw the implication against my friend, but certainly it was quoted before lunch this morning, and I am pretty certain, by my friend.....

Mr. Lalchand Navalrai : I said it does not apply to a child witness, and I did say it.....

The Honourable Mr. J. A. Thorne : So my friend did quote section 114 of the Indian Evidence Act this morning before lunch, and he quoted it in this sense that that provision of law requires that the evidence of an accomplice should be corroborated in material particulars. I pause for a contradiction. Well, my friend is quite wrong. Section 114 of the Indian Evidence Act does not do anything of the sort. It reads as follows :

The Court may presume the existence of any fact which it thinks likely to have happened regard being had to the common course of natural events, human conduct and public and private business in their relation to the facts of the particular case.

Mr. Lalchand Navalrai : There is any illustration?

The Honourable Mr. J. A. Thorne : There is an illustration. Illustration (b) says : "The Court may presume that"—this is an illustration to the provision which I have just read,—"an accomplice is unworthy of credit unless he is corroborated in material particulars". That is an illustration; it is not part of the substantive law of the land. It is not laid down that the evidence of an accomplice shall never be accepted unless he is corroborated in material particulars; and, Sir, I base my objection to my friend's proposal precisely on this provision of law. If the court may presume that an accomplice is unworthy of credit unless he is corroborated in material particulars, the Court may certainly presume that any particular child giving evidence before it is unworthy of credit unless he is corroborated in material particulars. That is a totally different thing from saying that in no case whatever shall the evidence of a child under 12 be acted upon unless it is corroborated in material particulars, and it might lead to very serious miscarriage of justice if any such requirement were enacted. It might easily happen that the evidence of a child is the only evidence of an offence, possibly an offence of the kind to which I referred just now. It would be for the court to decide whether the evidence of that child was worthy of credit or not, and in weighing that evidence the court would naturally consider whether the child was likely to be speaking the truth or not. If no other evidence were available from any source, if nevertheless the court were convinced that the child was speaking the truth, it would be a gross miscarriage of justice if that evidence were not acted upon. Sir, I regard this amendment as a serious one and one which should be seriously opposed.

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

"That in clause 2 of the Bill, after the proposed proviso, the following further proviso be added :

"Provided further that the evidence of such a child will not be acted upon unless it is corroborated in material particulars."

The motion was negatived.

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

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. J. A. Thorne : Sir, I move :

"That the Bill, as amended by the Select Committee, be passed."

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

"That the Bill, as amended by the Select Committee, be passed."

The motion was adopted.

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Mr. C. M. G. Ogilvie (Defence Secretary) : Sir, I move :

" That the Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty be taken into consideration."

This Bill, as Honourable Members will have seen for themselves, is a very short and simple one. It follows very closely the Bill for the discipline of the Indian Naval Volunteer Reserve and somewhat less closely the Indian Reserve Forces Act. The provision that members of this reserve will not be subject to air force discipline unless they are called up for training or embodied for actual service follows the similar provision for the Naval Reserve, but the case of the Army Reserve is different. The Army Reservist is at all times subject to the military discipline of the Army just as though he was a serving soldier. As regards the penalty sections, again, the Naval Reserve Act has been followed. That means that the penalties are less drastic than those imposed for the Army Reserve. According to the Indian Reserve Forces Act, reservists who have failed to appear for training are liable to imprisonment as well as those who fail to appear when called up for actual service. In this Bill they are made liable to fine only, and a differentiation is made between their failure and of those who do not respond to the call for actual service in time of emergency or war. Finally, clause 5 of the Bill is precisely the same as the corresponding sections in the Naval Discipline and Indian Reserve Forces Acts and embodies a well-known departure from the ordinary rules of evidence which is necessitated by the facts of the case. It allows of an officer's certificate that a reservist has failed to appear, to be treated as evidence without requiring the officer himself to proceed to courts perhaps in far distant parts of the country, which would be difficult and expensive at any time and impossible in time of war. That, Sir, is all I have to say about this Bill itself but, with your permission, I should like to say a little about the reserve forces for which it is intended.

The proposal to form an Indian Air Force Reserve has long been under consideration. The lack of money has been the chief obstacle, and, in particular, the lack of where-withal to purchase aeroplanes. We are now in possession of the necessary aeroplanes, owing to the rearmament of the regular squadrons by His Majesty's Government. The object of the reserve is to provide a force which, in time of peace or when peace shall come again, will be similar to the Indian Territorial Forces, that is to say, it is designed to cater for civil personnel who are skilled either in aviation or in the technical maintenance of aircraft, who will do their training in their spare time and be called up periodically for intensive training. In time of war they will be embodied, and, of course, when the enrolment of the proposed reserves which is shortly to begin is completed, they will at once be embodied for actual service for the period of the war. During war time they will be paid the same rates as the officers and airmen of the Indian Air Force. During peace—that is looking rather a long way ahead perhaps—during peace they will be paid a small retaining fee, a uniform allowance and full pay when called up for the period of training. The units will be Indian but there will be provision for seconding to them

officers and airmen of the Royal Air Force Volunteer Reserve in order that the skilled services of such persons may not be lost. At present they will be designed for coast defence duties, and these units will, therefore, be recruited from flying personnel and technical personnel living in or near the great ports. There will also be a unit stationed at Delhi. It is believed that this reserve will be popular, to judge from the number of applications to join it which have already been received. In time of war it will undoubtedly be a valuable asset to the country's defence, and in time of peace it will generally improve civil aviation by affording opportunities for persons to become expert in flying advanced types of machines, while technical personnel will also gain in the practice of their own trades and will also learn the care and maintenance of aircraft. Sir, I move.

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

" That the Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty be taken into consideration."

Mr. F. E. James (Madras : European) : I should like to welcome very heartily this Bill, and the reasons for it. My only regret is that it took the outbreak of war to bring this about. There are one or two questions I should like to ask the Honourable Member who moved the motion. In the first place, with regard to the machines to be used by the Air Force Reserve, what provision has been made for those ? Will the machines at present being used in aero clubs be commandeered for this purpose ? Secondly, the Honourable Member referred to the fact that this new unit would be an Indian unit. I take it that the term Indian includes persons known as statutory Indians. I would like to ask him what about the numbers of Europeans in this country who are members of aero clubs and who possess pilot's certificates ? Where can they enlist ? Presumably, they will not be able to enlist in the Indian Air Force Volunteer Reserve. Is it contemplated that they should be allowed to enlist in the Royal Air Force units in this country, or will they have to go to the United Kingdom for service ?

The next question is as to what provision has been made for the continuous training of these units. I assume that there will be seconded to these units for training experienced officers of the Royal Air Force. But I should like to hear on that point from the Honourable Member. My final question is, what is the present authorised strength of this volunteer reserve ? My Honourable friend said that there would be units stationed in the main ports and also at Delhi but it would be interesting to know what strength has already been contemplated by the authorities and what strength has, at present, up to date been actually authorised.

The other point I wish to make is this. There is occasionally a tendency on the part of the defence services to take things for granted as far as the public is concerned and I hope, therefore, that if they really propose to make use of the Indian Air Force Volunteer Reserve and to encourage recruitment to it, they will get down to the business of letting the public know all about the conditions of recruitment to this service and the avenues through which members of the public may enter it. There is a very large body of young men, certainly in the part of the world which

[Mr. F. E. James.]

I know best at present, who are desperately keen to volunteer for service in connection with the war and many of them have for some time past thought of the air force as an opportunity for this service. I hope they will not be discouraged. I hope that everything will be done to encourage recruitment to this volunteer reserve of all young men who are prepared to undergo the necessary training and take the necessary qualifications. I am glad that this Bill has been brought forward and I hope that this volunteer reserve force will be a great addition, as it should be, to the defence forces of this country.

Mr. C. M. G. Ogilvie : I think that I should be able to answer the majority, if not all, of the questions put to me by my Honourable friend, Mr. James, in a manner as satisfactory to him as the circumstances permit. The first question was what machines are to be used. There is, I understand, no idea at present of commandeering machines belonging to flying clubs. These young pilots will be trained on Royal Air Force machines and they will be sent to a training camp for that purpose. All Indians, including statutory Indians, will be eligible for recruitment or for commissions.

Sardar Sant Singh (West Punjab : Sikh) : May I ask whether the pilots already trained in the Aero Clubs will be eligible under this Act ?

Mr. C. M. G. Ogilvie : Any one who has already a knowledge of flying will certainly be preferred to those who have not. As regards Europeans who possess pilot certificates, I said just now that it is proposed to second European members of the Royal Air Force Volunteer Reserve for service with them. The only other way in which Europeans can obtain service in units is by joining the Royal Air Force Volunteer Reserve which they can now do in this country, for service with Royal Air Force squadrons. The same also applies to Indian officers who apart from these reserve units may be granted temporary commissions in the Indian Air Force proper. As my friend doubtless knows, the Air Force is small and there may not for some time be any considerable number of vacancies in them. Full provision has been made for the continuous training of these units and experienced fighting and technical personnel from both the Royal Air Force and the Indian Air Force will be seconded to them.

Finally, he asks me what is the present authorised strength of this reserve. It amounts to five units at present and it will depend not only upon the number of persons who volunteer or wish to volunteer for this service which may well be very large but also upon the number of service machines which can be made available. Should, as it is confidently expected, the number of volunteers be large, every effort will be made to train as many as possible but the number of machines may still remain a difficulty in allowing all those who would like to take advantage of it to do so.

Mr. F. E. James : May I ask one further question. The Honourable Member said that the present authorised strength is five units. Does he mean by a unit a squadron ?

Mr. C. M. G. Ogilvie : It means a flight.

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

"That the Bill to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty be taken into consideration."

The motion was adopted.

Clauses 2, 3, 4, 5, 6 and 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. C. M. G. Ogilvie : Sir, I move :

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE MOTOR VEHICLES (AMENDMENT) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : Sir, I move :

"That the Bill to amend the Motor Vehicles Act, 1939, for certain purposes, be taken into consideration."

Honourable Members will recollect that during the passage of the main Act last year through this House certain sub-sections were added to section 134, which was a section providing for the repeal of the old Act. The main object of those sub-sections was to give the Provincial Governments time to frame the rather elaborate code of rules necessary to implement the Act which came into force on the 1st of July last. Unfortunately, the attempt to dovetail the two Acts has not been entirely successful and, as Honourable Members will see from the Statement of Objects and Reasons, the existing provisions have given rise to certain difficulties and doubts. The most obvious one of these is that the Act as it stands contemplates the setting up of the various transport authorities from the moment when it comes into force, that is, on the 1st July last, whereas these authorities could not effectively operate without the new rules. Actually, the authorities have not been set up, so that, as Honourable Members will see from Clause 1 (2) of the Bill, we propose to go back a little and validate what has not been done. That explains the purposes of Clauses 2 and 3.

Clauses 4 and 5 contain a great many words, but they all boil down to this, that we are asserting a very simple definition of colour blindness. The Act as passed contains no definition. We are advised that for the purpose of driving cars it is quite sufficient that a man should be able to distinguish between red and green. There are certain references in these sections to night blindness but we are leaving the position in respect of night blindness as it is. At the same time I must confess to some doubts as to whether the ordinary medical practitioner will be able to make a

[Sir Andrew Clow.]

proper test for night blindness and we may have to come later to the House with proposals for modification here also. Clause 6 does no more than add a registration sign for the Andaman and Nicobar Islands and Clause 7 proposes to alter one of the traffic signs included in the Ninth Schedule to the Act. The existing sign has been criticised on the ground that, whereas it is intended to constitute a warning not to sound your horn, it may very well be read by drivers as an invitation to do so. If any Honourable Member has forgotten to bring his Act with him, he will find a reproduction of the existing sign on the paper that has been circulated, and I think he will recognize the danger of the sign we adopted last year. The new sign was chosen out of two alternatives by the Transport Advisory Council and I recommend it to the House.

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

" That the Bill to amend the Motor Vehicles Act, 1939, for certain purposes, be taken into consideration."

Mr. F. E. James (Madras : European) : Sir, might I ask the Honourable Member one question which relates to the amendment to the Sixth Schedule in clause 6 of the Bill. Has he made any provision for suitable numbers for Panth Piploda ?

The Honourable Sir Andrew Clow : No, Sir, I have not. I am not aware that there are any roads in Panth Piploda on which cars can run.

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

" That the Bill to amend the Motor Vehicles Act, 1939, for certain purposes, be taken into consideration."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Andrew Clow : Sir, I move :

" That the Bill be passed."

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

" That the Bill be passed."

Dr. P. N. Banerjea (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, I have no desire to oppose this Bill, but I do wish to raise my voice of protest against the habit of Government of not doing things at the proper moment. Sir, they seem to have great faith in the doctrine of legislating in a hurry and repenting at leisure. The consequences of such hurried legislation very often fall on people other than themselves. In this Bill we find it is stated that sections 2 and 8 shall be deemed to have taken effect from the 1st July, 1939. Legislation giving retrospective effect to some of the provisions is to be strongly condemned. It is most undesirable that legislation should be introduced and retrospective effect should be given to its provisions.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member ought to have taken the opportunity to make these remarks at an earlier stage.

Dr. P. N. Banerjea : Sir, I am protesting against the method of doing things, and I hope and trust that the Government will not, in future, introduce such legislation giving retrospective effect to its provisions.

Mr. F. E. James : Sir, I should like to dissent from the remarks of my friend, Dr. Banerjea. He used the phrase, " legislate in hurry and repent at leisure ". I think he was using the analogy of marriage. Sir, legislation has one advantage over marriage. In the case of marriage, the procedure is that you have first to introduce the lady, and then she is taken into consideration. Sometimes there is an amendment to that, if the family ties are strong, and the question is referred to the Select Committee of the family. Then, the report of the Select Committee is received and at a later stage there is consideration,—a process which often takes a long time. Finally, the motion is that the marriage be made, or passed. Now, the difference between legislation and marriage is this. You may make a terrible mistake in a particular Bill, but it is always open to Government to amend their previous mistakes. That is not the case in regard to marriage. Unlike Dr. Banerjea, I should like warmly to congratulate Government upon the way in which they have been willing to recognize their sins of omission and commission in the past and to bring forward this piece of legislation ; and I trust that the attitude of the House to this will be repeated on a subsequent motion that I see on the paper and that the small amendments to these Bills will be passed without undue delay.

The Honourable Sir Andrew Clow : Sir, I am afraid I do not feel

4 P.M. terribly repentant when I remember the long weeks of last year in the Select Committee and so many weeks in this Assembly when about a thousand amendments were given notice of. I am afraid I cannot plead guilty to the charge of bringing this legislation in haste, particularly, when several years work went over the preparation of the main Act. I have not yet known a big Act in which one could not discover a good many errors. Actually, a considerable number of errors were put right in the Council of State which met several months later. But another reason why I cannot profess to be terribly repentant or promise not to do it again is that I am conscious of quite a number of other probable mistakes in the Act. The reason why I have not brought them before the House is that they involve points on which, I think, Provincial Governments ought to be consulted before we put them before the House. There is one other point which I would like to mention and that is that I cannot accept the sole responsibility. Dr. Banerjea and Mr. James were also the Members of the Assembly and it was equally open to them to detect the errors that I failed to detect.

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

" That the Bill be passed."

The motion was adopted.

Sir George Spence (Secretary, Legislative Department): Sir, I move:

"That the Bill further to amend the Insurance Act, 1938, for a certain purpose, be taken into consideration."

The Insurance Act of 1938, accorded differential treatment.....

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan): Sir, I rise on a point of order. This Bill was introduced only today.....

Honourable Members: No, no.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has not read the agenda properly.

Maulvi Muhammad Abdul Ghani: It was introduced perhaps on the 19th. At any rate, three days have not elapsed, and, therefore, Standing Order 38 stands in its way.

Mr. President (The Honourable Sir Abdur Rahim): When was this Bill introduced?

Sir George Spence: It was introduced on Tuesday, and it was open to the Honourable Member to take objection, as the period since introduction is one day short of the original period. The Standing Order which the Honourable Member has cited provides that any Member may object to any such motion being made unless copies of the Bill have been made available for three days, but he did not object to the motion being made. I have already made the motion.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not think that is a sufficient explanation. Is there any explanation why it has been brought up one day short?

Maulvi Muhammad Abdul Ghani: Sir, I have taken serious objection to the motion.

Sir George Spence: There was no bar to this business being placed on the paper. If any Member objects, then it is for the Chair to say whether the objection will prevail. This is a combined agenda for Tuesday, Wednesday, Thursday and Friday and we were not in a position to foresee that all or any of these Bills would be reached before Friday. As a matter of fact, the objection which is being taken to this Bill was equally applicable to the two Bills which the House has just passed.

Mr. President (The Honourable Sir Abdur Rahim): Do other Honourable Members also object to these Bills being proceeded with?

Honourable Members: No, No.

Mr. President (The Honourable Sir Abdur Rahim): In that case, the Chair dispenses with the requirement of the Standing Order.

Sir George Spence: Sir, I was saying that the Insurance Act of 1938 accorded differential treatment in certain respects, such as the documents required to accompany applications for registration to insurers

or provident societies which were companies incorporated under the Indian Companies Act, 1913. This formula had the unintended and obviously irrational effect of excluding from the differential treatment those companies which are referred to in the Indian Companies Act as existing companies, that is to say, companies incorporated under the Indian Companies Act, 1882, or the Indian Companies Act, 1866, or any Act repealed thereby. One instance in which this inadvertent effect was produced was detected when the amending Bill passed in the Delhi Session was in course of preparation and was dealt with in that Bill. Clause 2 of the present Bill in the form in which it now stands deals with another instance which recently attracted attention, while the amendment standing in the name of Mr. Sukthankar deals—and I hope exhaustively—with other similar cases which were brought to light by a general examination undertaken too late for these additional cases to be dealt with in the Bill as introduced. Sir, I move.

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

"That the Bill further to amend the Insurance Act, 1938, for a certain purpose, 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. Y. N. Sukthankar (Government of India : Nominated Official): Sir, I move:

"That for clause 2 of the Bill the following clause be substituted, namely:

"2. (1) In—
(4) clauses (a) and (b) of sub-section (2) of section 3,
(5) clause (a) of sub-section (2) of section 70,
(6) clause (c) of sub-section (1) of section 74,
(iv) sub-sections (1), (3) and (4) of section 88
of the Insurance Act, 1938, after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

(2) In sub-sections (1) and (3) of section 88 of the Insurance Act, 1938, for the words "that Act" the words and figure "the Indian Companies Act, 1913" shall be substituted."

Sir, I have very little to add to what Sir George Spence has already said. The intention of the first part of the amendment is that companies incorporated under these earlier Acts should also be brought under the purview of these particular sections. Part 2 of the amendment is purely consequential.

Mr. President (The Honourable Sir Abdur Rahim): The Chair would like the Honourable Member to explain to the Chair and to the House how this amendment is not beyond the scope of the Bill. Clause 2 of the Bill refers only to clauses (a) and (b) of sub-section (2) of section 3.

[Mr. President.]

whereas by this amendment other sections will be affected, such as, sections 74 and 88 which deal with provident societies. They do not deal with the same subject-matter as section 3.

Sir George Spence : My submission is this. There is one common purpose in all the amendments made by Clause 2 as introduced and by Clause 2 as moved by my Honourable friend, Mr. Sukthankar. There is one common object, to do away with the restriction to companies incorporated under the Indian Companies Act, 1913, of the difference of treatment which was not intended to and ought not to exclude companies incorporated under the Indian Companies Act, 1882, or under any of the earlier Companies Acts.

Mr. President (The Honourable Sir Abdur Rahim) : The amendment moved just now refers not only to section 3, but to sections 70, 74 and 88 of the Insurance Act of 1938.

Sir George Spence : The preamble to Bill which I have moved says "Whereas it is expedient further to amend the Insurance Act, 1938 for the purpose hereinafter appearing". I submit "the purpose hereinafter appearing" is clearly the purpose of doing away with this unintended failure to bring in existing companies along with companies incorporated under the Indian Companies Act, 1913.

Mr. President (The Honourable Sir Abdur Rahim) : The other sections which are mentioned in the amendment do not refer to the same sort of companies.

Sir George Spence : They are all referred to as companies registered under the Indian Companies Act.

Mr. President (The Honourable Sir Abdur Rahim) : That does not matter.

Sir George Spence : Sub-section (2) of section 3 refers to the case where the applicant is a company incorporated under the Indian Companies Act,.....

Mr. President (The Honourable Sir Abdur Rahim) : Surely the Honourable Member wants to enlarge the scope of the Bill. Otherwise there is no object in bringing in this amendment.

Sir George Spence : Every amendment—and a large number of amendments are admissible—is moved with the object of doing something which the original Bill has failed to do.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair holds that this amendment goes beyond the scope of the Bill. The Bill seeks only to amend certain clauses of section 3, while the amendment seeks to amend certain other sections of the Insurance Act. The Chair does not think this can be allowed in the circumstances of this case. The Chair disallows the amendment on the ground that it goes beyond the scope of the Bill.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Sir George Spence : Sir, I move :

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE REGISTRATION OF TRADE MARKS BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I beg to move :

"That the Bill to provide for the registration and more effective protection of Trade Marks be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Azhar Ali, Mr. H. A. Sathar H. Essak Sait, Pandit Lakshmi Kanta Maitra, Dr. P. N. Banerjee, Mr. J. D. Boyle, Mr. C. C. Miller, Sir H. P. Mody, Rao Sahib N. Sivaraj, Lieut.-Colonel M. A. Rahman, Dr. R. D. Dalal, 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, if I shortly recall to this House the history of this legislative effort on the part of the Government of India, I trust the House will see that many words from me are not necessary to commend the motion that I have just made. In the year 1875, an Act for the Protection of Trade Marks and Registration was passed in the United Kingdom by the Houses of Parliament. Two years later, that very vigilant commercial body, the Bombay Millowners' Association, applied to the Government of Bombay for registration in India of trade marks on the lines of the recently passed measure in the United Kingdom. They put forward an alternative prayer that in case it was considered necessary to have legislation on an all-India basis, the Government of India may be moved to introduce such legislation. The Government of Bombay accordingly forwarded that application to the Government of India holding the view that the provincial legislation in such a matter would not be quite fruitful and that central legislation should be undertaken. In 1879, the Government of India introduced a Bill in the then Imperial Legislative Council for the protection of trade marks by way of registration. The Bill was circulated to various commercial bodies and when the Select Committee considered the opinions received on the Bill it was found that the opinions were so hostile to the measure as introduced that that piece of legislation had to be dropped. Several successive efforts were made by the Government of India in the same direction, but commercial opinion was either not unanimous or was predominantly hostile to the provisions of such a Bill. It is sixty years later, today, almost to a day, that it has fallen to me and if I may say so fortunately, as it has indeed fortunately fallen to this Legislative Assembly, to consider a provision of this nature and to put if possible on the Statute-book a Bill to provide for the more effective registration and protection of trade marks.

The interim history is very interesting. From time to time a few commercial bodies and interests who saw the importance of such a measure approached the Government, but on each occasion when they circulated

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it for opinion to Provincial Governments and commercial bodies, a great mass of opinion was unfortunately against this measure. In that state of affairs in the year 1903, the Bombay Millowners' Association again, and I am glad to pay a tribute to the Association and its past activities with reference to this Bill, the Bombay Millowners' Association took on itself to propose some measure of protection to such trade marks. It asked various members to register voluntarily in its books, cotton trade marks, for by that time the cotton trade had become a fairly extensive business in the Bombay presidency. Other Chambers of Commerce like the Madras Chambers of Commerce, and in particular, the Upper India Chamber of Commerce followed suit and opened registers for the voluntary registration of such trade marks. But public opinion and commercial opinion was still far behind; so that in 1908 and again in 1917, during the war, when the Government of India approached the Provincial Governments and commercial bodies, the opinion received as regards the advisability of such a measure was distinctly hostile. It required the great war and the expansion of trade and business and industries in this country consequent on that war to enable businessmen to realise that a measure of this kind was absolutely indispensable. So early as the year 1883 an international convention had been arrived at for the protection of such trade marks and property whereby countries acceding to that convention would have a right of having their trade marks registered in the particular country being recognised in foreign countries which were parties to that convention. India, not having had legislation for the registration of trade marks, could not be a party to this convention. In 1922, again, the League of Nations which inquired into the question of protection of property rights made a recommendation to such members of the League of Nations as were not already members of the international convention that I have referred to, that they should accede to such convention and thereby facilitate the protection mutually in the various countries of such trade marks. Again the Government of India tried to move in the matter but without success. The turning point in the history of legislation on this subject came about in the year 1927. The Indian Industrial and Commercial Congress which met in the historic city of Madras in that year passed the following resolution:

"This Congress recommends to the Government of India that it is desirable in the interest of Indian trade and industries to introduce at an early date legislation for the registration of trade marks in India in the absence of which Indian merchants are put to considerable hardship both in India and abroad and India is unable to join the international convention for the protection of industrial property."

The Associated Chambers of Commerce followed suit by passing a similar resolution in the year 1933. Meanwhile, Sir, public opinion was being gradually educated and both legislators and the public had begun to take an active interest in this matter. My friends Mr. S. C. Mitra and Mr. Vidyasagar Pandya by more than one interpellation in the years 1929 and 1930 tried to bring to the notice of the then Commerce Member the difficulties that were being encountered by trade and business for the lack of such legislation. My friend Sir Purshotamdas Thakurdas representing a very important Chamber of Commerce, the Indian Merchants' Chamber of Bombay, in connection with an amending Bill on the Indian Patents and Designs Act in the year 1930 put forward a very strong and vigorous plea both in the Select Committee and in this House for similar

legislation on this subject. I said public opinion was also becoming increasingly aware of the necessity for such legislation. The *Indian Textile Journal*, the *Statesman*, the *Times of India*, *Forward*, *Liberty*, and last, but in the opinion of some at least not the least, the *Whip* of Calcutta referred to the necessity for a measure of this kind. It was therefore thought by Government that a move could safely be made in the direction of promoting legislation on the subject. But having regard to the previous history and the infructuous attempts that had been made repeatedly by the Government of the day, the Government of India felt that it should proceed on the most cautious basis possible. Therefore, Sir, in the year 1937 they circularised the Provincial Governments and commercial bodies a memorandum in which the history of this piece of attempted legislation was laid down. The objects that were intended to be promoted by that legislation were carefully explained in the memorandum and the advantages that would flow from the registration of trade marks were put forward fairly simply to the commercial bodies and to the public. We received a mass of opinion from various Chambers of Commerce and other commercial bodies and from Provincial Governments. These opinions were very carefully considered by an officer who was put on special duty in connection with this measure, and the officer drafted a Bill for the more effective registration of these trade marks. Then, Sir, that Bill was again circulated to Provincial Governments and to commercial bodies and the opinions of all these bodies were invited. These opinions were received and the final measure that I have the honour to present for the consideration of the House is a result of the carefully considered conclusions of Government in the light of all those opinions. In fact, Sir, among the papers that I propose to circulate to members of the Select Committee will be the opinion of the Federation of Indian Chambers of Commerce who, I am glad to say, have congratulated Government on the procedure that they have followed in connection with this particular measure. They say:

"The Committee at the outset desire to express their appreciation of the procedure followed by the Government of India in ascertaining the views of the commercial community before formulating their proposals in the form of a draft Bill and again circulating the draft Bill for eliciting opinions of the interests concerned. The Committee feel that such a procedure has certain definite advantages and that it should be followed by the Government of India whenever they have an occasion to introduce legislation affecting the trade and industries of this country."

While I appreciate the congratulations of the Federation I feel that I cannot go so far as to give any assurance that such a procedure will be followed on every possible occasion.

Sir, that is the history of this measure. I should like to say a few words on the Bill itself. Honourable Members will notice that in the Preamble of the Bill it is stated that it is sought to enact this measure for the more effective protection of trade marks. It may be admitted at once that there is some sort of protection for these trade marks. Honourable Members who are aware of what may be known as "passing-off cases" in the course of law where an infringement of trade mark is either in criminal court or civil court made the subject of adjudication will realise that at present there is both in common law and in the Indian Penal Code some relief to be obtained by the person whose right to the trade mark has been invaded upon. But it is an elementary consideration for anybody

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who has had anything to do with such cases that this right is not a very real or a very effective right. Take the case of the criminal law. Under the Merchandise Marks Act taken with the Indian Penal Code it is open to a party aggrieved to proceed in a criminal court of law for the infringement of such a right. But the trouble is that in that case the person has to prove, as in a civil court, his right to that trade mark and the fact that he has been a user of that trade mark before the other person who has invaded and infringed that right. Honourable Members who have experience of matters of criminal law, my friend Sardar Sant Singh in particular, would no doubt realise what a difficult task it would be for a complainant to establish a civil right in a criminal court. Not only that; as has been well pointed out by Lord Justice Moulton in an English case—

“Penalties are utterly inefficient for the purpose of preventing bad practices. It is infinitely better to be able to call in the assistance of a civil court and get an injunction preventing the bad practice being continued. There are many people”

—and I draw my Honourable friend's (Sir H. P. Mody) attention to it:

“who would willingly pay a penalty for something nefarious once a fortnight.

They would probably earn it in an hour or two the next day. It is very much better to have the power of getting an injunction which nobody in England dare disobey.”

That is so far as the penal provisions of the Indian Penal Code and the Merchandise Marks Act and the Sea Customs Act taken together provide for an infringement of such a right. Under the common law, again, the right is not much more easy to establish. In the first place, you have to prove that you had a right to the trade mark, that you were a prior user and you have to prove it in every court and against every person who may infringe that trade mark. It is not as if once you have established it in any particular court as against A you can have that right established against the whole world. With reference to each individual who invades your property right and with reference to every area where it is invaded you must necessarily proceed by civil action; and have your right established by a court of law. It is these considerations that so early as 1875 led the English Parliament to put on the Statute-book an Act for the registration of trade marks and it is for these considerations, Sir, that I today move that this measure be referred to a Select Committee. Sir, I move.

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

“That the Bill to provide for the registration and more effective protection of Trade Marks be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Azhar Ali, Mr. H. A. Sathar H. Essak Sait, Pandit Lakshmi Kanta Maitra, Dr. P. N. Banerjee, Mr. J. D. Boyle, Mr. C. C. Miller, Sir H. P. Mody, Rao Sahib N. Sivaraj, Lieut.-Colonel M. A. Rahman, Dr. R. D. Dalal, 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 H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Mr. President, the Bill is going to the Select Committee, and I, therefore, do not wish to make any comments on any of its provisions. The measure, as has just been stated by my Honourable friend the Commerce Member, was suggested by my Association as far back as 1877, and the Bill before the House has conclusively shown that what the Bombay

Millowners think today, the Government of India and the rest of India think sixty years after. However, this slow and deliberate conception has not been without its advantages, and I would like to congratulate the young father, Mr. Nehru, and the not-so-young foster-father the Commerce Member on the result of their labours. I do not agree with all the provisions of this Bill, though I am free to admit that every possible care has been taken by the Government of India in ascertaining commercial opinion before it has been put before this House; and I join the Federation of Indian Chambers of Commerce in congratulating the Government on the procedure that they have adopted; and I venture to think that the Commerce Member or any other Member of the Government of India will think twice before they decide not to follow that precedent with regard to any future legislation. The Bill is going before the Select Committee and, therefore, commercial and industrial opinion will I am sure place its view-point before the members of the Committee; and I have no doubt that finally the Bill will emerge moulded more near to our heart's desire. Sir, I support the motion.

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

“That the Bill to provide for the registration and more effective protection of Trade Marks be referred to a Select Committee consisting of Syed Ghulam Bhik Nairang, Mr. Muhammad Azhar Ali, Mr. H. A. Sathar H. Essak Sait, Pandit Lakshmi Kanta Maitra, Dr. P. N. Banerjee, Mr. J. D. Boyle, Mr. C. C. Miller, Sir H. P. Mody, Rao Sahib N. Sivaraj, Lieut.-Colonel M. A. Rahman, Dr. R. D. Dalal, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

STATEMENT OF BUSINESS.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, the only remaining item of business which Government propose to bring before the House during this Session is the Bill introduced this morning by the Honourable Sir Ramaswami Mudaliar, further to amend the Workmen's Compensation Act, 1923, for a certain purpose. It is proposed with your permission, Sir, and the permission of the House to make a motion to proceed further with this Bill and to pass it tomorrow; and it will be necessary to ask you, Sir, to suspend the Standing Order in that connection. I have tried to ascertain the wishes of Leaders of Parties in this connection and I am assured that they would have no objection to that course being adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair does not know whether there is any objection. Is there any Member who objects to this course being adopted and the Bill taken up tomorrow?

Honourable Members : No, no.

Mr. President (The Honourable Sir Abdur Rahim) : Very well.

The Assembly then adjourned till Eleven of the Clock, on Friday, the 22nd September, 1939.

LEGISLATIVE ASSEMBLY.

Friday, 22nd September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

VACANCIES IN THE LOWER GAZETTED SERVICE ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

+262. *Maulvi Sikandar Ali Choudhury : Will the Honourable Member for Railways be pleased to state how many vacancies in the Lower Gazetted Officers ranks have occurred, and how many Muslims, Hindus, Anglo-Indians have been promoted from the Subordinate cadres, during the period from 1st July, 1934 to 1st April, 1939, on the Eastern Bengal Railway and East Indian Railway ?

The Honourable Sir Andrew Clow : On the Eastern Bengal Railway, there were 14 vacancies, nine of which were filled by Hindus and five by Anglo-Indians.

On the East Indian Railway, there were 48 vacancies, eight of which were filled by Hindus, 39 by Europeans and Anglo-Indians and one by a Sikh.

HOLIDAYS GRANTED TO EMPLOYEES ON THE EASTERN BENGAL RAILWAY.

+263. *Maulvi Sikandar Ali Choudhury : Will the Honourable Member for Railways be pleased to state : •

- (a) if Provincial Gazetted holidays in addition to holidays granted according to Negotiable Instruments Act are granted to employees belonging to different communities on the Eastern Bengal Railway ; and
- (b) if the reply to part (a) above be in the affirmative, whether Muslims are also granted Provincial Gazetted holidays in the same way as Hindus are granted holidays during their festivals ?

The Honourable Sir Andrew Clow : (a) and (b). Some of the Provincial gazetted holidays are granted, but they apply generally, i.e., irrespective of the community to which an employee belongs.

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

LOW PERCENTAGE OF MUSLIMS ON THE EASTERN BENGAL RAILWAY.

264. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to refer to the reply to part (b) of starred question No. 1578, asked by me on Tuesday, the 29th November, 1938, in this House and state :

- (a) whether the percentage of Muslims employed in the Eastern Bengal Railway during the period from 1934 to 1939 has been arrived at by taking into consideration the number of Muslim staff employed temporarily in casualties, leave vacancies, during seasonal heavy traffic, and temporary engineering works, and who were subsequently discharged ; and
- (b) if the reply to part (a) above be in the negative, whether Government have verified or propose to verify this percentage by a Special Officer of the Railway Board ?

The Honourable Sir Andrew Clow : (a) The percentages given showed the position as it was on the 31st March in each of the years 1934 to 1937. The figures on which these percentages were based included all employees in service, irrespective of whether they were permanent or temporary, except substitutes against leave vacancies.

(b) Does not arise.

COMMUNAL COMPOSITION OF PERSONS RECRUITED IN THE GENERAL MANAGER'S OFFICE ON THE EASTERN BENGAL RAILWAY.

265. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to refer to the reply to starred question No. 1364 asked by Mr. Muhammad Nauman, M.L.A., on the 21st November, 1938, in this House, about communal composition of persons recruited in the General Manager's Office on the Eastern Bengal Railway and place on the table a statement showing the community of the staff shown therein by departments and branches who are still in service ?

The Honourable Sir Andrew Clow : I have called for the information required by the Honourable Member, and it will be laid on the table in due course.

RECRUITMENT OF TRACERS AND DRAUGHTSMEN ON THE EASTERN BENGAL RAILWAY.

266. *Shaikh Rafiuddin Ahmad Siddiquee : With reference to the reply to starred question No. 773 asked by Mr. Muhammad Nauman, M.L.A., on Tuesday, the 28th February, 1939, in this House, about the recruitment of tracers and draughtsmen on the Eastern Bengal Railway, will the Honourable Member for Railways be pleased to place on the table a statement giving the following information :

- (i) places of posting of tracers and draughtsmen of each community separately who were recruited ;
- (ii) places of posting of tracers and draughtsmen of each community who were made permanent and those who are still temporary and those who were discharged ; and

- (iii) places of posting of tracers and draughtsmen of each community who have now been discharged, dismissed or punished ?

The Honourable Sir Andrew Clow : (i) and (ii). I have no record of the places of posting, but I lay on the table a statement showing the communal distribution and allocation to Departments, and a further statement giving for the Civil Engineering Department particulars of confirmation and the number still temporary.

(iii) I have no particulars of the men who have been discharged, dismissed or punished.

STATEMENT I.

Communal and Departmental distribution of men recruited from 1st April, 1936 to February, 1939.

Civil Engineering Department (including Signal and Bridge Engineering Departments).

				Draughtsmen.	Tracers.
Hindus	..	..	..	10	24
Muslims	..	..	..	10	23
Anglo-Indians	..	..	..	—	1
Sikhs	..	..	..	1	—
Scheduled caste	..	..	..	1	—

Mechanical Department.

				Draughtsmen.	Tracers.
Hindus	..	..	..	5	1
Muslims	..	..	..	—	1*
Anglo-Indians	..	..	..	4	—
Other communities	..	..	..	—	1

*Subsequently transferred to the Engineering Department on the expiry of the temporary post held by him.

STATEMENT II.

Particulars of confirmation in Civil Engineering Department (including Signal and Bridge Engineering Departments).

			Confirmed.	Temporary.
			Draughtsmen.	Tracers.
Muslims	..	1	3	5
Hindus	..	—	4	13
				18

**POSITION OF MUSLIM CLERKS ON THE RE-ORGANISATION OF THE PERSONNEL
BRANCH OF GENERAL MANAGER'S OFFICE ON THE EASTERN BENGAL
RAILWAY.**

267. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to state :

- (a) what positions trained and untrained Muslim clerks have been given in the new re-organisation of the Personnel Branch of the General Manager, Eastern Bengal Railway Office ;
- (b) whether it is a fact that Muslim clerks have been kept in branches other than those which deal with staff matters respecting recruitment, promotion, transfer, punishment and appeals ;
- (c) whether Government propose to lay on the table of the House statements of appeals from Muslim staff during the period January 1934 to June 1939, to the Traffic Manager, the Chief Engineer, the Chief Mechanical Engineer, Controller of Stores, and the General Manager with results and orders on them ;
- (d) whether it is a fact that appeals of non-Muslims were always considered ; and
- (e) whether Government are prepared to state the total number of appeals made for one reason or other by the employees of the Eastern Bengal Railway to the Traffic Manager, Chief Engineer, Chief Mechanical Engineer and the General Manager, during January 1936 to December 1938, and what is the number of those appeals which were successful and how many of those successful appeals referred to Muslims and how many of them referred to non-Muslim employees ?

The Honourable Sir Andrew Clow : (a) I am not clear as to the meaning of the question. The number of Muslim clerks has not altered as a result of the re-organisation but there has necessarily been some redistribution among the clerks.

(b) No. I am informed that the sub-section of the Branch dealing with recruitment and questions of communal composition is under a Muslim clerk who has five Muslims among his assistants.

(c) and (e). No. I regret that I cannot ask the administration to undertake the labour involved in the research work that would be required.

(d) Appeals, in cases where an appeal lies, have to be considered irrespective of the community of the appellant.

**PAUCITY OF MUSLIMS IN THE ESTABLISHMENT SECTION ON THE NORTH WESTERN
RAILWAY.**

268. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been drawn to an article published in the *Daily Inqilab* of Lahore, dated the 18th April, 1939, regarding paucity of Muslims in the

Establishment Section on the North Western Railway ; if so, what action the Railway Board or the General Manager, North Western Railway, have taken to redress the grievances mentioned therein ;

- (b) whether it is a fact that no Muslim has ever been appointed to the posts of Superintendent and Assistant Superintendent of Establishment Branch of the Headquarters Office ;
- (c) whether it is a fact that on certain occasions these posts were filled by importing non-Muslims from other Offices ; and
- (d) if the replies to parts (b) and (c) above be in the affirmative, whether Government are prepared to state whether these posts are reserved for non-Muslims only, and if not, why a suitable Muslim cannot be imported against one of these posts by transferring the present incumbents elsewhere ?

The Honourable Sir Andrew Clow : (a) I have seen the article referred to by the Honourable Member. As regards the latter part, I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with his starred question No. 1567, asked on the 5th April, 1939.

(b) and (c). I have no particulars of the postings that may have been made.

(d) This does not arise, but, in any case, there is no communal reservation in the filling of such posts.

**ABSENCE OF MUSLIM OFFICE SUPERINTENDENTS ON THE NORTH WESTERN
RAILWAY.**

269. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 19th May 1939 ;
- (b) whether it is a fact that of the 19 posts of Office Superintendent and Superintendents in the Headquarters Office and Divisional and extra-Divisional Offices of the North Western Railway, there is not a single permanent Muslim Office Superintendent ;
- (c) whether it is a fact that not many years ago there used to be two Muslim Office Superintendents ;
- (d) whether it is a fact that the representation of Muslims in the cadre of Assistant Staff Wardens has similarly deteriorated during recent years ; and
- (e) whether Government propose to take necessary action to ensure an improvement in the representation of Muslims ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) No. I understand that there is one Muslim who is an Office Superintendent and is now officiating in a Lower Gazetted Service post, and that the Superintendent, Lost Property Office, is also a Muslim.

(c) I am prepared to accept this from the Honourable Member.

(d) I understand that the number of Assistant Staff Warden posts held by Muslims now is less than it was some time ago. This is due to one having died, and two having been promoted to the higher post of Labour Warden. In the three vacancies thus created, one Muslim and two non-Muslims were appointed.

(e) Every endeavour is being made to keep the communal balance.

Mr. Muhammad Nauman : May I know, Sir, what endeavours are being made to keep the communal balance ?

The Honourable Sir Andrew Clow : Just by watching the distribution and ensuring that recruitment is not made exclusively from one community.

REPRESENTATION OF MUSLIMS IN THE TRAFFIC INSPECTORS' POSTS ON THE NORTH WESTERN RAILWAY.

270. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been invited to the articles appearing in the *Daily Ihsan*, dated the 2nd August, 1939, *The Daily Shahbaz*, dated the 30th July, 1939, the *Daily Inqilab*, dated the 29th July, 1939, and the *Eastern Times*, dated the 21st July, 1939 ;
- (b) whether it is a fact that the number of Muslim candidates called for selection for the posts of Traffic Inspectors was very meagre ; what was the total number of candidates called and how many of them were Muslims ;
- (c) whether it is a fact that the Muslim representation in this cadre of the North Western Railway services is very low ; what is the total number of such staff and how many of them are Muslims ;
- (d) whether Government are prepared to inform this House as to how many Muslims, if any, were selected for these posts : and
- (e) whether Government propose to issue necessary orders to ensure early improvement in the representation of Muslims in this service ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) The total number of candidates called for an interview on the 3rd July, 1939, was 46, eight of whom were Muslims.

(c) There are eight Muslim Traffic Inspectors, including two who are officiating in the Lower Gazetted Service, in a cadre of 40.

(d) I assume that the Honourable Member wishes to know the number of Muslims appointed to the posts of Traffic Inspector since the candidates were interviewed ; this information is being secured and will be supplied to the House in due course.

(e) Does not arise.

RECRUITMENT OF STOCK VERIFIERS ON THE NORTH WESTERN RAILWAY.

271. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been invited to the communication appearing in the *Eastern Times*, dated the 9th June, 1939, regarding " Stock Verifiers " ;
- (b) whether it is a fact that direct recruitment used at one time to be made to the cadre of Stock Verifiers ;
- (c) whether it is a fact that a large majority of the Stock Verifiers at present in service were so recruited ;
- (d) whether it is a fact that these persons who had been recruited direct had no actual experience of their work before appointment ;
- (e) whether it is a fact that direct recruitment is not now made to this cadre ;
- (f) whether it is a fact that these posts were thrown open at the last selection to the whole staff of the Accounts Department while previously it used to be restricted to the staff of the Stores Accounts Branch only ;
- (g) whether it is a fact that the qualifications required for appearing before a Selection Board for these posts were raised to a pass in the departmental Appendix ' D ' or part II examinations ;
- (h) whether it is a fact that not a single Muslim has been selected for these posts at the recent selection nor has any been placed on the waiting list ;
- (i) whether it is a fact that Muslim representation in this cadre is extremely low ; and
- (j) whether Government are prepared to consider the desirability of removing these restrictions and of devising other ways and means to ensure the improvement of the representation of the Muslim community in this cadre of the North Western Railway services ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter in question.

(b) As that letter relates to the selection of Stock Verifiers on the North Western Railway I presume that the information required in this and subsequent parts of the question is in respect of the North Western Railway only. On this assumption the reply to this part is in the affirmative, direct recruitment having been discontinued from 1932.

(c) No. Out of 22 Stock Verifiers eight are direct recruits.

(d) and (e). Yes.

(f) The selection has never been confined to the Stores Account Branch.

(g) Yes ; at the last Selection Board but an unqualified Muslim was also interviewed as a special case

(h) Yes.

(i) Out of 22 Stock Verifiers five are Muslims.

(j) The suggestion will be considered.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE LOWER GAZETTED SERVICE ON THE NORTH WESTERN RAILWAY.

272. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

(a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 26th May, 1939, regarding inadequate representation of Muslims in lower gazetted service on the North Western Railway ;

(b) whether it is a fact that the representation of Sikhs who are comparatively in a minority in the areas served by the North Western Railway is almost equal to the representation of Muslims in the lower gazetted services of the North Western Railway ;

(c) whether it is a fact that promotions to this service are not made through duly constituted selection boards but are based on the recommendations of non-Muslim officers ; and

(d) whether Government are prepared to consider the advisability of taking special measures to ensure an improvement of the inadequate representation of Muslims in this service ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous communication referred to by the Honourable Member.

(b) I would refer the Honourable Member to the statement I laid on the table in reply to part (a) of his question No. 1651 on the 12th April, 1939.

(c) Selection Boards are not constituted to consider promotions to the Lower Gazetted Service. As regards the latter part of the question, I would refer the Honourable Member to the reply I gave to part

(d) of his question No. 1650 on the 12th April, 1939.

(d) No. The comparatively small number of Muslims in this service is due to the paucity of Muslims in the senior ranks of the subordinate grades. That will be remedied by time and cannot equitably be remedied by superseding officials because they are not Muslims.

Mr. J. D. Boyle : Is it not a fact, Sir, that all these letters which appeared in the *Eastern Times* are in the form of anonymous letters ?

The Honourable Sir Andrew Clow : Some of them certainly are.

Mr. J. D. Boyle : Is it not a fact that to consider anonymous letters is, generally speaking, a waste of time ?

The Honourable Sir Andrew Clow : I don't normally pay any attention to such letters, but if Honourable Members base their questions on them, what can I do ?

Mr. Lalchand Navalrai : On this point I would like to know whether or not these anonymous letters are generally thrown into the waste paper basket ?

The Honourable Sir Andrew Clow : If they are received by me direct, that is normally where they go to.

PROMOTION OF MUSLIMS TO THE LOWER GAZETTED SERVICE.

†273. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

(a) whether the attention of Government has been drawn to the article appearing in the *Eastern Times*, dated the 2nd June, 1939, under the heading "Blind Man's Bluff" ;

(b) whether it is a fact that most of the senior subordinates promoted to the lower gazetted service during this year have been Hindus ; what is the exact number of promotions made and how many of these were given to Muslims ; and

(c) whether Government have considered the cut motion unanimously passed by the Legislative Assembly during the last budget session to protest against the inadequacy of Muslim representation in the Railway services ; if so, what conclusions they have arrived at and what action they have taken or propose to take in this matter ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) The answer to the first part is in the negative. 49 officiating promotions were made this year up to 15th September ; of these, 15 went to Hindus and five to Muslims. Five of the Hindus have since reverted. Four men who were all Europeans were confirmed during the year ; but one of the confirmations had effect from a date in the preceding year and the other three were previously provisionally permanent.

(c) I would refer the Honourable Member to the reply I gave to part (a) of Khan Bahadur Shaikh Fazl-i-Haq Piracha's starred question No. 190 on the 14th September, 1939.

RECRUITMENT OF INFERIOR STAFF ON THE NORTH WESTERN RAILWAY.

†274. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

(a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 7th July, 1939, under the heading "Recruitment of inferior staff on the North Western Railway" ;

†Answer to this question laid on the table, the questioner having exhausted his quota.

- (b) whether it is a fact that the General Manager, North Western Railway, Lahore, issued definite instructions in his letter No. 831-E.281/111, dated the 18th September, 1935, in which it was laid down that 37.9 per cent. of all future appointments on the Delhi Division to be filled by the direct recruitment in the inferior categories, whether permanent or temporary, must be given to Muslims ;
- (c) whether it is a fact that the Divisional Superintendent, Delhi, admitted in his Divisional Order No. 831-E.127, dated the 24th January, 1939, that Muslims and domiciled Europeans and Anglo-Indians had been less recruited by no less than 150 and 14, respectively ;
- (d) whether it is a fact that the Divisional Superintendent accordingly ordered that in future nobody except Muslims and domiciled Europeans and Indians should be recruited till further orders except against certain specified posts ;
- (e) whether it is a fact that in contravention of these orders certain menials were appointed at the Simla Railway Station, and only one Muslim was appointed out of the six or seven men recruited ;
- (f) whether it is a fact that these orders were again contravened in May, 1939, when out of the three vacancies of punkha coolies at Delhi-Shahdara Station only one was offered to a Muslim ; what action, if any, the Divisional Superintendent, Delhi, has taken against those who defied his orders to ensure that such incidents do not occur again ; and
- (g) if no action has been taken or is contemplated to be taken, whether Government will state reasons ?

The Honourable Sir Andrew Clow : (a) I have seen the communication referred to by the Honourable Member.

(b) Yes, so far as this was practicable.

(c) and (d). Yes.

(e) and (f). I have called for the information and it will be laid on the table in due course.

(g) Government have taken no action and have no steps in contemplation at present, because no occasion for action has arisen.

**PROVISION OF CERTAIN NECESSITIES IN THE MOSQUE ATTACHED TO THE
MOGHULPURA WORKSHOP.**

275. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that a covered praying platform has been erected by the North Western Railway Administration for the use of the Muslim staff at Moghalpura, since 1924 ;

- (b) whether it is a fact that several complaints have been made by the Muslim employees through the Area Council and the North Western Railway Employees Association requesting the Administration to ensure :
- that the roof may be made leakproof to afford adequate protection during rainy weather,
 - that the floor of the praying platform should be laid with bricks or cemented so that it does not become muddy and loose earth in view of the fact that large patches thereof are affected with saltpetre, and
 - that instead of the wire fencing, provided at present, wall fencing or closely spaced boiler tube fencing may be provided all round the praying platform to prevent the pollution of the mosque by the entry of cats and dogs in it ;
- (c) whether it is a fact that from 1924 to 1938 no attempts have been made to keep this platform in proper repairs and that only Rs. 3 have been spent on this during this period ;
- (d) whether it is a fact that it has been admitted several times by responsible officials of the North Western Railway that cats and dogs do enter the precincts of the praying shed and pollute it ;
- (e) whether it is a fact that the Anjuman-i-Islamia, Punjab, which is an institution in the province for the protection of mosques has approached the North Western Railway Administration several times but has not even been shown the courtesy of a reply ;
- (f) whether it is a fact that for the provision and maintenance of churches, the North Western Railway Administration have so far spent lakhs of rupees ;
- (g) whether it is a fact that recently the Railway Board have sanctioned a sum of over ten thousand rupees for the provision of gauze wire, doors and windows in one of the churches at Lahore ; and
- (h) if the reply to part (g) above be in the affirmative, whether Government are prepared to consider the provision in this mosque of the necessities mentioned in parts (b) (i) to (iii) above ?

The Honourable Sir Andrew Clow : (a)---(f). Information is being obtained from the Railway Administration concerned and a reply will be laid on the table of the House in due course.

(g) A sum of Rs. 915 was sanctioned for this purpose.

(h) Does not arise.

**MUSLIMS IN THE ELECTRICAL DEPARTMENT OF THE RAWALPINDI DIVISION
OF THE NORTH WESTERN RAILWAY.**

276. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to the communication appearing in the *Eastern Times*, dated the

2nd June, 1939, regarding the Electrical Department, Rawalpindi Division ;

- (b) whether Government have investigated the concrete instances given in that article ; if so, with what result ; if not, why not ; and
- (c) whether it is a fact that on the Rawalpindi Division, the proportion of Muslims for initial appointment in inferior services has been fixed at 84 per cent. since 1935, but that this proportion has never in reality been observed, in the case of the Electrical Department in particular ; if so, why ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) No ; because there is no sufficient reason for so doing. If any official considers that he has been wrongfully superseded, it is open to him to represent his case to the proper authority.

(c) I would refer the Honourable Member to the reply I gave to Maulana Zafar Ali Khan's starred question No. 244 on the 19th September.

Mr. Muhammad Nauman : How are these letters to be considered anonymous if the Honourable Member finds that the names that appear are not fictitious ?

The Honourable Sir Andrew Clow : They are signed by names such as "Disgusted" or that sort of name, and most of these I think fairly obviously emanate from disgruntled employees who give a misleading information of the facts and are unwilling to put their case in the ordinary way.

Mr. Muhammad Nauman : In some cases the names are written, and they cannot be treated as anonymous.

The Honourable Sir Andrew Clow : In no case that I have referred to so far this morning as anonymous has there been any name.

Mr. President (The Honourable Sir Abdur Rahim) : As regards questions based on information given in anonymous letters, so far as the Chair is concerned, what it has got to see is whether the question relates to a matter of public concern or not, and it is not possible for the President to enquire and find out from what source any particular information on which the question is based is derived.

The Honourable Sir Andrew Clow : I fully recognise that, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair wanted to make that clear to the House.

PROMOTIONS TO THE LOWER GAZETTED SERVICE ON THE NORTH WESTERN RAILWAY.

277. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) how many promotions have been made this year to the lower gazetted service on the North Western Railway in each of the various categories by communities ;

- (b) whether it is a fact that junior head clerks have been promoted as officers in the Commercial Branch ; and
- (c) whether it is a fact that a Superintendent of the Works Branch was promoted direct as Assistant Personnel Officer ?

The Honourable Sir Andrew Clow : (a) 49 officiating promotions were made this year up to 15th September ; the communal distribution of these was as follows :

Europeans	..	..	..	..	16
Anglo-Indians	..	..	..	..	10
Hindus	..	..	..	..	15
Muslims	..	..	..	..	5
Sikhs	..	..	..	..	3

Three of the Europeans and five of the Hindus have since reverted. As regards confirmations I would refer the Honourable Member to the reply given today to part (b) of Mr. H. M. Abdullah's question No. 273.

(b) No. Two Head Clerks of the Commercial Branch officiated in the Lower Gazetted Service in leave vacancies for a period of three months. One had 27 years service and the other 30 years.

(c) Yes, in an officiating capacity.

Mr. Muhammad Nauman : With reference to part (c) of the question, is that gentleman still maintained in that officiating capacity ?

The Honourable Sir Andrew Clow : I do not know whether he has reverted or not since the information was supplied.

VACANCIES IN CERTAIN CATEGORIES ON THE NORTH WESTERN RAILWAY.

278. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) what is the annual average number of vacancies occurring on the North Western Railway in the following categories of staff :
- Superior Services,
 - Lower Gazetted Services,
 - Subordinate Services, and
 - Inferior Services (including labourers, etc.),
- (b) what is the proportion of vacancies filled by promotion to those filled by direct recruitment in each of these categories ; and
- (c) what is the percentage of Muslims appointed in each of these categories :
- by promotion, and
 - by direct recruitment, during the last year ?

The Honourable Sir Andrew Clow : (a) (i) In the superior services, there have been strictly speaking, no vacancies recently as the number of officers has been in excess of the actual number required, the surplus being counted against a shortage in the Lower Gazetted Service. Recruitment to the superior services for the State-managed Railways has, however, continued at about 50 per cent. of what would have been the normal rate of recruitment. The average number thus recruited and posted to the North Western Railway for the eight years from 1931 to 1938 was 4.5.

(ii) In the Lower Gazetted Service, during the same period, the number of permanent appointments made annually averaged 5.1.

(iii) For the subordinate services, figures are available only for the four years ending 31st March, 1938. During these years the number recruited fluctuated considerably but the average was 220.

(iv) I have no figures for the inferior services.

(b) About 80 per cent. of the vacancies in the superior services are filled by direct recruitment. Practically all vacancies in the Lower Gazetted Service are filled by promotion. The subordinate services are recruited directly in the lowest grades and occasionally by promotion from the inferior services. Vacancies in the latter are filled by direct recruitment.

(c) I have no particulars regarding the communal percentages of staff promoted. As regards the percentage of Muslims appointed to the superior and subordinate services by direct recruitment, I would refer the Honourable Member to the statements published in Volume I of the Report by the Railway Board on Indian Railways and those published by the Home Department, copies of which are in the Library of the House.

EMPLOYMENT OF MUSLIMS IN THE PERSONNEL BRANCHES OF THE NORTH WESTERN RAILWAY.

279. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : With reference to his reply to starred question No. 1704, asked in this House on the 12th April, 1939, by Mr. H. M. Abdullah, M.L.A., will the Honourable Member for Railways please state :

- (a) how many of the 137 Muslim clerks working in the Personnel Branches of the entire North Western Railway system are in Grades I, II and III, respectively ;
- (b) how many of them are working in Bills Sections, Pass Sections, Sports and Welfare Sections, Medical Sections and other such sections ; and
- (c) whether Government are prepared to consider the desirability of issuing necessary instructions to ensure that the rate of progress, viz., the increase of Muslim representation in Personnel Branches by 32 in 17 months, be maintained in future ?

The Honourable Sir Andrew Clow : (a) and (b). This information is not available with Government and I have ascertained that no record giving it is maintained by the administration at Lahore. It would involve an inquiry in all the offices concerned which I regret I cannot undertake.

(c) No. It is neither desirable nor practicable to fix an arbitrary rate of increase for any community in a particular office.

APPLICATION OF THE HOURS OF EMPLOYMENT REGULATIONS TO VAN SORTERS ON THE NORTH WESTERN RAILWAY.

280. *Mr. Lalchand Navalrai : Will the Honourable the Railway Member be pleased to state :

- (a) whether "Hours of Employment Regulations" have been made applicable to van sorters on the North Western Railway ; if not, why not ;
- (b) if the reply to part (a) above be in the affirmative, when Government propose to apply these regulations to guards ; if not, why not ;
- (c) whether it is a fact that the duty hours of waiting duty guards on Karachi Division have been increased from eight to twelve hours per day ; if so, why ; and
- (d) what is the maximum period for which an employee classified as :
 - (i) continuous ; and
 - (ii) essentially intermitted,

can be on duty continuously ; if no such restriction is laid down in the rules, whether Government propose to lay down such a restriction of maximum duty at a stretch by an employee, after which he must have rest ; if not, why not ?

The Honourable Sir Andrew Clow : (a) No. I would refer the Honourable Member to the reply given to Mr. Muhammad Azhar Ali's unstarred question No. 87 on the 18th March, 1938.

(b) Does not arise.

(c) I have called for the information and will furnish it to the House when it is received.

(d) No maximum period is prescribed. I would, however, refer the Honourable Member to sub-sections (1) and (2) of section 71C of the Indian Railways Act, and to instructions Nos. 12 and 13 notified in the Railway Department (Railway Board) Resolution No. 40-L, dated the 6th May, 1931, in which minimum periods of rest have been specified. These ensure that, so far as is practicable, employees are not kept on duty for longer periods than is desirable.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there is any department in the railways where work is being taken from the subordinates at a stretch for 12 hours ?

The Honourable Sir Andrew Olow : I have not got the figures of hours of work here. I require notice.

Mr. Lalchand Navalrai : Can the Honourable Member tell me what are the maximum hours of work that can be taken from persons such as guards and van sorters ?

The Honourable Sir Andrew Olow : If the Honourable Member would refer to the various sub-sections and rules and instructions that I have cited, he will find the nature of the restrictions. My impression is that it will depend more on averages than on absolute maximum in the case of persons who do come under statutory protection.

REFUND OF OVERDRAWALS BY CERTAIN EMPLOYEES ON THE NORTH WESTERN RAILWAY.

281. *Mr. Lalchand Navalrai : With reference to the supplementaries on my starred question No. 1437, asked in this House on the 5th April, 1939, regarding deduction from employees' wages of overdrawals by the North Western Railway Administration, will the Honourable Member for Railways be pleased to state :

- (a) whether a decision has been arrived at in the matter ; if so, what is the nature of that decision ;
- (b) whether it is a fact that the matter was referred by the North Western Railway Administration to the Supervisor of Railway Labour, whether deduction of overdrawals by the staff would be in conformity with the provisions of the Payment of Wages Act ; and
- (c) whether it is a fact that the Supervisor of Railway Labour has advised the North Western Railway Administration that any deduction on account of payment for overdrawals would be illegal ; if not, whether Government are prepared to lay on the table of the House a copy of the correspondence on the subject between the North Western Railway Administration and Supervisor of Railway Labour ?

The Honourable Sir Andrew Olow : The Honourable Member is apparently referring to question No. 1537, not question 1437. The answers are :

- (a) No.
- (b) and (c). There has been some demi-official correspondence between an officer of North Western Railway and the Supervisor of Railway Labour, but I am not prepared to disclose the opinions expressed.

Mr. Lalchand Navalrai : May I know from the Honourable Member if any final decision has been arrived at on this demi-official correspondence which is not being shown to us ?

The Honourable Sir Andrew Olow : No decision has yet been reached, but I am very anxious to expedite one.

ADMISSIBILITY OF FOREIGN LINE PASSES TO RETIRED EMPLOYEES OF STATE RAILWAY.

282. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

- (a) whether foreign line passes are admissible to retired railway employees of the State-managed Railways ; if not, why not ;
- (b) whether it is a fact that there was no restriction on such passes under the 1935 rules or the rules revised to take effect from 1st January, 1937, which were the final modified set of rules issued by the Railway Board ;
- (c) whether it is a fact that Company-managed Railways like Bombay, Baroda and Central India, issue foreign line passes to their retired employees ; and
- (d) whether it is a fact that there is an agreement between various railways in regard to exchange of passes ; if so, whether it forbids the issue of passes to retired employees ?

The Honourable Sir Andrew Olow : (a) and (b). Foreign line passes are admissible to gazetted officers who have retired with over 25 years' service, but not to retired subordinates. As regards retired subordinates, the pass rules in force in 1935 allowed two single journey passes over other State-managed lines. With effect from the 1st January, 1937, these orders were cancelled, as it was considered that the allowance was too liberal and that passes over the home line were a sufficient concession. No change has since been made in the rules bearing on this point. This statement of the position modifies the reply I gave on the 4th September, 1939, to part (a) of Mian Ghulam Kadir Muhammad Shahban's starred question No. 87, which, I regret to state, I now find was not quite correct.

(c) I believe this is so.

(d) Yes, subject to such restrictions as individual Company Railways may impose or as may be imposed on State-managed Railways by the Railway Board. The answer to the second part of the question is in the negative.

Mr. Lalchand Navalrai : These retired subordinates who have put in very efficient and good work are asking for a reconsideration of the orders with regard to the passes. Will the Honourable Member at least give consideration to that and see that they get some foreign passes ?

The Honourable Sir Andrew Olow : The question of bringing the Company-managed Railways rules in line with those of the State-managed Railways will be considered.

Maulvi Muhammad Abdul Ghani : Do Government propose to revise the rules so as to abolish the issuing of passes ?

The Honourable Sir Andrew Olow : No such proposal is under consideration at present.

PROMOTION OF SHUNTING STAFF ON THE NORTH WESTERN RAILWAY.

283. *Mr. Lalchand Navalrai : With reference to the Honourable Sir Thomas Stewart's reply to part (b) of my starred question No. 788, asked on the 28th February, 1939, in this House, will the Honourable the Railway Member be pleased to state :

- (a) whether orders have been issued by the General Manager, North Western Railway, depriving shunting staff of the chances of promotion as Yard Foremen ; if so, how Government propose to reconcile this policy with the policy intimated in reply to my question No. 788, referred to above ;
- (b) if the reply to the first part of part (a) above be in the negative, how is it that on the Karachi Division Shunting Jamadars have been refused to be promoted as Yard Foremen though their names are borne on the list of qualified Yard Foremen, on the ground that these posts have to go to Train Clerks ; and
- (c) whether Government are prepared to issue necessary instructions that the policy intimated to the House, *vide* reply to the question referred to above, must be strictly followed ; if not, why not ?

The Honourable Sir Andrew Clow : (a) No : the latter part does not arise.

(b) and (c). I have called for the information asked for, and it will be furnished to the House when it is received.

Mr. Lalchand Navalrai : When the Honourable Member says "No" in reply to part (a) of the question, it means that the shunting staff is not deprived of promotion as yard foremen—is that correct ?

The Honourable Sir Andrew Clow : The Honourable Member's question in part (a) is whether orders have been issued by the General Manager, and my answer was "No".

Mr. Lalchand Navalrai : May I, therefore, know whether the shunting staff is eligible to be taken as yard foremen ?

The Honourable Sir Andrew Clow : That, I think, is a new question, and I shall have to ask for notice.

REMOVAL OF BAR FOR CLERICAL STAFF ON THE NORTH WESTERN RAILWAY.

284. *Mr. Lalchand Navalrai : Will the Honourable the Railway Member be pleased to state :

- (a) whether there is any intention to remove the bar at Rs. 60 for all classes of clerical staff employed on the North Western Railway ;
- (b) whether it is a fact that the General Manager, the Railway Board and even His Excellency the Viceroy have received memorials requesting removal of this bar ; if so, what action Government have taken in the matter ; and

- (c) whether it is a fact that the General Manager, North Western Railway, Lahore, proposes to increase the number of grade II appointments so as to ensure easy flow of promotions for grade I staff ; if so, whether orders have been issued, if not, when they are likely to be issued ?

The Honourable Sir Andrew Clow : (a) The matter is under consideration.

(b) Yes. Government have asked the General Manager, North Western Railway, to examine the justification for and the financial implication of certain alternative proposals.

(c) Government have not yet received the General Manager's proposals : the latter part of the question does not arise.

Mr. Lalchand Navalrai : I am thankful to the Honourable Member that this question is going to be revised. Will the Honourable Member instruct that this should be done soon, because these people in these war days cannot live on Rs. 60 ?

The Honourable Sir Andrew Clow : All reasonable expedition will be shown.

CHANGE IN THE TIMING OF THE SPECIAL TRAIN RUNNING FROM SUMMER HILL TO SIMLA.

285. *Bhai Parma Nand : Will the Honourable the Railway Member state :

- (a) whether it is a fact that the timing of the special train running from Summer Hill to Simla has now been changed from 9-30 to 8-30 ; if so, why ;
- (b) whether Government are aware that this change is causing very great inconvenience to the employees of the Civil Departments of the Government of India and to the boys and girls residing in Summer Hill, who have to come to schools in Simla ;
- (c) whether it is a fact that there is no other train from Summer Hill to Simla which can be utilised by the persons ; and
- (d) whether Government propose to take any steps to remove this inconvenience to a large number of its employees and their children ; if so, what and when ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Yes. The change has been made, as the majority of the staff using this special are now required to start work earlier.

(b) I am not aware that any great inconvenience is caused as a result of the change in the timings and I understand that no complaints have been received by the local railway authorities.

(c) Yes.

(d) No.

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Mr. Lalchand Navalrai : Does the Honourable Member know that this question has been pending for a very long time and considerable inconvenience has been felt ? Will the Honourable Member advise the Divisional Superintendent to adjust it in such a manner that they get convenience.

The Honourable Sir Andrew Clow : As far as I recollect, the change in the timings was made quite recently in view of an alteration in the hours of work in Army Headquarters.

UNSTARRED QUESTIONS AND ANSWERS.

POSTAL REGISTRATION ACKNOWLEDGMENT RECEIPTS RETURNABLE TO THE DIVISIONAL SUPERINTENDENT'S OFFICE, DELHI.

7. Bhai Parma Nand : Will the Honourable the Railway Member please refer to paragraph 236 of the North Western Railway Organization Manual, 1930, and state the authority under which Postal Registration Acknowledgment Receipts are made returnable by name to one Bahadur Singh, Delhi Division instead of to the Divisional Superintendent and the steps taken against such action ? If no action has been taken, why not ? Who is this Bahadur Singh ?

The Honourable Sir Andrew Clow : There is nothing in the paragraph to which the Honourable Member refers to preclude any employee from arranging for a postal acknowledgment from a member of the public for a letter to be addressed to himself. Mr. Bahadur Singh is the Divisional Inspector of Special Ticket Examiners, Delhi Division.

INTRODUCTION OF THE DESIGNATION OF RAILWAY TICKET COURT INSPECTORS ON STATE RAILWAYS.

8. Bhai Parma Nand : Will the Honourable the Railway Member please state :

- (a) the date on which the designation of Railway Ticket Court Inspectors was introduced on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways ;
- (b) their numerical strength on 17th June, 1939, on each railway together with their distribution amongst Divisions and Districts stating the names of their Headquarters Stations ;
- (c) the qualifications, criterion, etc., required for their recruitment or appointment ; and
- (d) the scales of their pay and the method of their recruitment ?

The Honourable Sir Andrew Clow : I have called for the information and it will be laid on the table in due course.

DESIGNATION OF OFFICERS ON STATE RAILWAYS AUTHORISED TO MAKE COMPLAINTS TO MAGISTRATES.

9. Bhai Parma Nand : Will the Honourable the Railway Member please refer to section 200 of the Code of Criminal Procedure and to Part II of General Statutory Rules and Orders, Supplementary, Volume 1, page 607, and state the designation of the officers on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways, who are authorised to make complaints to Magistrate under sections 112 and 113 of the Indian Railways Act, 1890 ?

The Honourable Sir Andrew Clow : The order reproduced on pages 607-614 of Part II of General Statutory Rules and Orders, Volume I, does not contain any reference to complaints made by Railways under sections 112 and 113 of the Indian Railways Act, 1890. The officials authorised to make complaints to Magistrates on the four State-managed Railways are those whose duties are connected with the collection and check of tickets. They normally comprise Station Masters, Assistant Station Masters, Travelling Ticket Examiners and Ticket Collectors.

WORKINGS OF SPECIAL TICKET EXAMINERS IN RECEIPT OF CONSOLIDATED ALLOWANCE IN CERTAIN DIVISIONS OF THE NORTH WESTERN RAILWAY.

10. Bhai Parma Nand : (a) Will the Honourable Member for Railways please lay a statement on the workings of the Special Ticket Examiners, in receipt of *ex-Gratia* Consolidated Allowance, attached to Delhi and Lahore Divisions on the North Western Railway, respectively, showing :

- (i) numerical strength of Head Special Ticket Examiners and Special Ticket Examiners with designation and the name of the Headquarters Station (Strength against Rs. 60, 50, and 35 *ex-Gratia* Consolidated Allowances may be shown separately) ;
- (ii) the minimum and the maximum number of carriages per train during run and during halt at stations respectively per day worked, checked or examined individually by those staff ;
- (iii) the minimum and the maximum number of hours employed for that duty by those staff individually ;
- (iv) the minimum and the maximum number of days in a month and hours in a day employed for that duty by those staff individually outside the Headquarters and within the Headquarters ; and
- (v) the minimum and the maximum number of days in a month and hours in a day employed for working, checking or examining passengers or carriages at stations by those staff individually ?

(b) Will the Honourable Member please state how are their performance of duty, hours of employment, proper use of duty, passes, etc., scrutinized and by whom and with what result ?

The Honourable Sir Andrew Clow : (a) I regret that it is not practicable to undertake the research that would be necessary to secure the particulars required by the Honourable Member.

(b) I have no particulars on these points, but understand that these are regulated by the Divisional Officers under whom they work.

OFFENCES RELATING TO TRAVELLING WITHOUT TICKETS BY RAILWAY SERVANTS.

11. Bhai Parma Nand : Will the Honourable Member for Railways please state whether it is a fact that the staff, taken over from the Accounts or the Audit Branch by the Operating or Commercial Branch of the North Western Railway used to carry friends, relatives of theirs or of other staff with them without ticket or proper pass ; what are the reasons for the increase in the number of offences relating to travelling without tickets by railway servants ?

The Honourable Sir Andrew Clow : I have no information which would support the allegation in the first part of the question, nor am I aware of any increase in the number of railway servants travelling without tickets.

DIVERSION OF THE DELHI-DEHRA DUN EXPRESS *via* MORADABAD.

12. Bhai Parma Nand : Will the Honourable Member for Railways please refer to a Circular No. 3/13/33-T. of 1939, dated the 20th June, 1939, issued by the Divisional Superintendent, Moradabad Division, East Indian Railway, regarding the diversion of the Delhi-Dehra Dun Express *via* Moradabad and state :

- (a) whether it is a fact that the Assistant Superintendent Works, Roorkee, informed the Divisional Officers of the weakness in the track on the 15th June, 1939 ;
- (b) the reasons for not acting upon that circular with effect from the 23rd June, 1939—the date when it was made available to Gujraula and Muzampur Narain staff ;
- (c) whether the derailment of that train on the 27th June, 1939, was avoidable had that circular been brought into effect from that date ; and
- (d) who is responsible for the loss of life caused by that derailment ?

The Honourable Sir Andrew Clow : I have called for the information and a reply will be laid on the table of the House when received.

PROMOTION OF ASSISTANT STATION MASTERS AND GUARDS IN THE MORADABAD DIVISION OF THE EAST INDIAN RAILWAY.

13. Bhai Parma Nand : Will the Honourable the Railway Member please refer to a Circular No. E.A.S.M./39, dated the 31st July/1st August, 1939, issued by the Divisional Superintendent, Moradabad Division, East Indian Railway and state :

- (a) the percentage allotted to Assistant Station Masters (Lower Grade) and to Guards for promotions to Assistant Station Masters (Higher Grade) ;

(b) whether Guards are eligible for promotion to Station Masters (Higher Grade) without passing through the Class of Assistant Station Masters (Higher Grade) ; and

(c) the reasons for not permitting inter-change or *inter se* appointments in class or cadre or group ?

The Honourable Sir Andrew Clow : I have called for the information and it will be laid on the table in due course.

TRAFFIC OF PASSENGERS DEALT WITH AT CERTAIN STATIONS ON THE EAST INDIAN RAILWAY.

14. Bhai Parma Nand : Will the Honourable Member for Railways please lay a statement of the traffic of passengers dealt with at Burdwan, Asansol, Gaya, Patna, Dhanbad, Dinapur, Allahabad, Mughalsarai, Benares, Kashi, Cawnpore, Tundla, Aligarh, Fyzabad, Partabgarh, Lucknow, Shahjahanpur, Bareilly, Moradabad, Lhaksar, Hardwar and Dehra Dun, on the East Indian Railway, during 1928-29-30-31 and 1937-38-39 up to date showing :

- (i) number of tickets collected, and the number of returns submitted ;
- (ii) number of passengers booked from the above mentioned stations ;
- (iii) number of berths reserved ;
- (iv) number of ticket collectors ; and
- (v) scales of pay of the head ticket collector, assistant or in charge ticket collectors at each of those stations ?

The Honourable Sir Andrew Clow : I regret that I cannot embark on the immense inquiry which would be involved in an attempt to collect the particulars wanted by the Honourable Member, and I understand that even the material necessary to provide figures for the earlier years is no longer in existence.

TICKET CHECKING STAFF IN THE DELHI AND LAHORE DIVISIONS OF THE NORTH WESTERN RAILWAY.

15. Bhai Parma Nand : Will the Honourable Member for Railways please lay a comparative statement of the expenditure on the ticket checking staff attached to Headquarters, Delhi and Lahore Divisions, showing pay and allowances separately of :

- (i) head special ticket examiners ;
- (ii) special ticket examiners taken over from the accounts ; and
- (iii) special ticket examiners other than (ii) on the North Western Railway ?

The Honourable Sir Andrew Clow : I lay on the table a statement giving the information required.

Statement showing pay and allowances separately of (i) Head Special Ticket Examiners, (ii) Special Ticket Examiners taken over from the Accounts and (iii) Special Ticket Examiners other than (i) employed in Headquarters, Delhi and Lahore Divisions of the North Western Railway.

	Headquarters.					Delhi Division.				Lahore Division.			
	No. em- ployed at present.	Pay.	Special Pay.	Travel- ling allow- ance.	Total.	No. em- ployed at present.	Pay.	Travel- ling allow- ance.	Total.	No. em- ployed at present.	Pay.	Travel- ling allow- ance.	Total.
(i) Head Special Ticket Examiners.	1	Rs. 270	Rs. 45	Rs. 75	Rs. 390	1	Rs. 250	Rs. 63	Rs. 313	1	Rs. 200	Rs. 63	Rs. 263
(ii) Special Ticket Exami- ners taken over from Accounts (Old Travell- Ticket Examiners).	6	655	120	315	1,090	15	1,760	585	2,345	10	1,135	395	1,530
(iii) Special Ticket Exami- ners other than (ii) above.	18	1,879	320	545	2,544	29	2,494	735	3,229	30	2,615	770	3,385

NOTE.—(1) Item (i) above shows the number of old Travelling Ticket Examiners at present employed in Headquarters, Delhi and Lahore Divisions from amongst those who were transferred in 1928 from the Accounts Control to the Executive.

(2) The pay and allowances shown above are monthly figures.

CERTAIN APPOINTMENTS MADE AFTER THE ISSUE OF RULES FOR RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON STATE RAILWAYS.

16. Bhai Parma Nand : Will the Honourable Member for Railways please state :

- whether the Railway Board in their letter No. 5153-E., dated the 20th May, 1931, forwarded to the General Managers, State-managed Railways, the rules for recruitment and training of subordinate staff ;
- in respect of the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways, the number of technically qualified (i) Sub-Inspectors of Works and (ii) Assistant Inspector of Works recruited direct since the promulgation of those rules ;
- the number of persons recruited from temporary technically qualified staff as (i) Sub-Inspector of Works and (ii) Assistant Inspector of Works since the issue of those rules ;
- the number of persons recruited by promotion from mistry's appointment to (i) Sub-Inspector of Works and (ii) Assistant Inspector of Works after the enforcement of those rules ; and
- the number of those recruits confirmed on those appointments subsequently and the reasons for those who are still in service in any capacity on the railways but are not confirmed ?

The Honourable Sir Andrew Clow : (a) Yes, but these were superseded by revised rules issued in 1938.

(b), (c), (d) and (e). These particulars are not on record with Government nor is any systematic record of them maintained by the railways. As their compilation would involve an inquiry into the antecedents of all employees in the grades mentioned, and possibly of some who are no longer employees who were appointed during the last eight years, I regret that I cannot undertake it.

CERTAIN APPOINTMENTS MADE AFTER THE ISSUE OF RULES FOR RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON STATE RAILWAYS.

17. Bhai Parma Nand : Will the Honourable Member for Railways please state :

- the number of non-technically qualified Sub-Inspectors and Assistant Inspectors of Works, who have been confirmed on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways ;
- the reasons for recruiting and confirming them in those appointments after the introduction of the rules for recruitment and training of the subordinate staff ; and
- whether Government propose to enquire into the matter ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Government have no particulars of the qualifications of men in these grades and I understand that no systematic record is available at Railway headquarters. As accurate particulars could not be supplied without a large amount of research, I regret that I cannot supply them.

(b) The rules do not preclude the appointment of staff without academic qualifications ; and practical experience may be an adequate qualification.

(c) No ; because Government are not aware of any irregularities which would warrant their instituting an inquiry.

CONTRACTS GIVEN ON THE NORTH WESTERN RAILWAY.

18. Bhai Parma Nand : Will the Honourable Member for Railways please refer to the reply given to part (b) of question No. 1747 asked on the 2nd December, 1938, in the Legislative Assembly and state the nature of the contracts given for the year 1939-40 on the North Western Railway by the General Manager or on his behalf by the Heads of Departments, and by the Divisional Superintendent or on his behalf by Divisional Officers ?

The Honourable Sir Andrew Clow : I am calling for the information regarding aerated water contracts on the North Western Railway and it will be laid on the table of the House in due course.

RAILWAY ACCIDENTS IN THE GHAZIABAD YARD.

19. Bhai Parma Nand : Will the Honourable Member for Railways please lay on the table the records of the accident which took place within Ghaziabad Yard on or about the 27th November, 1938, specially notices to staff, punishments given to staff, notes on the accident, the note on the working of points and signals by the Signal Engineer ?

The Honourable Sir Andrew Clow : I have seen no report of this accident, but shall secure information regarding the circumstances in which it occurred and any action taken after it. This will be laid on the table in due course.

INSPECTION NOTES OF INSPECTORS UNDER THE PAYMENT OF WAGES ACT.

20. Bhai Parma Nand : Will the Honourable the Railway Member please lay on the table the Inspection notes of the Inspector under Payment of Wages Act together with the actions taken thereon ?

The Honourable Sir Andrew Clow : The question should have been addressed to my Honourable colleague in charge of the Department of Labour.

APPEAL OF NON-GAZETTED RAILWAY STAFF AGAINST THE ORDER OF DIVISIONAL SUPERINTENDENT.

21. Bhai Parma Nand : Will the Honourable the Railway Member please state if he has considered the desirability of an appeal to the General Manager by the non-gazetted staff irrespective of class and grade against an order in appeal passed by the Divisional Superintendent ; if he has not considered it, why not ?

The Honourable Sir Andrew Clow : The suggestion was considered in connection with a recommendation of the Royal Commission on Labour, and it was decided that non-gazetted railway servants should have the right of appeal to the authority next above that which imposes a penalty.

NON-RECOVERY OF RENTS OF ACCOMMODATION FROM GAZETTED RAILWAY OFFICERS WHILE ON TOUR.

22. Bhai Parma Nand : Will the Honourable the Railway Member please state the reasons for not recovering the rent of accommodation provided for the gazetted officers while on tour from their travelling allowances in the same way as is done in the case of other Government servants ?

The Honourable Sir Andrew Clow : The grant of rent-free accommodation, when available, is not confined to the gazetted officers on the railways. It is granted also to non-gazetted officers. I am not fully familiar with conditions in other Departments but understand that in many cases rent is not charged when inspection bungalows are occupied by officers on duty.

CARRYING OF THEIR FAMILIES BY GAZETTED RAILWAY OFFICERS ON DUTY PASSES WHILE ON TOUR.

23. Bhai Parma Nand : Will the Honourable the Railway Member please state the reasons for permitting the gazetted officers the privilege of carrying their family on duty passes while on tour which is not granted to the same class of officers in other Government Departments ?

The Honourable Sir Andrew Clow : The privilege is one of long-standing and its exercise involves Government in no expense.

Many Railway officers' duties necessitate frequent and prolonged absence from their homes, and they have frequently to live in isolated places which lack society and every day amenities. The nature of duties of Railway officers differs from that of other Government officials, and the extension of this privilege to the latter would involve Government in considerable extra expenditure.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 1650 asked by Seth Govind Das on the 30th November, 1938.

RACE PREJUDICE AGAINST INDIANS ON CERTAIN SHIPS.

(a), (b) and (c). The information obtained by Government shows that difficulty has been experienced by Indians in securing tourist and higher class accommodation on ships of certain foreign steamship companies operating in South and East African ports. The British India Steam Navigation Company, however, make no discrimination against Indians who are provided with higher class accommodation and other reasonable facilities on their vessels. It may be added that in South Africa the only companies which used to refuse higher class accommodation to Indians were the Deutsche Oost Afrika Line and the Italian Line. The former being a German concern must have ceased to operate consequent on the outbreak of the war, while the latter did so sometime ago.

(d) and (e). Assuming that the Honourable Member is referring to the matters raised in the earlier parts of his question, no action seems to be required in view of what I have stated above.

Information promised in reply to a supplementary question arising out of starred question No. 832 asked by Mr. Brojendra Narayan Chaudhury on the 7th March 1939.

PERSONS WOUNDED IN BURMA RIOTS SENT TO HOSPITAL.

The Government of Burma from whom enquiries were made have no information beyond what is given on page 281 of the Final Report of the Riot Inquiry Committee, copies of which are available in the Library of the House.

Information promised in reply to part (a) of starred question No. 939 asked by Mian Ghulam Kadir Muhammad Shahban on the 9th March, 1939.

PROMOTION OF MUSLIMS TO THE LOWER GAZETTED SERVICE ON THE EAST INDIAN RAILWAY.

The number of upper subordinates promoted permanently to the Lower Gazetted Service from 1931, when that service was constituted, to 1938, was 58. None was a Muslim. The number of upper subordinates appointed to officiate in the Lower Gazetted Service during the same period was 137, of whom one was a Muslim.

Information promised in reply to starred question No. 14 asked by Maulvi Abdur Rasheed Chaudhury on the 30th August, 1939.

INCONVENIENCE FOR WANT OF LIGHT ON A ROAD TO SYLHET BAZAR RAILWAY STATION.

(a) 800.

(b) Since the 8th February when supply of electricity commenced the units consumed each month were as follows :

February	..	..	..	..	..	444
March	..	..	..	..	..	647
April	..	..	..	..	..	578
May	..	..	..	..	..	597
June	..	..	..	..	..	710

Full connection was not made until the middle of May.

The total amount paid for the period was Rs. 707.

(c) No.

(d) and (e). The matter is receiving the attention of the Railway Administration.

(f) Yes.

THE INDIAN ARBITRATION BILL.

APPOINTMENT OF MR. F. E. JAMES TO THE SELECT COMMITTEE IN PLACE OF MR. A. AIKMAN.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) : Sir, I move :

“ That Mr. F. E. James be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Mr. A. Aikman.”

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

“ That Mr. F. E. James be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Mr. A. Aikman.”

The motion was adopted.

THE WORKMEN'S COMPENSATION (SECOND AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour) : Sir, I move :

“ That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, be taken into consideration.”

I owe it to the House to explain the urgent circumstances under which I am asking them to take this Bill into consideration. On the 3rd September, the day the war broke out, His Majesty's Government introduced a Bill in the House of Commons and had it passed the same night, entitled the Personal Injuries (Emergency Provisions) Act, 1939. Honourable Members are aware that under the Workmen's Compensation Act in this country, a workman who is injured fatally or otherwise is entitled to certain compensation. The Act that has been enacted by the British Parliament provides that where war injuries are sustained the liability of the employer is removed and the State comes in with a scheme under which compensation is given to the injured person or to the family of the deceased workman. This Bill, in particular, applies to Indian seamen—the Bill that I am asking the House to take into consideration today. The Indian seamen who are on ships which are engaged in foreign travel—ships of the United Kingdom register—have to be compensated for injuries due to war risks. The Workmen's Compensation Act which we passed in this House applies only to British India, that is to say, the territorial waters surrounding British India. Under a clause in the agreement which is entered into by the seamen when they are taken on service, the right to such compensation is extended when the ships leave the territorial waters and are on the wide sea. Now, it is obvious that the compensation which could be demanded by a workman under the Workmen's Compensation Act must relate to something that arose out of his employment as such and out of the risk that he ran with reference to the normal employment. War risks are abnormal and I may illustrate my point by a case which occurred during the last war. An engine driver was shunting his engine in the yards of the town of Hartlepool in England. An enemy submarine happened to come there and it bombarded the town, as a result of which the engine driver was injured. He claimed compensation from his employer—the North East Railway—and the courts held that the risk which he ran was not a risk relating to his employment as such that it was a risk which every citizen in that town was subjected to and that many in fact did have similar injuries.

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : The Official Benches are already converted. I would ask the Honourable Member to address this side of the House.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I thought my voice was carried to all parts of the House.

The courts held that under those circumstances the employer was not liable. These war risks are now proposed to be taken over by the Government and a scheme is being considered whereby any person, who is injured and about whom it could be proved that he was disabled in consequence of a war injury, would be compensated by the Government. The present Bill seeks to provide, therefore, that to that extent the employer would be relieved from liability under the Workmen's Compensation Act. The Bill therefore lays down that no compensation shall be payable under the Workmen's Compensation Act in respect of any personal injury for which compensation could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939. The scheme will be prepared by His Majesty's Government and I may say, though I have no final authority for that statement, as far as I can see, the scheme prepared by His Majesty's Government would be more liberal than the scheme outlined in the Workmen's Compensation Act for such injuries.

Sir Syed Raza Ali : Do we know anything about the scheme ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I said that the scheme has not been finally approved and it is a scheme which is going to be prepared by His Majesty's Government but, so far as I can see at present, the scheme is likely to be much more favourable than the scheme under the Workmen's Compensation Act.

Mr. M. S. Aney (Berar : Non-Muhammadan) : May I know from the Honourable Member if he has had the benefit of having an outline of the scheme.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : An outline of the scheme has been presented to the Government of India and we are in correspondence with His Majesty's Government and the final shape will be known after this Bill is passed by this House, because that scheme must relate itself to the Workmen's Compensation Act. If this Bill is not passed, that scheme is either held up or left in an inchoate state, because the right of the labourer or the seaman under the Workmen's Compensation Act would still continue. That is the urgency why I am now asking the House to pass this measure, so that the scheme will immediately come into operation. Honourable Members are aware that already owing to the risks of war some of our Indian seamen have either been seriously injured or have lost their lives.

Sir Syed Raza Ali : May we have a copy of the Personal Injuries (Emergency Provisions) Act, 1939, which was passed on the 3rd September ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I have just received a copy by Air Mail and it is with me now but I have not been able to supply copies of this Act to Honourable Members.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member has any question to put to the Honourable Member who is speaking, he ought to wait till he has finished his speech.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I said that the House will be aware that already some of our Indian seamen have been either injured or have lost their lives and I am sure it will be the desire of the House that we should convey both on behalf of the Government and of the House our profound sympathies for the injured and for the families of the deceased persons. Now, Sir, it is under such circumstances, to avoid a feeling of apprehension which naturally prevails among Indian seamen, particularly in Bombay and elsewhere, as to their position in view of the war risks that they are running and to assure them that adequate compensation will be paid to them that this Bill is being promoted.

As I said, the Houses of Parliament have passed such a measure on the very day the war broke out, and in order to give effect to that scheme and to provide appropriate provisions in that scheme on the part of His Majesty's Government, it is absolutely necessary that this complementary legislation, excluding employers from liability under the Workmen's Compensation Act, should be passed by this House. Sir, you will find that there is a proviso. That proviso shortly says this. Supposing an application is made in the belief that the workman could get compensation for a war injury and it is found that he is not entitled to that compensation because it was not a war injury that he had sustained, then in that case he has a right to proceed against his employer. In order that his right to do so may be revived, a special procedure is provided by which he can still proceed against the employer. That, in short, is the object of the Bill, and if I have explained it clearly to the House, I trust the House will enable me to put this Bill as urgently as possible on the Statute-book. Sir, I move.

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

" That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, be taken into consideration."

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Will the Honourable Member tell me if under the outlines of that scheme that the Honourable Member has seen, the compensation to seamen will be more advantageous than what they would get under the Workmen's Compensation Act ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : While the matter is still under correspondence, it is very difficult for me to make a definite statement but I can give this assurance from such knowledge as I possess from the preliminary correspondence, that it will certainly not be less generous than under the Workmen's Compensation Act, and I have every assurance that it will be more generous than the figures given in the Schedule to the Workmen's Compensation Act.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : May I ask the Honourable Member to place before the House an outline of the scheme ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Obviously not, because it is still under correspondence.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muham-madan Rural) : May I ask if the initiative for this piece of legislation came from the Home Government or from the Government of India ?

Mr. President (The Honourable Sir Abdur Rahim) : That is not a proper question at this stage.

Among the number of amendments of which notice has been given since yesterday (the Bill was introduced only yesterday), there is one motion for a Select Committee in the name of Sir Syed Raza Ali. The Chair believes copies of the amendments have been circulated to the Honourable Members ?

Some Honourable Members : Yes, just now.

Mr. President (The Honourable Sir Abdur Rahim) : In the circumstances, the Chair will dispense with the Standing Order and allow these amendments to be moved.

Sir Syed Raza Ali : Sir, I move :

“ That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew Clow, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar H. Essak Sait, Sir Muhammad Yamin Khan, and the Mover, with instructions to report by the 25th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will now put the amendment and then both this amendment and the motion of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar that the Bill be taken into consideration will be for consideration before the House. Amendment moved :

“ That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew Clow, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar H. Essak Sait, Sir Muhammad Yamin Khan, and the Mover, with instructions to report by the 25th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir Syed Raza Ali : Sir, I am sure we welcome the step taken by the Government of India in introducing this Bill, though I regret to say that the Government did not find it convenient to introduce this measure at an early stage. While welcoming the Bill itself, Sir, let me make it quite clear that the Bill, as introduced, deals with a very complicated Act that was passed by this House in 1923. I know the trouble that was taken by the Government of India to collect the necessary material before it was decided to draft the Bill. A Committee was appointed in 1922. That Committee consisted a large number of people. I happened to be a member of that Committee. The Committee sat from day to day and took a long time to consider the whole subject carefully. As a result, the Bill of 1923 was drafted and, subsequently, passed. It will interest Honourable Members to know that the parent Bill, viz., Act VIII of 1923, consists of thirty-five sections and four Schedules. Now, let me make it quite clear that there is no desire on the part of any section of this House to hold up this Bill. The Honourable Member in charge has explained the circumstances under which the Bill has been introduced. All we know,

in addition to the rather meagre information supplied by the Honourable Member, is that this Bill was introduced yesterday, that we were supplied with copies of it last evening at about 8 o'clock, and that this Bill is down for consideration today. Sir, my submission is that, having regard to the nature of the Bill and the character of the various parts of clause 2, it would be impossible for this House to go through these parts of the clause here and now today. It is certainly open to me to object to the consideration stage under Order 38 of the Standing Orders, and as none of us were supplied with a copy of the Bill three clear days before consideration, such an objection, if made, I am sure, will prevail ; but having regard to the emergency with which we are all faced, I have no desire to raise that technical though extremely valid objection. All I want is that a Bill of this character which raises certain matters of great importance, which, I am sure, can be improved by the Select Committee should not be dealt with by the whole House, especially when the House has not had time to consider the merits of the Bill before it. It strikes me, while I am too ready to give credit to Government, that we are asked to pass this Bill even though we do not know the provisions of the British Statute that was passed, as we were told by the Honourable Member in charge, on the 3rd of September, by the British Parliament. I believe it was elicited in answer to a question addressed to the Honourable Member in charge that he has got a copy of the Statute. The least that we could have expected from the Government was that the Honourable Member should have got the Statute printed, and supplied it to the Honourable Members of this House. Now, we do not know what the scope of the British Statute is. It was mentioned by the Honourable Member in charge that the scheme that would be finally sanctioned by His Majesty's Government would, at least that was the hope expressed by the Honourable Member, be a generous one and yet the Honourable Member himself does not know what the essential features of the scheme are. When the Honourable Member himself does not know that, I am afraid he is a little optimistic in trying to persuade the House to believe that this scheme would be as generous as he hopes it will be. On that ground alone I feel that I am on very strong ground in moving that the Bill be referred to a Select Committee.

This is not the stage really for me to analyse the provisions of the Bill in detail. All I can say is that I have given some thought and care to the subject. In fact, I worded my amendments till two o'clock this morning. Unless due care and attention is given to various parts of clause 2, it will not be possible for the Honourable Members to appreciate the effect of these parts. As I said, I do not want to discuss the provisions of the Bill in detail, but I would invite the attention of Honourable Members to sub-clause (5) that is proposed to be inserted in clause 15 of the original Act. It reads thus :

“(5) No compensation shall be payable under this Act in respect of any personal injury for which a payment could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.”

If an application could be made by an injured person under the Emergency Provisions Act, 1939, he will not be able to take advantage of the provisions of the Workmen's Compensation Act of 1923, unless

[Sir Syed Raza Ali.]

his case fell under one of the sub-clauses to the proviso. Now, one fails to see why this sub-clause does not say that unless an application has been made by the injured person in England, it will be open to him to make an application under Act VIII of 1923, namely, the Indian Act. Of course, the injured person has an opportunity of making an application. But supposing he has not made an application, then he will not be able to take advantage of the provisions of the parent Act. This, I certainly think, is much too hard and severe. The scope of this sub-clause should be extended if the Bill is referred to the Select Committee. Similarly, if an injured person wants to take advantage of the provisions of Act VIII of 1923, he has to obtain the opinion of the Commissioner. This Commissioner, of course, is an official of His Majesty's Government in England. He must also obtain a certificate from the Provincial Government, and the beauty of all that is that all these four conditions mentioned in the Bill, namely, (a), (b), (c) and (d) must co-exist. It is not a case of his taking advantage of these conditions in the alternative, namely, that if the man's case fell under any of those four conditions, it should be open to him to apply under the Workmen's Compensation Act of 1923. But the Bill says that all these four conditions must co-exist. They must exist at the same time if the injured person is to apply under the provisions of the original Act of 1923.

For these reasons, I submit that the Government should welcome this suggestion. I know our weakness and I know the weakness of the House. I know that the Congress Benches are empty. I know that if the Government insist on their having their pound of flesh, it is open to them to do so. But let me point out very clearly that it will be a very wrong attitude on the part of the Government to adopt. The class of persons that we are considering now is a class that is unfortunately ignorant and illiterate. In South Africa, I knew the conditions under which these unfortunate seamen, who are called lascars, were working. I have come in personal contact with some of them and I can assure the House that this class of people is very ignorant and very illiterate. They do not know the law. In fact, they are afraid of going to lawyers and law officers or even to a court of law. Therefore, the provisions of this Bill have got to be considerably liberalised if the Government are seriously desirous that this class of people should take advantage of the provisions of this Bill. I can cite cases where enormous injury can be done to a man who applied for relief in England under the provisions of the Personal Injuries (Emergency Provisions) Act, 1939, if he did not know what his legal position was and, therefore, failed to make an application.

I do not want to discuss my amendment at this stage. This motion confines itself to committing the Bill to the Select Committee. Let me point out this much that if an Indian seaman fails to apply for compensation through his ignorance, illiteracy or want of knowledge.....

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : All these observations would be more relevant when the amendments are actually moved but not on the motion to refer the Bill to the Select Committee.

Sir Syed Raza Ali : I am not able to hear one word of what the Honourable Member says.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member says that the observations which the Honourable Speaker is now making will be more relevant to the amendments and not on the motion for referring the Bill to the Select Committee.

Sir Muhammad Yamin Khan : You said, Sir, that both the main motion and the motion for referring the Bill to the Select Committee were before the House for discussion.

Mr. President (The Honourable Sir Abdur Rahim) : I understood the Honourable Member, Sir Syed Raza Ali, to say, that there are certain features of the Bill which do require consideration in the Select Committee. The Bill seeks to amend an old Act and the Honourable Member wants that the House should have time to consider how the amendments to the Act that will affect the seamen to whom this Act will apply. I think the Honourable Member is relevant but he must address himself more to the general features of the Bill, at this stage.

Sir Syed Raza Ali : The motion for consideration of the Bill as well as my motion for referring the Bill to a Select Committee, both these motions, are before the House. It is my right to speak on both these motions. I have not exceeded the limits of these two motions, namely, the original Bill and my motion.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not expected to deal with clauses in detail at present. There is only one clause and the Honourable Member should deal with the general features.

Sir Syed Raza Ali : I hope you will notice, Sir, that except a casual reference to the clause, I have not said more.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is entitled to refer to the clause and not discuss the wording, for instance, or details of that character. There is only one clause in the Bill.

Sir Syed Raza Ali : I was referring to one part of the clause. There are four parts to the clause, namely, (a), (b), (c) and (d). My motion is for referring the Bill to the Select Committee and in the Select Committee after careful considerations, the provisions may be liberalised in such a manner as to enable these unfortunate injured seamen to get full benefits of the British Act, about the details of which we know nothing or next to nothing, except the promise held out by my Honourable friend. As I submitted, all the relevant considerations I have endeavoured to put before the House.

Lastly, I would again request the Government not to oppose this motion for reference to a Select Committee. The House will see that nothing is further from my mind than that this Bill should be held up for any length of time. My motion says that the Select Committee should be instructed to report by the 25th September, 1939. If that is done the Bill will be carefully considered in the Select Committee clause by clause and it can come up to the House for discussion on the next day.

[Sir Syed Raza Ali.]

In conclusion, I must point out that if Government oppose a motion of this character, the impression produced in the country will be that the Government took advantage of the unfortunate absence—I should call it misguided absence—of Congress Members. Sir, I move.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Mr. President, I consider it rather hard that when a Member of the Government is trying to take the House into his confidence and to do what he can to get the Legislative Assembly to co-operate in putting forward a Bill of this character, charges should be levelled against the Government that they are taking advantage of the state of the House or that they are pushing through this measure because of the solid strength behind them. Sir, I have explained the nature of this measure and the urgency of this measure. I have explained that it concerns those Indian seamen and lascars for whom my Honourable friend, Sir Syed Raza Ali, in his capacity as Agent General in South Africa had shown so much warm sympathy. Now, Sir, the alternative that I had before me when I considered and decided to bring this Bill before this House was this. In view of the urgency of this measure, in view of the fact that the scheme was under consideration of His Majesty's Government and would be held up with reference to Indian seamen unless this Bill was passed into law, the alternatives were to advise His Excellency the Governor General to issue an Ordinance immediately with reference to this matter for the interest of the Indian seamen or to put it before this House, frankly explaining the nature of the urgency and seeking, in my own humble way, its co-operation to place this Bill on the Statute-book. My Honourable friend says that owing to the absence of my Honourable friends opposite, the Government and the Member in charge are seeking to take unfair advantage. Now, Sir, I venture to state that it is taking unfair advantage of your own weakness that you should continue to charge the Government with riding rough shod over you, when, if I may say so, the minority in this House is getting far better hearing and far more earnest hearing from the Government than may otherwise have possibly been the case.

Sir Syed Raza Ali : I do not want to interrupt the Honourable Member. The Bill as drafted, in any case, has retrospective effect, it is to come into force on the 3rd September, 1939. Is there any reply to that ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Absolutely, the reply being that that fact is irrelevant so far as the actual handing over of the money or compensation to the injured are concerned and so far as assuring these Indian seamen that they will get this compensation, when they take the risk of sailing in these ships and going into war risk areas. Does my Honourable friend think that the fact that when my Honourable friend has finished consideration in the Select Committee stage and has finished its consideration in this House and the Bill goes to the other House probably in the January Session, the idea that it will be given retrospective effect will be sufficient compensation or sufficient inducement to those very illiterate seamen for whom my Honourable friend has shown so much concern and who do not know what retrospective legislation means ? Does my Honourable friend think that that will be sufficient inducement for them to take the

risks involved in sailing on these ships at such a time ? Surely, we both have the same purpose in view to see to it that these Indian seamen get the compensation in as attractive a form as possible.

My Honourable friend has made several statements, some of which are obviously incorrect. For instance, this Bill was certainly placed on the table of the House and was in the hands of Honourable Members yesterday morning and not last night at eight o'clock. But these are trivialities on which I do not want to labour. My Honourable friend wants a great deal of information on this subject. He wants a copy of the British Act to be placed before him and he wants the scheme which His Majesty's Government have in view to be circulated. As I said, the alternative that I was faced with was to advise His Excellency the Governor General to issue an Ordinance immediately to satisfy the feelings and apprehensions of Indian seamen or to get this Legislature to co-operate with Government in passing this Bill as an emergency measure. If my Honourable friend wants all this information and if my Honourable friend or any large section of the House wants the Bill to be considered in the Select Committee there is only one course open to me. Having regard to the state of business, having regard to the delays that will inevitably be involved in the reference to the Select Committee and later on in the consideration of the Bill in the House and also by another House, I shall have no alternative,—and I say it most respectfully,—but to agree to the Select Committee motion so that the Bill may be reported upon in January, and in the meanwhile to advise the issue of an Ordinance, because the emergency is great and we must have this provision in some form or other. Does the House agree to that course ?

An Honourable Member : Why not have the report on the 25th ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I cannot place all the information that my Honourable friend wants by that time, because I cannot have the scheme which His Majesty's Government is contemplating.

Sir Syed Raza Ali : We will be able to go through the Act in the Select Committee. I never referred to the scheme which is going to be finally formulated by His Majesty's Government. But we can consider the Bill in the light of the British Statute.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : This Bill is a single-clause Bill which has been drafted on the lines of the British Act. There is no complication in this measure at all ; it is merely to enable His Majesty's Government to go ahead with their scheme having regard to the fact that in the same way as the employer has been relieved of the liability so far as the English seaman in England is concerned, the same relief will be given to the employer by this Act—that is all the scheme of the Bill. These are all the provisions contained in this single-clause Bill. If my Honourable friend and others want to have this reference to Select Committee I can only suggest that the words "with instructions to report by the 25th September, 1939", be deleted ; and I want to say perfectly frankly that my course would then be to advise the issue of an Ordinance and take up this measure for consideration by the Select Committee at the next Session of the Assembly.

Sir Muhammad Yamin Khan : Sir, we are asked to consider this Bill which was introduced only yesterday. My Honourable friend said that it was in our possession yesterday morning at 11 A.M. but he forgets that the Assembly sat till 5 P.M. and as we were dealing with other Bills before us we could not give any attention to this one.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I was only referring to the physical fact of possession which my Honourable friend, Sir Raza Ali, stated somewhat incorrectly.

Sir Muhammad Yamin Khan : That is one thing. In the second place copy of the Bill passed in the English Parliament was received by the Honourable Member only just now by Air Mail and he had no time either to read it himself or to circulate it to us.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The Honourable Member is entirely mis-stating what I said. I never said that I had no time to study it nor that I received the Act this morning.

Sir Muhammad Yamin Khan : I am sorry if I misunderstood the Honourable Member but in any case it was received so late that the Honourable Member had no time to inform the House of the contents of that Bill which had been passed there. Another thing is that the Honourable Member has been receiving some kind of communication giving an indication of what would be the provisions of the scheme and how far Indian seamen will be protected, and, he believes, that it will not be in any way less favourable than what the Workmen's Compensation Bill provides. In that case it is only proper that this House, as representing the poor people who will be injured, should examine the provisions of the different Statutes and rules which are to be framed and then give their assent, if for nothing else at least to satisfy their conscience that their action is right. I know the Honourable Member was on this side of the House a few years ago and feels for Indian seamen as much as any one else ; but we must satisfy our conscience that what we have done is for the best of the people.

Then, Sir, the Statement of Objects and Reasons says that an injured seaman should not get double compensation and as he gets compensation from the State he should not get it from his employers. In that case it must be seen that he is not exposed to double the risk. He is exposed to risk by the State in bringing about the war and sending him to sea.....

Mr. Lalchand Navalrai : He may be drowned twice.

Sir Muhammad Yamin Khan : If he is drowned compensation will be claimed by his successors but in the case of injury it will be claimed by himself.

Therefore, it is a liability of the State as well as of the people who sent him to a place where he may be injured. Therefore, there are two liabilities and one cannot absolve the other. If the mast of a ship falls upon him and he is injured, it is a liability of the company. But in this case you expose him to the risk of war. We have to face the country and we have to take the responsibility on ourselves in the unfortunate and misguided absence of our friends of the Congress Party. If nobody else, we have to satisfy ourselves. If my Honourable friend is fully

satisfied there will be no harm in issuing an Ordinance on his own responsibility and on the responsibility of the Governor General and he can then take us into his confidence in January and pass this Bill properly his object will be gained. His object is to see that Indian seamen who may be injured should not incur any loss. I think my Honourable friend, Sir Raza Ali, will agree to delete the words "by the 25th of this month" in his motion and the Committee may meet at leisure. My Honourable friend took it in the sense that Sir Raza Ali said that the country might think that the Government have taken advantage of the minority here and his resentment was quite correct because he thought it meant that the Government has not shown any consideration. I fully assure the Government that we are very grateful for and appreciate the consideration shown during the passage of one most important Bill and we never minimised that spirit of accommodation. I am sure Sir Raza Ali never meant any sort of reflection. What he said was that especially when the Labour Leader, Mr. Joshi, was absent we must not rush this through. (Interruption from the European Group.) Of course, I can understand my friends' attitude : they want to prosper and they do not want to pay : it is the State that will pay and they want to save their own pockets and throw the burden on me because I as a taxpayer will have to pay.....

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : No : the Honourable Member is not correct : he will not have to pay. It is the United Kingdom taxpayer that will pay.

Sir Muhammad Yamin Khan : Whoever it may be, I sympathise with English taxpayer, they will save and I can, therefore, realise their anxiety and I hope that the Government will not be guided by their views. Therefore, I hope that this Bill will be postponed. Government will gain and we can give our full co-operation, if they show they are reasonable and want to do justice to the poor man and save him from being exploited by anybody, however highly placed they may be. I support the motion for Select Committee and if the Government accept it, I am sure my friend will agree to the deletion of the date mentioned in the motion.

Sir Syed Raza Ali : May I ask the Honourable Member for one small piece of information ? What happens if for instance a P. & O. boat or any British boat is torpedoed within territorial limits, say, within two or 2½ miles of Bombay and a number of seamen are injured ? Do His Majesty's Government in that case compensate the injured men ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Yes.

Mr. J. D. Boyle (Bombay : European) : Mr. President, may I start by saying that the only self-interest that was felt by the Group when Sir Yamin Khan was speaking was one of hope that he would sit down because we were infinitely fatigued. I should like, if I may, to say that unlike so many of the Honourable Members on my right, the Party which I am now speaking for definitely prefer legislation by the Assembly to Ordinance rule. That is apparently a point of view which friends on my right do not share. But if it comes to a question of whether the Assembly shall be consulted or whether the Governor General shall pass an Ordinance I definitely prefer that the Assembly should be consulted.....

An Honourable Member : After the Ordinance has been passed.

Mr. J. D. Boyle : May I point out that the only possible advantage of a delay, whether the delay is of a few days or of a few months, is that the scheme should be seen. It is not the question of the Act—what we want to see is the scheme if we are going to follow the advice of my Honourable friend, Sir Raza Ali. As has been made clear by the Honourable the Commerce Member we cannot see the scheme even if the Act is not passed today : we shall not be able to see it any way. In fact, the scheme could not properly be completed unless this present Bill is passed now : if it was to be completed now, it would be in a very chaotic condition—that was definitely stated by the Honourable the Commerce Member. Am I correct ? He agrees.....

Sir Syed Raza Ali : Am I to understand that the scheme to be formulated by His Majesty's Government is to be held up if the Government of India passed an Ordinance and we did not pass the Bill today ?

Mr. J. D. Boyle : I did not say that. You should have listened to me more carefully. May I point out that the dangers to seaman, which we are supposed to protect him from, are very present. As has already been said there were several Indian seamen on board the "City of Paris"—several of them were injured and some died. We cannot afford to postpone the passing of this legislation in the interests of the seamen themselves even for a few days. That should be the primary consideration and if I may say so it was very ungenerous of my Honourable friend, Sir Raza Ali, to throw doubts upon the generosity of the scheme. We already have a guarantee from the Honourable the Commerce Member that the scheme will certainly not be less generous than that in force at the moment under the Workmen's Compensation Act and that he has in fact every reason to suppose that it will be a great deal more generous. He will certainly not be worse off, but probably better off and that is something which should appeal to us, though it may not appeal to the somewhat academic economic theories of my friend, the Assistant Leader of the Congress Party.

It is not my intention on a reference to Select Committee to deal with the detailed provisions of the Bill, nor in fact do I think any good can possibly come of it. I do wish to urge my friends to consider the position rather more carefully even than has been done by the Honourable Member over there who sat up till two o'clock to do so.

Sir Syed Raza Ali : Did you want me to stay up till 6 A.M. ?

Mr. J. D. Boyle : Certainly, Sir, if that had brought you more light.

May I say, Sir, that I and, my Party for whom I am speaking, most strongly oppose the reference to the Select Committee, and I hope that the Bill will be passed in its present form today.

Mr. M. S. Aney : Sir, I neither support nor oppose this motion. There was one statement made by my friend sitting on my left that friends sitting on his right were eager to have legislation by Ordinance, but I may tell him that we ourselves were entirely against all legislation by means of Ordinances. The House will remember that a Member of my Party, Sardar Sant Singh, complained to this House that Government was not taking this House into confidence and were doing everything they wanted by means of Ordinances. He was the first man from

my Party to make a complaint about this, and, I believe, in response to that complaint the Honourable the Leader of the House assured the House that they would not be issuing Ordinances and so they brought forward the Defence of India legislation before the House. So I repudiate the charge made by my friend, on my left.

Now, Sir, my main object in getting up is this. The Honourable the Commerce Member told us that if this measure is not considered by the House now, he will advise the Governor General to issue an Ordinance on the subject. I really want to know from him whether it is possible for the Governor General to issue an Ordinance on a matter which is the subject-matter of legislation before this House. When this matter is seized of the House, can an Ordinance be issued by the Governor General, or whether it will be necessary for the Honourable Member to withdraw this motion before he can advise the Governor General to issue an Ordinance. I want to know whether the two things can be done simultaneously. I personally feel some doubt about it. I am not clear whether there will be any difficulty in the way of the Governor General to issue an Ordinance. If there is no Ordinance there will be no remedy, and the difficulty will be greater. I shall be glad if Sir George Spence will consider this point carefully and give us the benefit of his advice on this matter.

Mr. F. E. James (Madras : European) : May I ask one other question ? What will be the position of an Indian seaman who is serving on a neutral ship sunk either by an enemy mine or a submarine ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : May I answer, Sir ? As regards the point raised by the Leader of the Nationalist Congress Party, I am advised that there will be no difficulty in the issue of such Ordinances, notwithstanding the fact that a Bill is before the House.

As regards the question raised by Mr. James, this Bill does not seek to deal with neutral ships at all. The position will be regulated, I hope, by similar legislation promoted by neutral Governments, and the employers will then have to deal with them in the same way. I may say that the Workmen's Compensation Act does not apply to neutral ships when they are outside the territorial limits.

Now, so far as the question of the scheme is concerned, I have to make it perfectly clear that that scheme will not be the subject of any amendment by this House even if I place it before this House, or by Honourable Members in the Select Committee. That will be only for information. The scheme will lay down the rates of compensation which His Majesty's Government will pay to Indian seamen and European seamen. The Government of India can only use their best endeavours to see that the scheme of compensation is not less generous than that provided under the Workmen's Compensation Act, and I have given the assurance that that scheme will not be less generous than the scheme under the Workmen's Compensation Act. I hope it will be fairly more generous under that scheme, and that is the only aspect which the Select Committee can try to safeguard. I can understand any demand for the scheme being placed before the Select Committee if there was any apprehension that under that scheme the compensation payable would be less generous than the scheme of compensation contemplated under Schedule IV of the Workmen's Compensation Act. I

[Diwan Bahadur Sir A. Ramaswami Mudaliar.]

can here deliberately give the assurance that it will not be so. So in those circumstances, I don't see, except for the purpose of information, and all of us are inquisitive for information,—how a consideration of the scheme will be of any assistance at all in promoting this Bill so far as the Select Committee or this House is concerned. I can only repeat that if Honourable Members still feel that this Bill should go before a Select Committee, then I am prepared to accept the suggestion to refer it to a Select Committee, deleting the provision about the date of the Report of the Select Committee. At the same time, I must quite frankly tell the House that my responsibility with reference to this matter will oblige me to recommend to and advise the Governor General to issue an Ordinance on the subject.

Sir Syed Raza Ali : May I ask the leave of the House, Sir, to delete the words “with instructions to report by the 25th September”? Will it meet with the approval of the Honourable Member in charge?

Mr. President (The Honourable Sir Abdur Rahim) : What is the suggestion of the Honourable Member?

Sir Syed Raza Ali : I ask leave of the House to delete the words occurring in the fifth line “with instructions to report by the 25th September, 1939”.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member wishes to delete the words “with instructions to report by the 25th September, 1939.”

Sir Syed Raza Ali : Yes, Sir.

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

“That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew Olow, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar, H. Essak Sait, Sir Muhammad Yamin Khan and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly divided :

AYES—13.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Azhar Ali, Mr. Muhammad.
Essak Sait, Mr. H. A. Sathar H.
Ghiasuddin, Mr. M.
Ghulam Bhik Nairang, Syed.

Ismail Khan, Haji Chaudhury Muhammad.
Nauman, Mr. Muhammad.
Raza Ali, Sir Syed.
Siddique Ali Khan, Khan Bahadur Nawab.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.
Zafar Ali Khan, Maulana.

NOES—15.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Boyle, Mr. J. D.
Buss, Mr. L. O.
Dalpat Singh, Sardar Bahadur Captain.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Kamaluddin Ahmed, Shams-ul-Ulema.
Kushalpal Singh, Raja Bahadur.
Miller, Mr. C. C.
Rahman, Lieut. Colonel M. A.
Scott, Mr. J. Ramsay.
Shahban, Mirza Ghulam Kadir Muhammad.
Sher Muhammad Khan, Captain Sardar Sir.

The motion was negatived.

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

“That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, 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.”

Sir Syed Raza Ali : Sir, I beg to move :

“That in clause 2 of the Bill, in the proposed clause (5), for the words ‘could be’, occurring in the third line, the words ‘has been’ be substituted.”

I do not think the position of this House was ever so anomalous as it is today. It seems that the arbiters of our fate are the Nominated Members of this House. If our Constitution grows along these lines, what will happen in the long run is more than I can care to predict. Coming to my amendment, I realise that it is very difficult for a full House to go through questions which rest on the substitution of some important words for others the harm of which is not open to the high and cannot be realised till the whole thing is gone through carefully, which I do not think my Honourable friends of the European Group have had the time to do. The effect of the proposed clause 5 is that, if a person has received an injury for which a payment could be obtained in England, it will not be open to him to make an application in India under Act VIII of 1923 unless he satisfies all the four conditions mentioned in the proviso. My submission is what, after all, is the use of taking away with one hand what you give with the other. My Honourable friend, Sir Ramaswami Mudaliar, held out the rosy prospect of the injured Indian seaman being dealt with more generously under the scheme which is to be formulated by His Majesty's Government than he can get under Act VIII of 1923. That statement is welcome so far as it goes. But I am not one of those who are prepared to take things on trust. Where laws are concerned, where schemes are concerned, I should like to judge everything for myself by knowing what those laws are or what those schemes are. We know that when a law is under consideration, hopes are expressed that it will be interpreted in a particular manner which will conduce to increasing the good of the people. These hopes have, more often than not, been belied.

Pandit Lakshmi Kanta Maitra : Where were you during the discussion on the Defence of India Bill?

Sir Syed Raza Ali : I was in Delhi attending a very important meeting which, from my point of view, was more important than the meeting of this House.

Now, reverting to the point, I take it even on trust that this scheme is going to be somewhat more generous than the provisions of Act VIII of 1923, but why do you insist on saying that if a seaman is injured and it was open to him to make an application for the extension of the benefits provided by the Personal Injuries (Emergency Provisions) Act, 1939, to him and he failed to make an application, then it should not be open to him to apply under the Indian Act unless he complied with all the parts of this proviso. This is what I call giving with one hand and taking away with the other. It seems to me really that there is no point in making this provision so

[Sir Syed Raza Ali.]

vigorously strict and stringent. If my amendment is carried—and I have very little hope of my amendment being carried, having regard to the line that has been chalked for those Nominated Members who do not represent the public.....

Sir Muhammad Yamin Khan : They have got a vote in the House.

Pandit Lakshmi Kanta Maitra : As you sow, so shall you reap.

Sir Syed Raza Ali : Unfortunately this maxim does not apply to Nominated Members.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Not to seamen.

Sir Syed Raza Ali : About seamen, I will wait till I make up my mind. I know my friend, Sir Ramaswami Mudaliar, is quite prepared to make up his mind, but I am not in a position to do so. We were told : "as you sow, so shall you reap". That applies to all of us except the Nominated Members who sow evil and reap good.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not make such remarks.

Sir Syed Raza Ali : Having regard to the position which I have explained, I trust that my amendment will commend itself to the Honourable Member in charge. I need not appeal to any other section of the House.

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

"That in clause 2 of the Bill, in the proposed clause (5), for the words 'could be', occurring in the third line, the words 'has been' be substituted."

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I am afraid there has been some misconception on the part of my Honourable friend with reference to the amendment that he has just moved. The scheme of this simple Bill is this—to take away the right with reference to suing employers and to suggest that the Indian seamen should only come under the scheme and get the compensation which is payable to them by the Government. Now, the provisos relate to a different set of circumstances altogether. As I said, the scheme is likely to be more attractive than the compensation provided for under the Workmen's Compensation Act. It is, therefore, possible that the seaman, who is injured, even though it may not be a war injury, may still apply to the Government, so that he may come under the scheme. If it is not a war injury, then he is not entitled to get any compensation from His Majesty's Government. The proviso provides that in case he has made a wrong application to the Government to come under that war emergency scheme, then his rights will be preserved and he can go and still sue the employer for an injury which was not an injury contemplated by this Bill or the corresponding English Act. That is the extent of the privilege of the seaman that has been kept alive by the proviso. It is not as if, as my Honourable friend, Sir Raza Ali, suggested, this proviso takes away something which is given by the previous clause of the Bill. I hope I have made the position clear. The substitution of these words would clearly give an alternative remedy to the seaman which is the first principle of this Bill to avoid.

Sir Syed Raza Ali : The alternative remedy will not be open to the injured seaman unless he complies with all the four conditions enumerated in the proviso.

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) : The question is :

"That in clause 2 of the Bill, in the proposed clause (5), for the words 'could be', occurring in the third line, the words 'has been' be substituted."

The motion was negatived.

Sir Syed Raza Ali : Sir, I move :

"That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly."

As the House will see, the proviso to the proposed clause 5 has four parts,—(a), (b), (c) and (d). Part (a) of the proposed sub-clause runs thus :

"an application for a payment under any such scheme has been duly made in respect of the injury ;"

The effect of this part is that before an injured seaman is granted permission to take advantage of these benefits of the Workmen's Compensation Act, 1923, he must show that he made an application for payment under any scheme formulated by His Majesty's Government. We need not concern ourselves with the details of the scheme, about which we know very little except what we were told by the Honourable Sir Ramaswami Mudaliar, *viz.*, that it is going to be a more generous scheme than that contained in the existing Workmen's Compensation Act. Now, my objection is this that the scheme of the Bill, as one can see for one-self by going through the Bill carefully, is that if a seaman is injured as the result of action in war, it should be open to him to apply and take advantage of the scheme prepared by His Majesty's Government under the British Statute. So far, so good. But assuming the injured seaman, for a number of causes anyone of which would be good, is unable to make such application, what would be the result of his failure to make such application in England ? The effect of it under the scheme of the Bill would be that he would not be able to apply for the benefits of the Workmen's Compensation Act, 1923, being extended to him. That is a positive disability. I believe the Government's intention is that the seaman should, in the generality of cases, have two remedies. The first remedy is in England, namely, he can make an application to participate in the benefit of the scheme. But assuming that he is unable to make such application, surely the real scheme of the Bill, if I understood it correctly, is that it should be open to him to make an application in India for taking advantage of the provisions of the Workmen's Compensation Act. But this second remedy, which is an alternative remedy, will not be open to him unless he first makes his application in England. My simple point is this. Why subject him to this

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disadvantage? Suppose through ignorance or a want of knowledge or through any other sufficient cause he is unable to make an application in England, you should not, therefore, penalize him by withholding from him the benefits of the Workmen's Compensation Act. That is the short point. In other words, I believe it was claimed by my Honourable friend, Sir Ramaswami Mudaliar, that in a number of cases it would be open to him to take advantage, in the alternative, of two benefits,—either, of the scheme formulated in England or of the Workmen's Compensation Act in India. But my real objection is that the advantage is not open to the man *in the alternative*. You may demand that his position as an applicant for participation in the benefits under the Workmen's Compensation Act must be dependent on his first making an application in England to participate in the benefits of the scheme. If he fails to do this, he suffers from a disadvantage, *viz.*, he cannot participate in those benefits. Further, you penalize him by not placing it within his power to make an application in India. So the benefit in the alternative is gone. That is my real objection. I hope my Honourable friend, the Member in charge of the Bill, has followed my argument, and unless the Government's position is that this Bill was drawn up by an infallible human being and no comma, semi-colon or full-stop can be altered, unless that is the position of the Government, I hope he will accept the amendment which I have moved.

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

“ That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly.”

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I must again reiterate that it is my misfortune that the Honourable Member has not properly appreciated either the principles of this Bill or the scheme underlying it. I said once before and I repeat that this Bill does not seek to give two alternative remedies, one under the scheme of His Majesty's Government and the other under the Workmen's Compensation Act. On the other hand, the remedy for such disablement or death due to a war injury is taken complete hold of by the scheme of His Majesty's Government and the employer is exonerated altogether. That scheme provides for, as I said before, a larger compensation than would accrue under the Workmen's Compensation Act. The war injury is an injury directly attributable to enemy action in one form or another. Under the Workmen's Compensation Act, the compensation is claimable if personal injury is caused to a workman by accident arising out of and in the course of his employment, so that the war injury embraces a much wider category of cases than the workman could obtain a remedy for under the Workmen's Compensation Act. It is just possible that in some cases there may be overlapping. Then, when you come to the question of provisos, it is not as if in the proviso an alternative is still open to the workman. That is not the meaning of the proviso. What the proviso provides for is this. Supposing the seaman applies under the scheme for compensation and it is found that the injury that he has sustained is not a war injury at all for which such compensation should be given, such a period of time might have elapsed that he might have lost his remedy under the Workmen's Compensation Act to proceed against the employer.

In that case, the period of limitation is saved for him and he is entitled to proceed against the employer. It is not an alternative remedy. It is only one remedy, but the seaman might have misconceived the forum to which he should go and the person from whom he should get compensation. And because he has misconceived that and put his application under that misconception, he should not be penalised and we propose to save him to that extent, so that he may proceed against the employer whose real liability lies for that particular accident.

Sir Syed Raza Ali : May I ask whether it would be open to an injured workman to make an application in India?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The idea is that so far as the Indian seamen are concerned, this particular scheme should be worked by the Government of India and I believe that the rules will be so framed that the application will be made in this country and it will be transferred to His Majesty's Government for the payment of compensation. That is the scheme of the Act.

I do not profess that there are infallible draftsmen in the Government of India, much less that any Member in charge of a Bill is infallible, but I must say, at the same time, that sometimes we feel that there are very fallible gentlemen who propose amendments and for that reason we are unable to accept these amendments.

Sir Syed Raza Ali : Again you claim infallibility.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I oppose the amendment.

Mr. M. S. Aney : Sir, before the Honourable Member gave this explanation, I was almost inclined to support the amendment of my Honourable friend, Sir Syed Raza Ali. I had thought that in case the injured man was unable to make an application in England, that was the only forum open to him for application; and for that mistake he would be almost left without any compensation. That was my impression also, but in view of the explanation that is given that under some rules that will be framed under it a provision will be made that the Government of India will practically work up the scheme and therefore it would be open to any man to apply to the Government of India here for getting the compensation under this Act. Thus, the difficulty to which my Honourable friend referred in moving his amendment is obviated. I will, therefore, ask him to withdraw his amendment.

Sir Syed Raza Ali : I am not prepared to withdraw the amendment.

Mr. M. S. Aney : In that case, I oppose the amendment.

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

“ That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly.”

The motion was negatived.

Sir Syed Raza Ali : Sir, my amendment No. 4 was a consequential amendment which would have been necessary if the previous amendment had been carried. I do not, therefore, propose to proceed with it. I move the next amendment which runs as follows :

“ That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘ and ’, occurring at the end, the word ‘ or ’ be substituted.”

The reason which has led me to give notice of this amendment is that, according to the four parts of the proviso, it is necessary in the case of an injured seaman, before he can make his application in India, that he must comply with all these four conditions which are enumerated as parts of the proviso. My submission is that it should in all justice and fairness be open to the injured seaman to make an application in India if he satisfies two of the conditions mentioned in the various parts of the proviso. The defect of the proposed amendment is that if an injured seaman satisfies the Commissioner as to his application being made in the reasonable belief that the injury was such that a payment would be made under the said scheme, that is not sufficient by itself. In addition to that he must also obtain a certificate from the Provincial Government to a certain effect, so that he must comply with two conditions. First, he must satisfy the Commissioner, and, in addition to that, he must also obtain a certificate from the Government of India. It seems to me that if the desire is to extend the scope of the basis by which an injured seaman can legitimately draw his compensation, then the word “ and ” should be substituted by the word “ or ”, so that it should be open to the injured man either by obtaining from the Commissioner a writing to the effect that he is satisfied that his application was made in the reasonable belief that the injury was such that the payment could be made, or it should be open to him to apply for the Workmen’s Compensation Act being applied to him on production of a certification from the Provincial Government to the effect mentioned in part (c) of the proviso. The difference between my amendment and the original Bill is this, that the original Bill insists on the injured seaman complying with both conditions. Let him satisfy the Commissioner, and, in addition to that, let him obtain a certificate from the Government. The effect of my amendment is this that he can set the legal machinery in motion either on satisfying the Commissioner or by obtaining a certificate from the Provincial Government. Sir, I move.

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

“ That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘ and ’, occurring at the end, the word ‘ or ’ be substituted.”

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, it will be a misnomer to say that I am opposing this amendment. What I am trying to do is to explain the amendment and I trust that will constitute sufficient opposition to the amendment, which I feel is inevitable. These are not conditions on the persons, much less humiliating conditions. Let me explain, again, what happens in this case. An application is made for an injury which the applicant believes to be a war injury. The compensation is not given by His Majesty’s Government on the ground that it is not a war injury. He, then, proceeds to the Commissioner and puts in a petition that he applied under the scheme for compensation and that it was turned down on the ground

that it was not a war injury. The Commissioner examines the nature of the claim and feels satisfied that the applicant had made a *bona-fide* mistake in going to the wrong parties and that his real remedy is against the employer. There is a second condition which is to be satisfied by the applicant, that he did not, as a matter of fact, receive any compensation under the scheme for that particular injury. It is that fact that has to be proved by him. How is he to prove the fact ? According to this proviso he need not prove that His Majesty’s Government or the Government of India did not give the compensation ; he may merely get a certificate from the Provincial Government that he was not given that compensation. Under the scheme, the Provincial Governments will be informed of the persons to whom compensation has been given, and the amount of compensation and whether, as I shall show later on, the compensation which was paid for a time has been stopped after further investigation. It will be very difficult for the applicant to prove each of these facts. It is to help him and not to impose a further condition or liability on him that this second proviso is inserted whereby, he has merely to get a certificate from the Provincial Government and produce it before the Commissioner. Then the rest of the process regarding his claim against the employer will be taken up. As you will see, Sir, the proviso says that the Provincial Government certifies that the application was rejected. That is a piece of evidence which the applicant must produce before the Commissioner and we have made it easy for him to produce that evidence by a certificate from the Provincial Government. Secondly, the Provincial Government certifies that payments made in pursuance of the said application were discontinued. It is possible that in these very hectic days, an application may have been entertained and payment made ; after further investigation it may have been found that it was not a war injury for which such payment should have been made and, consequently, the payment would have been stopped, in which case his right to proceed against the employer is revived. The fact that that payment has been stopped must again be proved before the Commissioner and a certificate from the Provincial Government is the easiest method by which I venture to think this illiterate and unfortunate Indian seaman or his widow or children may satisfy the Commissioner that compensation under the scheme was not obtained.

Sir Syed Raza Ali : Who is likely to know, or who would have the best means of information whether an application was made or not ? Is it to be the Provincial Government or the Commissioner ? I think the Commissioner, but according to my Honourable friend it would be the Local Government.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : It would be the Provincial Government that would be informed of this case. The Commissioner is there merely to satisfy himself that this was not a war injury, but that it was an injury which could form the subject of adjudication before him as against the employer. Sir, I oppose the amendment.

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

“ That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘ and ’, occurring at the end, the word ‘ or ’ be substituted.”

The motion was negatived.

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Sir Syed Raza Ali : Sir, my next amendment No. 6 was consequential on No. 5 being accepted by the House. Since No. 5 was not accepted by the House, I do not propose to move amendment No. 6.

Sir, I beg to move the next amendment :

“ That in clause 2 of the Bill, in part (c) of the proviso to the proposed clause (5), after the word ‘ was ’, occurring in the second line, the words ‘ not made for a sufficient cause or that it was ’ be inserted.”

Sir, let me inform Honourable Members that this amendment No. 7 is the most important of all amendments that I have moved hitherto. Sub-clause (c), as it stands, reads thus :

“ The Provincial Government certifies that the application was rejected or that payments made in pursuance of the said application were discontinued, on the ground that the injury was not such an injury.”

This part (c) confines itself to the case where an application was made and was rejected for the reason mentioned in this part. But what would happen to a disabled seaman who is unable to make his application. Take a case like this and that was why I put this question to my Honourable friend. Take a case like this. A ship belonging to a shipping company is on its way, say, from Southampton or Plymouth to India. We will say that within territorial waters or just beyond territorial waters when the ship is about four miles from Bombay, the ship is attacked and a number of seamen are injured. We will assume that these seamen belong to Surat or Chittagong as is usually the case at present. Now, they ultimately swim back to the port of Bombay and land there, or they are rescued. We will assume that a number of them are seriously injured. Some of them go home to Surat, which is not far from Bombay and others go to Chittagong.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I rise to a point of order. The House has just rejected amendment No. 3 of my Honourable friend, Sir Syed Raza Ali, which says :

“ That part (a) of the proviso to the proposed clause (5) be omitted.”

Part (a) says :

“ An application for a payment under any such scheme has been duly made in respect of the injury.”

The House has accepted that it should stand part of the Bill.

Now, in the present amendment which Sir Syed Raza Ali moves, he wants “ the Provincial Government to certify that the application was not made for a sufficient cause or that it was rejected ”, and it seems to me that it will be quite inconsistent, apart from making the Bill absolutely meaningless.

Sir Syed Raza Ali : Sir, my amendment is not at all inconsistent with part (a) of the proviso which this House has already agreed to retain. If the Honourable Member will read the amendment carefully, he will find that it is not inconsistent. Part (a) says :

“ An application for a payment under any such scheme has been duly made in respect of the injury.”

I contemplate a clause where an application was not made. It is not inconsistent.

The Honourable Sir Andrew Clow (Member for Railways and Communications) : You have got an “ and ”. The application has been made under (a) and the Provincial Government certifies that it has not been made under (c). This will make the clause meaningless. The two parts must go together.

Mr. President (The Honourable Sir Abdur Rahim) : Yes, it would be inconsistent.

Sir Syed Raza Ali : The effect, as far as I can see, is this. We have agreed to parts (a) and (b), and the word “ and ” occurs at the end of both. Part (b) only refers to the Commissioner being satisfied as to the application being made. This is in addition to that, and I submit it is not inconsistent with that.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair holds that the amendment is inconsistent with clauses (a) and (b) which have been agreed to by the House.

The question is :

“ That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

Sir Syed Raza Ali : Sir, at this late hour, I do not propose to make any long speech, nor am I in a mood to make a long speech. At this stage of third reading, I think we are justified in asking Government to let us know why this measure was withheld till yesterday and not introduced five or six days ago or even three days ago when it would have been possible to send it to Select Committee for careful consideration of its various apparently bewildering clauses. I think Government owe an explanation to this House, and not a word was said by the Honourable Member in charge of the Bill about it. I guess he will plead pressure of work and war work, and that plea is always available to Government Members.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I do not put forward any such plea.

Sir Syed Raza Ali : I am glad and that saves me from a rather inconvenient anticipation. But there is curiosity in the House and we should know the reason. Again, I cannot congratulate Government on the heroic attitude that they have adopted in regard to this Bill. In the matter of sending the Bill to Select Committee, they abstained from

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voting, but what about the solid block of Nominated Members who, as a rule, are at the beck and call of Government, but who entered into an unholy alliance with the European Party and helped to defeat the motion?

The Honourable Sir Muhammad Zafrullah Khan : What about the Nationalists? You lost only by two votes and the Nationalists could have turned the scale.

Sir Syed Raza Ali : Yes, we lost by two votes. Sir, three days ago, the *New York Times* regretfully commented on Russia playing the noble role of hyena to the German lion. In this case, the critics will think of the Nominated Members playing the noble role of hyena to the European tiger.

Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official) : Sir, on a point of personal explanation: We, Nominated Members, enjoy our nomination from the same Government whose servant he was in South Africa.

Sir Syed Raza Ali : I welcome that explanation. I was proud to serve the Government of India and my country in South Africa for three years. If my friend thinks our constituencies are the same, he is quite wrong and the public will judge.

Sir, on this third reading, we will not be justified in dividing the House, because the Nominated Members' hyena will again play the same noble role of coming to the rescue of the European Party tiger. In this case, we have also to reckon with the British lion, and, therefore, I do not think we should insist on it at this stage. Anyway, the Government were conscious of their strength. They had the strength of a wolf and they have used their strength like a wolf. That is all. It would have been much more graceful if they had allowed the Bill to go to Select Committee and get the matter threshed out there. After all, though this is a small matter, it is of very great importance to the unfortunate, illiterate, ignorant class who do not know how to invoke the aid of law and is of major importance. But the Government have shown their claws : they are not prepared to make any concession to public opinion. In this state of affairs, I do not think I would be justified in casting my vote on this the third reading of the Bill.

Mr. M. S. Aney : Sir, I rise to support the motion. But I would not have risen but for the observation made by the Leader of the House....

The Honourable Sir Muhammad Zafrullah Khan : I withdraw.

Mr. M. S. Aney : As he withdraws, I will also not pursue the matter further. I would simply say that I support the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I confess I am somewhat mystified by the heat and energy that, throughout this day, my Honourable friend, Sir Raza Ali, has shown in connection with a measure on which I had hoped that there would be unanimity and not the slightest occasion for controversy....

Sir Syed Raza Ali : You are responsible for the controversy.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : If personally I am responsible, it is a responsibility which I cannot disclaim but I do not think the Bill was in any way responsible for this

controversy. My Honourable friend suggested that owing to pressure of war work I was not able to introduce this Bill earlier. I said that I was not going to put forward any such plea. The fact was—I have a sheaf of cablegrams that have passed between His Majesty's Government and the Government of India before me—we were in continuous correspondence over this matter, and the Act that was passed on the 3rd September by the House of Commons reached me only two days ago and I could not take definite steps with reference to this measure before I was perfectly satisfied myself that I understood the provisions of this measure which I was going to introduce. The Honourable Member again complained of the attitude of the Government and said that it was unfair and ungracious. From another side of the House—and as I now feel a more convenient side of the House—I had myself made such charges against the Government of the day, but I confess that on no occasion on which I was associated with the proceedings of this Assembly as a non-official Member have I heard charges made with so little justification and obviously, if I may say so, with so little belief. What was the attitude of the Government? The Honourable Member suggested that the Bill may be referred to a Select Committee. I pointed out that while I did not oppose the reference to a Select Committee there was only one other course that I could pursue, that I should have to invoke the responsibility of the Governor General for the issue of an Ordinance, and I placed the alternative clearly before the House. I said that if Honourable Members want an Ordinance to be issued and legislation to be postponed, let them be the responsibility for the issue of such Ordinance. Consistently with that attitude the Government Benches had to remain neutral. I could not go into the lobby and vote for the amendment and thereby suggest that I preferred Ordinance to ordinary legislation. Surely, my Honourable friend does not expect me to do so. So far as the Nominated Bloc was concerned, along with the other elected Members they were free to do what they liked. Sir, so far as I am concerned, at no time—and the speeches I have made as a non-official Member of the Assembly are on record—at no time have I suggested such remarks about Nominated Members even in the days when I felt the heavy weight of non-official Nominated Members against me. It is grossly unfair and it is a cheap way of trying to make an elected Member feel that he has got more patriotism, more responsibility and more sense of duty than a Nominated Member. On this particular occasion what has happened? So far from being dumb driven cattle, flocking into the 'Noes' Lobby at the instance of the Government, Honourable Members, Nominated Members—my friend, Dr. Dalal, in particular, if he had received a whip from me, let me down by sitting in his seat and not going into the lobby....

Sir Syed Raza Ali : I do not want to interrupt, but may I point out that Dr. Dalal claimed the capacity of an official Member? That is the reason why he abstained from going into the Lobby. That is my information. Can the Honourable Member deny that?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I cannot claim to have all the secret information that my Honourable friend possesses about Nominated Members, and their claims. But can my Honourable friend say that my friend, Mr. Sivraj, who comes from my own province and who was my political colleague until the

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